



Summons and Agenda for the
Council Meeting

to be held on
2 September 2014

at
6.00pm



Mission Statement *"To Improve the Quality of Life For Those Who Live and Work in the District"*



To: All District Councillors

cc: Chief Officers
Directors

You are hereby summoned to a meeting of the Selby District Council to be held in the Council Chamber, Civic Centre, Doncaster Road, Selby on **TUESDAY 2 SEPTEMBER 2014** starting at **6.00pm**. The Agenda for the meeting is set out below.

Chief Executive
22 August 2014

AGENDA

Opening Prayers.

1. Apologies for Absence

To receive apologies for absence.

2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

3. Minutes

To approve as a correct record the Minutes of the meeting of the Council held on 24 June 2014 (pages 1 to 6 attached).

4. Communications

The Chairman, Leader of the Council or the Chief Executive will deal with any communications which need to be reported to the Council.

5. Announcements

To receive any announcements from the Chairman, Leader or Members of the Executive.

6. Petitions

To receive any petitions.

7. Public Questions

To receive and answer questions notice of which has been given in accordance with rule 10.1 of the Constitution.

8. Councillors' Questions

To receive and answer questions submitted by councillors in accordance with rule 11.2 of the Constitution.

9. Reports from the Executive

The Leader of the Council, and other members of the Executive, will report on their work since the last meeting of the Council and will respond to questions from Councillors on that work. (Pages 7 to 18 attached).

10. Reports from Committees

To receive reports from the Council's committees which need to be brought to the attention of Council. To receive questions and provide answers on any of those reports. (Pages 19 to 23 attached).

11. Motions

To consider any motions.

12. Access Selby Annual Report 2013/14

To consider the Access Selby Annual Report. (Pages 24 to 26 attached.)

13. Treasury Management Sweeping Arrangements

The Council is asked to adopt the Strategy. (Pages 27 to 46 attached.)

14. Standards Annual Report 2013/14

The Council is asked to receive the report. (Pages 47 to 63 attached.)

15. Report of the Local Government Ombudsman

The Council is asked to consider the report. (Pages 64 to 75 attached.)

16. Urgent Action

The Chief Executive will report on any instances where she has acted in urgent or emergency situations under the functions delegated to her in the Constitution.

17. Sealing of Documents

To authorise the sealing of any documents necessary to action decisions of this Council meeting, or the Executive or any of its Committees for which delegated authority is not already in existence.

Council

Venue: Council Chamber
Date: 24 June 2014

13	The Late Former Councillor Trevor Limbert
14	Apologies for absence
15	Disclosures of Interest
16	Minutes
17	Presentation on the White Rose Carbon Capture Scheme
18	Communications
19	Announcements
20	Petitions
21	Public Questions
22	Councillors' Questions
23	Reports from the Executive
24	Reports from Committees
25	Motions
26	The State of the Area Address
27	Welfare Reform Update
28	Community Governance Review
29	Urgent Action
30	Sealing of Documents
31	Private Session
32	Abbey Leisure Centre Investment

Present: Councillor J Cattanach in the Chair

L Casling, I Chilvers, M Crane, J Crawford, Mrs M Davis, Mrs S Duckett, K Ellis, M Hobson, W Inness, Mrs G Ivey, M Jordan, C Lunn, D Mackay, Mrs C Mackman, B Marshall, J McCartney, Mrs M McCartney, Mrs K McSherry, C Metcalfe, Mrs W Nichols, I Nutt, B Packham, C Pearson, I Reynolds, Mrs S Ryder, R Sayner, Mrs A Spetch, R Sweeting and J Thurlow.

Also Present: Chief Executive, Deputy Chief Executive, Executive Director (S151), Managing Director of Access Selby, Director, Solicitor to the Council, Democratic Services Manager.

Press: 0

13. The Late Former Councillor Trevor Limbert

Before the commencement of the meeting, the Council stood in silence for a minute as a mark of respect to Former Councillor Trevor Limbert, who had recently passed away. Mr Limbert was an Honorary Alderman and a former Chairman of the Council. Councillor J Crawford paid tribute to Mr Limbert.

14. Apologies

Apologies for absence were received from Councillors Mrs D Davies, J Deans, M Dyson, Mrs P Mackay, J Mackman, Mrs E Metcalfe, R Musgrave, D Peart, A Pound, R Price and S Shaw-Wright.

15. Declarations of Interest

There were no declarations of interest.

16. Minutes

The minutes of the meeting of the Council held on 13 May 2014 were confirmed as a correct record.

Resolved:

To approve the minutes for signing by the Chairman.

17. Presentation on the White Rose Carbon Capture Scheme

The Council received a presentation from Marvin Seaman on the White Rose Carbon Capture Scheme.

18. Communications

Selby Town Councillor Gavin Harding MBE

The Chief Executive reported that she had received notification that Selby Town Councillor Gavin Harding had received an MBE in the Queen's Birthday Honours. The Council agreed to write to Councillor Harding to pass on its congratulations.

Resolved:

To write to Selby Town Councillor Gavin Harding to pass on the Council's congratulations for his MBE.

19. Announcements

None were received.

20. Petitions

No petitions were received.

21. Public Questions

No questions from members of the public were received.

22. Councillors' Questions

Councillor J McCartney had submitted a question regarding the communication links between the out of hours emergency service and the customer contact centre. The Leader of the Council confirmed that links were in place with Ryecare, the Council's out of hours provider, and the specific Council service areas to which the emergency contact related. These links ensured that all calls to Ryecare were logged with the correct service area at the start of the next working day. The service area would then ensure the relevant details were updated onto the Council's systems which the Customer Contact Centre could then view. In some circumstances there may be a short delay in this being undertaken. The Leader of the Council stated that he was confident that system did work.

Councillor J McCartney had submitted a question regarding the management of Barlow Common and the contract with Yorkshire Wildlife Trust (YWT). Councillor C Metcalfe, the Executive Member for Communities, responded by outlining the achievements of YWT to date. He stated that Barlow Common was clean and tidy and that improvements were being made. He provided the Council with details of the contract between the Council and YWT.

Councillor J McCartney had submitted a question regarding grass maintenance on the Westfield Estate, Eggborough. Councillor C Metcalfe, the Executive Member for Communities, outlined the difficulties for the grass cutting team created by the mild wet weather experienced this year. Community Officers had been made aware of the situation and were monitoring their local areas. He provided the Council with details on the recent use of herbicide.

23. Reports from the Executive

The Leader of the Council reported on the work he had recently undertaken. He updated the Council on developments regarding the legal challenge against the Council's Core Strategy and the Olympia Park Site.

Councillor Mrs G Ivey, Deputy Leader of the Council and Lead Executive Member for External Relations and Partnerships, reported on her recent work. She responded to questions regarding the development of the new Leisure Centre and in particular the future provision of a skate park. Councillor Mrs G Ivey outlined that the Council and its partners were part way through plans to consult with young people regarding skatepark provision.

Councillor Mrs G Ivey also acknowledged concerns around the decision of the North Yorkshire Police and Crime Commissioner to amend the Community Safety Partnership structures in North Yorkshire and responded to questions regarding the Council's Housing Allocations Policy.

Councillor Lunn, Lead Executive Member for Finance, reported on the work he had undertaken since the last meeting of the Council.

In the absence of Councillor J Mackman, Lead Executive Member for Place Shaping, the Leader of the Council presented his report. The Leader of the Council responded to questions regarding the five year housing supply and the remedial action being taken by the Council to tackle the short fall in housing delivery. The Leader of the Council set out that the Council was continuing with its search for a suitable gypsy and traveller site. The Council discussed some of the potential sites and the Leader of the Council would respond with further details of a potential site to Councillors Mrs S Duckett and Marshall outside the meeting.

Councillor C Metcalfe, Lead Executive Member for Communities, reported on his latest work.

Resolved:

To receive and note the reports from the Executive.

24. Reports from Committees

The Chair of Policy Review Committee, Councillor M Jordan, reported on work of the Committee since the last update to Council. He offered to respond to a question on the Committee's discussion on Housing Rents outside of the meeting.

Councillor Crawford, the Chair of Scrutiny Committee, reported on work of the Committee since the last update to Council. He stated that Julia Mulligan, the North Yorkshire Police and Crime Commissioner, had attended a recent Scrutiny Committee and provided an overview of her views on the proposed changes to Community Safety Partnerships.

Councillor Pearson, the Chair of Audit Committee, reported on work of the Committee since the last update to Council. Councillor Person offered an opportunity for any Councillor to submit their views in respect of the changes to the Constitution which Audit Committee were currently working on.

Resolved:

To receive and note the reports from the Committees.

25. Motions

None received.

26. The State of the Area Address

Councillor Crane, Leader of the Council, submitted the State of the Area Address for 2014.

Resolved:

To receive and note the State of Area Address from the Leader of the Council.

27. Welfare Reform Update

The Leader of the Council presented the report on the six month review detailing the effect of the Welfare Reform changes in Selby District. The report focussed on the Housing Benefit Size Criteria/Spare Room Subsidy which came into force on 1 April 2013.

The Council discussed the impact of the reforms on Selby residents, particular reference was made to the issue of rent convergence which had necessitated a number of rises in rent. The Leader of the Council stated that the Council offered a range of support services to help those affected and that officers work with tenants to assist wherever possible. The Leader of Council would respond to a question from Councillor W Nichols outside of the meeting.

Resolved:

To note the report.

28. Community Governance Review

The Deputy Chief Executive presented the report which set out the requirements of the Council to undertake a Community Governance Review of its parishes and their electoral arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.

The Council discussed a number of areas which may benefit from the Community Governance Review as well as the implications of moving parish boundaries.

Resolved:

- i. To conduct a Community Governance Review in accordance with the Local Government and Public Health Involvement Act 2007 with the timetable and terms of reference set out at Appendix A.**
- ii. To authorise the Deputy Chief Executive to take all necessary steps in relation to the conduct of the review.**

29. Urgent Action

The Chief Executive reported that she had not taken any urgent action since the last meeting of Council.

30. Sealing of Documents

To authorise the sealing of any documents necessary to action decisions of this Council Meeting, or any of its Committees and Boards for which delegated authority is not already in existence.

Resolved:

To grant authority for the signing of, or the Common Seal of the Council being affixed to, any documents necessary to give effect to any resolutions hereby approved.

31. Private Session

The following item involves a financial negotiation with Wigan Leisure and Culture Trust. This item is proposed to be in private session on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, there would be disclosure to them of exempt information. The exempt information is that defined in paragraph 3 of schedule 12A being information relating to the financial or business affairs of any person including that of the authority holding the information. It is not considered to be in the public interest to hold discussions in public which could impact on the successful negotiation with the Trust.

Resolved:

In accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following item as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 1 of Part 1 of Schedule 12(A) of the Act.

32. Abbey Leisure Centre Investment

Councillor Mrs G Ivey presented the report which proposed to pay a one-off commuted sum to Wigan Leisure and Culture Trust (WLCT) in respect of their previous investment, in the former Abbey Leisure Centre. The payment to WCLT would reduce the annual contract sum over the remaining life of the current leisure management contract.

Resolved:

To pay a commuted sum, as set out in the report, to WLCT to be funded by a drawdown from the Buildings Replacement Reserve

The meeting closed at 8.12pm.



Cllr Mark Crane

Leader of the Council

Report to Council

Trans Pennine Rail Electrification

Council will be aware of plans to extend the electrification of the Trans Pennine route to Selby. Network Rail are now at the engineering design stage which will have an impact on level crossings and bridges through Selby District.

Network Rail has a series of meetings planned through August, September and October with Town and Parish Councils and there will be a briefing for District and County Councillors on 25 September 2014 at the Civic Centre. I am keen to try to keep disruption to transport routes through Selby to an absolute minimum but also to ensure that Network Rail's proposals achieve the maximum benefit for the district.

These discussions are at an early stage and I hope Councillors with wards along the railway route, and anyone else who is interested, will be able to attend the briefing on 25 September when we will have an opportunity to listen to Network Rail's plans and ask questions.

Local Government Yorkshire and the Humber

I chaired a meeting on 14 July which considered a number of options for a new organisational model for LGYH. Member Councils are keen to scale down the organisation but preserve the essential benefits of greater collaboration and co-ordination. The new structure would be hosted by one of the member Councils and will co-ordinate Leaders' collaboration on economic growth issues and support Chief Executives' collaboration on a range of wider issues. Consultation on the details is now on-going and a decision is expected at our next meeting in October.

Olympia Park

Since we last met as a Council I am delighted to report that over £16m has been made available to pump into the new Olympia Park development at Barlby.

The District Council, private investors at the site and colleagues from both the North Yorkshire & East Riding and the Leeds City Region Local Enterprise Partnerships and the Homes and Communities Agency worked together to help secure the government Growth Deal and other funding for this scheme, because of its importance to the local economy.

£8m of funding has been secured through the North Yorkshire & East Riding Local Enterprise Partnership. £3.46m of funding comes via the Homes and Communities Agency and a further £4.8m comes from the Leeds City Region Growing Places Fund.

This shows a renewed level of confidence in the future of Selby district. Olympia Park opens up fantastic new opportunities for business growth and the homes people want and need and I am sure that all Councillors will welcome this news

Review of Council Priorities

All Councillors will have had an opportunity to participate in the series of member sessions held to discuss the refresh of the Council's priorities. I am very grateful to all Councillors who took the opportunity to contribute to setting the future focus of the Council.

Mark Crane

Cllr Gillian Ivey

Executive Member for Partnerships and External Relations

Report to Council

1) Executive Meetings

At the July meeting of the Executive I presented two reports regarding leisure provision in the district. The first was the Annual Review of the Leisure Contract which acknowledged the excellent work being undertaken by Wigan Leisure in partnership with the Council. Sports development work in the community is working well with the 'Move It & Lose it' and 'Healthy Active Children' programmes proving popular and well-supported. The second report sought to finalise management arrangements for the new Leisure Centre.

I also presented reports on the new North Yorkshire Community Safety Partnership arrangements and the all-weather pitch.

I was pleased to introduce the excellent piece of work undertaken by Scrutiny Committee regarding recycling, and to support their recommendations for a pilot scheme using bags rather than boxes.

2) Reviewing Representation on Outside Bodies

A piece of work is underway to review the Council and Executive appointments to Outside Bodies. Whilst I think we all would acknowledge the value in the Council providing such representation, there is a need to review the sustainability of the current appointments in light of the forthcoming reduction in councillor numbers.

The aim of the review is to ensure we are making best use of the Council's resources and councillors time in this regard and to ensure that a suitable set of arrangements are in place following the election in May 2015. I would welcome councillor's views, and will report back further in due course.

3) Selby Leisure Centre – Activity Space/Toning Suite

Council will be aware that one of the planned elements in the new leisure centre was provision of a Toning Suite. The Suite was intended to provide low impact exercise for people who would benefit from becoming more active or more supple, but who might not take the plunge and join a gym. A business case was developed which suggested that a suite would be a cost effective addition to the facilities mix.

However, our partners at WLCT have reviewed that proposal in the light of recent experience elsewhere. The results of that review show that a greater number of target participants could be served by providing an additional activity studio rather than a toning suite.

This change is forecast to increase the number of people using the space by 40% (from 26,750 to 37,500 per year). A revised business case also shows the change to be financially beneficent. Sport England have been consulted and they fully support the planned change. The matter was discussed by the Leisure Centre Project Board on 19 August and the change was agreed unanimously.

4) Community Safety Partnership (CSP)

On the 30 July the Executive agreed to the proposal to combine the district CSP with the rest of North Yorkshire to form a North Yorkshire Community Safety Partnership. The Police and Crime Commissioner now holds the CSP budget and has made these

proposals in the interests of efficiency and economy given the significantly reduced resources available for community safety in the county. It also enables a more strategic approach to issues such as organised crime, domestic abuse, alcohol harm reduction and cyber-crime.

Currently recorded crime in North Yorkshire and Selby district is the lowest it's been for over a decade, and it's still falling. Community Safety will be delivered through a Local Delivery Team including the Council, Police and other partners determined to make Selby district even safer.

Antisocial behaviour is also on the decline but the new legislation introduced under the Anti-Social Behaviour, Crime and Policing Act 2014 means the Council is reviewing its policies and procedures to ensure that partnership working can be enhanced to tackle ASB and utilise the new powers if necessary.

The Executive has already been briefed on the new powers and will be receiving a report in October detailing the new ASB policies and procedures for the council.

5) Joint visioning event with Police

A joint visioning event will take place between senior officers of the Council and Chief Inspector Khan together with some of his police colleagues to explore ways in which the two organisations can work together in the future to deliver on shared outcomes for the community.

6) Police and Crime Panel

There were two meetings of the Police and Crime Panel during July. The first was a Confirmation Hearing to discuss the interim appointment of a new Chief Finance Officer in the Police and Crime Commissioners Office. The Commissioner introduced Michael Porter and proposed a joint post shared with Cleveland Police Commissioner.

After questions to both the Commissioner and Mr Porter, the Panel agreed to confirm the appointment.

In its regular meeting with the Commissioner a week later on July 17th, the Panel discussed the first quarter performance report and commented on the refreshed Police and Crime Plan. Chief Constable Dave Jones gave a very upbeat report on the Grand Depart of the Tour De France. Only 7 directly connected crimes had been committed over the two days and these were of a minor nature.

The Commissioner also presented an update on progress made on the new northern base, detailing how consultation with the public would be carried out.

Councillors will be aware from the press that on July 29th the Commissioner issued a decision notice that work on a new northern base at South Kilvington was to cease, and instead an agreement had been reached with Cleveland Police to work together; quoting an 'in principle agreement' to:

- Co-locate some accommodation and facilities (eg. IT infrastructure) at Cleveland police's proposed new Community Safety Hub facility on the North Yorkshire border.
- Develop collaborative options for the provision of some operational policing services (excluding neighbourhood policing) which will enhance policing along the Cleveland / North Yorkshire border.

The Commissioner recently published the Annual Report for 2013-14, which can be found on the website. The panel will discuss both the Annual report and the refreshed Police and Crime Plan with the Commissioner at their next meeting in October.

Gillian Ivey



Councillor Cliff Lunn

Executive Member for Finance and Resources

Report to Council on 2nd September 2014

Executive Reports

Our July meeting considered the year-end reports for the Council's draft accounts and its treasury management arrangements. On both fronts I was pleased to present positive results, demonstrating the work being done to deliver even better value for money for our residents.

The treasury management report also presented the opportunity to work more closely with North Yorkshire County Council and the Executive are recommending that Selby adopt NYCC's investment strategy and lending list to enable the County Council to undertake day to day investment on behalf of the district council. This proposal is the subject of a report later on tonight's agenda.

The Executive also considered proposals for the Council Tax Support Scheme from April next year and at the time of writing this report a number of options are being consulted upon, ranging from a maximum award of 90%, to a maximum award of 80% for working age claimants.

The Executive will consider the consultation results and make a recommendation to full Council at our 4 September meeting and a detailed report will be presented to Council in October.

Programme for Growth

Work is progressing on the Housing Trust project with Selby and District Housing Trust currently working on the tenders for the two pilots in Tadcaster. I anticipate the necessary legal agreements to be in place by the end of October (subject to satisfactory tender prices) and work commencing on site later in the year.

Corporate Planning

As councillors are aware we are currently developing a new corporate plan and alongside it a refreshed financial strategy. The key financial message is that austerity is expected to be with us for some time to come. Whilst this presents challenges for future services it also provides us with the impetus to identify new ways to lever investment into the district and make the most of the resources we and our partners have, by working together.

The financial strategy will be considered by the Executive on 4 September before going on to Policy Review Committee later this month and then coming to full Council in October. I would welcome comments on this important strategy document as it is finalised over the coming weeks.

Partnerships

I have attended a number of meetings since the last Council meeting:

- **The North Yorkshire Building Control Partnership** – the partnership’s operational performance for the last year was positive although further work on market share and plan checking is needed. The accounts for the year showed an overall surplus of £72k, including a surplus of £58k on the chargeable activities. The surplus was largely due to increased income but some cost savings had also been achieved. Partnership reserves now stand at £82k.
- **The North Yorkshire Procurement Partnership** – the meeting of the joint committee considered the partnership’s accounts for the year ended 31 March 2014 and I am pleased to report that the partnership made a £17k surplus in the year due to the provision of services to a non-partner council. This takes total reserves to just short of £62k. The committee also heard about new European procurement legislation which will make it easier for small and medium-sized firms to bid for public sector work and include tougher provisions on subcontracting. The new legislation overhauls the current EU public procurement rules and for the first time sets common EU standards on concession contracts to boost fair competition and ensure best value for money by introducing new award criteria that place more emphasis on environmental considerations, social aspects and innovation.

Other issues

I am currently involved in the members’ ICT pilot, which is exploring the use of tablet devices for council e-mails, reports and other related uses. A small team (including councillors Shaw-Wright, Crawford, Musgrave and Peart) are experimenting with the devices and to date feedback is positive although inevitably there are issues to resolve. I am particularly encouraged by the potential to use a single device for both Selby DC and NYCC use and hope that a partnership approach will increase the value of this work.

I also attended a meeting of the Selby Internal Drainage Board.

Cliff Lunn



Councillor John Mackman

Executive Member for Place Shaping

Report to Council on 2 September 2014

This report covers the period from the Council meeting on 24 June 2014. During this period I have attended Executive/Executive Briefing meetings, Selby Internal Drainage Board, North Yorkshire and York Spatial Planning and Transport Board, Leeds City Region Planning Portfolios Group, CEF and local Parish Council meetings as and when required.

Reporting on key items:

1) The Local Plan Core Strategy (CS)

As Council is aware the Selby District Core Strategy Local Plan was formally adopted by the Council on 22 October 2013.

Subsequently, a High Court legal challenge was made against the adoption of the Core Strategy by Samuel Smith's Old Brewery (Tadcaster) on a number of grounds including "Duty to Cooperate" which came into force whilst the Strategy was being examined at EIP.

The legal challenge by SSOBT was heard in the High Court in Leeds over three full days on the 10th, 11th and 14th July 2014. I attended Court on Thursday 10th and Monday 14th July for part of the day and heard our Legal team put up a robust defence against the challenge and we remain optimistic for a positive outcome. There is no fixed timetable for a Court decision and the Judge gave no indication on when he would issue his report but it is envisaged that September is the earliest likely date for a decision.

Meanwhile, the Council adopted Core Strategy continues to be part of the Development Plan and carries substantial weight alongside the National Planning Policy Framework in the determination of planning applications.

2) Housing Monitoring and Delivery

As previously reported in line with Policy SP6 (Managing Housing Land Supply) of the adopted Core Strategy, housing monitoring figures for 2014 indicate that there is a sustained shortfall in housing delivery within the district and the adopted housing target of 450 dwellings per annum is not being achieved.

The new planning system places the housing target at the core of the Development Plan. The need to deliver housing is paramount nationally and this was confirmed at a meeting of the LCR Planning Board with the then Planning Minister, Nick Boles and DCLG in Leeds on 10 July. The Minister indicated that there would be continued pressure to deliver housing numbers on the ground to meet current and future needs.

In light of the above, Officers are actively working on a programme to identify issues which could result in significant under delivery if remedial action is not taken. The NPPF has a presumption in favour of sustainable development and in the absence of a local plan or 5 Year Land Supply LPA's are vulnerable to adverse Planning Inspectorate decisions.

3) The Sites and Policies Local Plan (SAPP)

A substantial programme of work is underway in order to progress the SAPP (Issues and Options) stage for presentation to the Executive and full Council in October.

A significant schedule of data gathering and evidence has been commissioned in order to underpin the SAPP preparation and this work programme will continue throughout 2014 and into 2015.

As mentioned the initial consultation documents on the draft SAPP (Issues and Options) will be presented for the approval of the Executive and Council in October prior to going out for public consultation in October/November for a 6 week period.

Following this initial public consultation on SAPP (Issues and Options) representations will be evaluated together with the evidence base and the SAPP will be progressed towards the preferred options stage scheduled for public consultation in the summer of 2015.

4) Duty to Cooperate (DTC)

The Localism Act, 2011, and the NPPF (2012) introduced a duty to cooperate with other local Planning Authorities and prescribed public bodies and other stakeholders when preparing Development Plan documents.

This duty to cooperate is separate from other more general statutory requirements concerning consultation and publicity when preparing Local Plans, which are set out in the Town and Country Planning Regulations, 2012.

The DTC is a continuous process of engagement on Strategic Cross Boundary issues through the Plan Preparation process. Accordingly in addition to preparing the draft SAPP (Issues and Options) for public consultation a separate engagement plan is being prepared and ultimately a consultation statement will set out how the Council has involved other bodies and persons in preparation of the plan.

5) Programme for Growth

5.1 Housing Trust

The Housing Trust's application for charitable status was submitted and approved by the Charity Commission and the Trust is now formally a registered Charity and a Company Limited by Guarantee.

The formal application for registration as a Registered Provider with the HCA (Homes and Communities Agency) is still a work in progress whilst the Trust Board decides the Tenancy Policy and proposed Allocation Procedures to meet the Trust's objectives.

The two Tadcaster pilot projects at 43 Kirkgate and St Joseph's Street are still subject to contract and both the Trust and Council Legal teams are progressing the legal documentation.

At 43 Kirkgate, remedial work associated with asbestos removal and the undertaking of timber and damp proffing works at the property have been completed and the project remains on schedule.

At St Joseph's Street the programme is running slightly behind schedule with tenders slipping from August into September.

However, subject to agreement of the asset transfer, funding conditions, loans and partnering agreements it is expected that work on both sites will commence by the end of

2014/early 2015 with Kirkgate due for completion in April 2015 and St Joseph's Street in November, 2015.

5.2 Gateways

The planning applications for the makeovers of the two strategic roundabouts have been approved.

"Entrust" the Government Body which certifies Community Landfill Project Funding have signalled their approval of funding through Groundwork.

Design of the landscaping and sculptures is complete and within budget.

The contract for the Managing Agents for advertising sponsorship has been signed off by Officers.

The application for the transfer of licenses from NYCC to SDC is proceeding.

Subject to obtaining the necessary licences from the County Council, it is expected that landscaping contracts will be finalised in September and construction to commence in October/November.

5.3 Bondgate

Nothing to report.

6) Potential Sites for the Travelling Community

The Executive continues to review all options for Traveller sites as the Authority remains exposed to unauthorised developments and failing to meet its statutory obligations.

The Secretary of State has recently ruled on the temporary permission at Hillam and has refused both further temporary permission or permanent permission. The Secretary of State dismissed the appeal on the grounds that very special circumstances to justify permission in the Green Belt did not exist in this instance.

The Secretary of State has not yet ruled on the temporary permission at Byram-cum-Sutton.

The Planning Committee refused permanent planning permission for the temporary traveller pitch at Towton. This is now subject to an appeal.

I understand that there are planning applications in the planning system for the site at Hillcrest (old A1 site) and a site on the A1041 towards Camblesforth called Brick Farm Cottage.

John Mackman



Councillor Chris Metcalfe

Executive Member for Communities

Report to Council on 2 September 2014

Tough Stuff/Retail Board Update

In the Tadcaster Central Area Car Park, advertising planning permission has been applied for the provision of information boards and finger post signage directing visitors to town centre destinations from the car park. Work has also been undertaken to improve the appearance of the flowerbeds in the car park, pending the main planting which will take place in the autumn.

The Tadcaster Riverside Project is back on track and the project implementation arrangements are now fully underway. Selby District Council has committed £130k funding towards the project which will see an exciting new play area, landscaping and fitness equipment on the side of the Rive Wharfe.

The council is taking forward the refurbishment of Tadcaster Bus Station in partnership with NYCC. This will improve the structure and the adjoining block paver standing area used by waiting buses. NYCC is project managing the refurbishment as well as contributing a substantial sum towards the work.

September will see the refurbishment, replacement and standardisation of all litter bins in the Tadcaster conservation area with black and gold livery. This additional work has been done in partnership with the Tadcaster and Villages Community Engagement Forum (T&V CEF) Partnership Board, which has provided funding for the new bins, and the Community Payback scheme, who are undertaking the refurbishment work. The Board is now in a dialogue with NYCC regarding new traffic lights on Bridge Street and the painting of lamp posts.

The Tough Stuff Board continues its work identifying and assessing other SDC owned land within the defined limits of the retail area, possibly for housing. It is also continuing its work with the Tadcaster and Rural Community Interest Company (CIC) on developing a Town Gateway Proposal for Tadcaster. The Board has developed a new action plan for the coming year in response to the findings of the recent Retail Study. These include actions focusing on the Environment/Street Scene and Leisure and Culture, with the aim of increasing footfall to support the local retail economy.

STEP/Retail/Growing Enterprise Update

The Selby Town Enterprise Partnership (or STEP) is making progress on priorities for the town with board members acting as Champions on key parts of the work programme. The STEP will also be implementing a Communications Plan to raise its profile and awareness of its work. In order to counter the significant high street leakage

which the town experiences, the STEP is developing a number of initiatives to bring people into the town, particularly at weekends. One of these initiatives was the Selby Food Festival held on 12 July. The festival was a great success and brought large numbers of people to the town. Many stallholders sold out on the day while nearby shops reported takings were up 50% on normal Saturday levels. The event also showed the great potential the town has to compete for day-trip visitors. The STEP continues to pull together a calendar of events for the town to ensure that opportunities aren't missed to promote Selby's offer. The STEP will be using this and the findings of a new retail study to develop a longer-term action plan for the town.

In Sherburn, Selby District Council officers continue to work with the Heart of the Village Centre group to develop a project which will deliver key improvements for the retail area in the village centre. The project is developing proposals for improvements to the physical environment around the junction of Church View and Low Street in the village centre. The project has identified the need to enhance the attractiveness of the village for residents and visitors and to provide an environment that has a high degree of impact upon footfall in the village, the economic value offered by the village, and the quality of the streetscape.

The Growing Enterprise programme of support to new and existing businesses is taking shape. Building on the good work which the council has been doing as part of the Open for Business initiative, we are working with the LEP and Business Support North Yorkshire on a programme which will involve setting up business incubation units and pop-up shops. The first business incubation units are now available in Community House. A group of partners is now working on developing a plan to bring about high-quality pop-up shops, market stall taster days, supported by business coaching and mentoring and linking closely to Selby College and opportunities for young people. Although this work is commencing in Selby, a similar approach will be taken in Sherburn and Tadcaster, tailored to work in those towns. The Growing Enterprise programme will also focus on the wider skills agenda and work continues on developing a comprehensive programme which will develop skills at a number of levels to ensure that the district's workforce is ready to participate in economic growth.

Empty Homes Strategy Update

Access Selby is delivering the new Empty Homes service through its Community Support Team. Whilst the service is being led by the Community Support team (with the Community Officers co-ordinating activity in their areas), the team is also using expertise in the Housing Options team to build relationships with private sector landlords.

Community Officers continue to work through a list of approximately 100 properties to validate and determine the ownership and are now starting to engage with a number of owners. Systems have been set up to support property owners to bring the properties back to occupation, where negotiation fails enforcement action will be used. The loans service will be in place in the coming weeks.

The Future of the CEFs

Following on from the success of the special CEF event in June, I am now working with Rose Norris and colleagues on developing proposals for the CEFs and the council's future model for working with the third sector. The CEFs have made significant strides

as a way of enabling community leadership on local projects and we want to ensure that the council's future arrangements enable the CEFs to make further progress.

Chris Metcalfe



Councillor Mike Jordan – Chair of Policy Review Committee

Policy Review Committee Update – Council 2 September 2014

Policy Review Committee – 15 July 2014

The first item on the agenda was the State of the Area Address. Discussion took place on the following areas:

- The progress of Community Engagement Forums (CEFs).
- The welfare reform changes.
- The planning process concerning impact assessments and section 106 agreements.
- The purchase of the Burn Airfield site.

Further discussion also took place around improving tourism for the area and conducting a green belt review of appropriate sites.

The next item was an update on Welfare Reform. The Committee were informed that there had been more movements on tenancies in 2013/14 than 2012/13 to downsize however there was currently a shortage of smaller properties. It was also explained that the number of people in rent arrears had reduced which was against the national trend. The Committee were also informed that there was work on-going regarding empty homes in the private sector to open up opportunities to obtain properties for affordable rent.

Finally we looked at the Work Programme and it was agreed that items relating to the financial strategy and the tenants policy would be added to the work programme for the meeting in September. It was also agreed to have a further welfare reform update in January.

Mike Jordan
Chair, Policy Review Committee



Councillor Jack Crawford – Chair of Scrutiny Committee

Scrutiny Committee Update – Council 2 September 2014

The Scrutiny Committee has met once since the last report to Council on 24 June 2014.

25 June 2014

Bus Timetables – Verbal Report

Richard Owens, Assistant Director, Passenger Transport, North Yorkshire County Council was in attendance to discuss the impact on bus timetables following the announcement of cuts to bus subsidies in North Yorkshire.

Concern was raised in particular around two services in the Fairburn and Brotherton areas where the frequency of the service had been reduced and route had changed. The Committee also heard from a resident in the village who requested that the service should be brought back to its previous frequency and route to allow people in the village to attend medical and other appointments.

Richard Owens agreed to raise the above concerns with the operator.

Call In – Decision E/14/11 – Executive Representatives on Outside Bodies

The Committee were asked to consider the Call In of the decision made in respect of report E/14/11 – Executive Representatives on Outside Bodies which was made by the Executive at their meeting on 5 June 2014.

Discussion took place on the reasoning behind officers attending meetings of the Internal Drainage Board as representatives of the Council. The Committee were informed that the officers who had been appointed brought a range of experience and expertise in different areas.

It was acknowledged that due to the Council having a high number of seats on the Drainage Board, these were difficult to fill solely with Councillors, due to meetings taking place during the day. It was also stated that it was important the Council took up its whole allocation of places due to the importance of the issues being discussed.

The Committee asked the Executive to explore all avenues to reduce the size of the IDB and, as a consequence, reduce the Council's reliance on officer appointees in future.

Programme for Growth

Councillor Mark Crane, Leader of the Council provided an update on all Programme for Growth projects.

The Committee discussed issues relating to empty homes, house building and garage sites.

A New Leisure Centre in Selby

The Deputy Chief Executive was present to provide an update on the efforts to provide a new leisure centre to replace the fire damaged Abbey Leisure Centre at Scott Road, Selby.

The Committee were informed that building was underway and was currently on budget and on time. It was expected that the building would open in February 2015. The Committee were informed that there had been a substantial reduction to the capital costs compared to the budget estimate and it was intended that the new leisure centre would be running at break even or surplus by 2018.

Access Selby Service Provision – Community Support

The Lead Officer, Community Support Teams was present to provide information of the services offered by the Community Support Teams.

The Committee were provided with an overview of the community support service area and the three separate teams – Customer Services, Community Officers and Housing Support.

It was explained that the Customer Services team had met their targets for 2013/14 however had fallen slightly short currently in 2014/15. The Committee were informed that this was due the installation of a new phone system that had also taken away the ability to transfer calls to the Civic Centre in times of high demand.

Discussion took place on the roles of Community Officer Team and identifying performance measures for them.

Task Group – Community Support Service Area

The Committee selected the Community Support service area as a topic for its next review and it was agreed to set up a Task and Finish Group to conduct this review. It was agreed that Councillors Crawford, Chilvers, Dyson and Mackay would form the Task and Finish Group.

The first meeting of the Task Group took place on 22 July and another meeting has been scheduled for 2 September.

Jack Crawford
Chair, Scrutiny Committee



Councillor Chris Pearson – Chair of Audit Committee

Audit Committee Update to Full Council 2nd September 2014

Since the last full council the Audit committee have met four times.

There has been one change of committee member, Cllr Mrs Davies left the committee and was replaced by Cllr Crawford.

12th June 2014

Special meeting of the Audit Committee.

Five members were present.

The committee was held to review Part 4 of the constitution which deals with Rules of procedure. The committee considered the necessary and potential amendments placed before them by the Council's solicitor and came to an agreement to forward these on to the Executive for their approval.

18th June 2014

Ordinary meeting of the Audit Committee.

Seven members were present.

The committee considered and discussed the Internal Audit Annual Report for 2013/14 which was presented by John Barnett of Veritau and were pleased that in the opinion of the internal auditors the report obtained Substantial Assurance. The report received the committee's approval.

The committee went on to receive the External Audit Progress report presented by Gavin Barker of Mazars. The committee noted the report and accepted its progress

The committee moved into private session where it considered the Risk management Annual Report, the review of the Corporate Risk register and the review of the Access Selby Risk Register. Councillors present endorsed the action of officers in furthering the progress or these registers.

4th July 2014

Special Audit Committee.

Four members were present

The Special Audit Committee was held to consider the matters arising from the previous Special Audit Committee held on the 12th June and to consider the general rules around the delegation of functions that apply to Part 3 of the Constitution

The general rules were reviewed and it was agreed that subject to consideration by the Executive that these would be placed before the Full Council for ratification.

29th July 2014

Special Audit Committee

Five members were present plus the Chairman of Planning as an observer

The committee was held to consider Parts 1, 2, 5, 6 and 7 of the constitution.

The report was presented by the Council's Solicitor and the committee agreed to these changes and would be forwarded to the Executive for their consideration prior to being presented to the Full Council for ratification.

Chris Pearson
Chair, Audit Committee



Public Session

Report Reference Number: C/14/4

Agenda Item No: 12

To:	Council
Date:	2 September 2014
Author:	Mike James, Lead Officer – Marketing and Communications
Lead Officer:	Mark Steward, Managing Director – Access Selby
Lead Member	Cllr Bill Inness, Chair – Access Selby Board

Title: Access Selby Annual Report 2013/14

Summary:

This report supports the presentation to Council of Access Selby's annual report for 2013/14. It gives an overview of the key successes, issues and challenges faced by the delivery organisation between 1 April 2013 and 31 March 2014.

Recommendation:

To note the report and accompanying presentation

Reasons for recommendation:

To support the relationship and understanding between service delivery and commissioning sides of the organisation.

1. Introduction and background

1.1 The Access Selby annual report relates specifically to service delivery. It complements the main Council annual report published earlier in the summer, and is part of a range of activity undertaken by Access Selby to raise awareness and understanding of its role and its capabilities.

2. The Report

- 2.1 The annual report is this year delivered as a presentation; the full version to be presented to Council on 2 September. This format lends itself more readily to be viewed online, and shared with clients and potential new customers. This also mirrors changes made to the main Council annual report which was this year delivered in a variety of formats to maximise its reach within the community.
- 2.2 During 2013/14 Access Selby delivered on all key performance indicator (KPI) targets as set out in the Service Level Agreement with the Council. The KPIs have been set at a level which has required on-going improvement, and the 2013/14 performance data demonstrates a continued level of progress over the three years since Access Selby's inception.
- 2.3 This has enabled the Council to deliver its required savings, whilst maintaining standards of service across core services.
- 2.4 Customer focus: 98% of urgent repairs to Council-owned homes have been completed on time, which represents a two per cent increase from the previous year and a 14% increase from 2010/11.
- 2.5 Business-like: during 2013/14 Access Selby's benefits service consistently performed above their target, despite the big challenges of implementing welfare reform changes. Selby continues as one of the quickest authorities in Yorkshire and the Humber to process claims and changes to claims.
- 2.6 Flexible: partnership working facilitated by Access Selby's enforcement team has increased the rent collection rate to 98.28% giving a £22,112 increase in projected revenue. They did this through collaborative working with other agencies to ensure financial support and information was available to the Council's customers.
- 2.7 There remain a number of issues to resolve. Whilst customer satisfaction remains high, Access Selby recognises that it needs to work with the Council to improve the information we collect from customers to better inform decisions about levels of service and the way in which they are delivered.
- 2.8 Waiting times for some customers at the customer contact centre remain a concern: during the year Access Selby has tried to manage this through a re-allocation of resources, but this remains a work-in-progress.
- 2.9 During the year we've also been working hard to improve access to support and information about planning services. In direct response to customers' comments, Access Selby Board approved 'invest to save' funding to develop The Planning Surgery: a new service that enables people to pre-book appointments for advice, and to have easy access to information about whether or not permission is required.

2.10 Throughout the year Access Selby has also supported the Council's wider ambition to improve levels of service and deliver better value for money through the Better Together project with North Yorkshire County Council.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

None linked to this report or the presentation to Council.

3.2 Financial Issues

None linked to this report or the presentation to Council.

4. Conclusion

The Access Selby annual report gives Council an opportunity to review the progress of the delivery arm of the organisation and to consider the key achievements and challenges during 2013/14.

5. Background Documents

None linked to this report or the presentation to Council.

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Appendices:

None – the Access Selby annual report will be presented to Council on 2 September.



Public Session

Report Reference Number: C/14/5

Agenda Item No: 13

To: Council
Date: 2 September 2014
Author: Jodie Taylor – Lead Officer Finance
Lead Officer: Karen Iveson, Executive Director (s151)
Executive Member: Councillor C Lunn – Lead Member for Finance and Resources

Title: Treasury Management Sweeping Arrangements

Summary:

The report sets out the proposed arrangements for the future investments of the Council in line with the Selby and North Yorkshire – Better Together partnership.

Recommendations:

- i. To approve the proposed treasury management sweeping arrangement.
- ii. That the North Yorkshire County Council 2014/15 Annual Investment Strategy and resulting Lending List be approved for adoption.

Reasons for recommendation

In order to ensure that treasury management decisions are subject to prior scrutiny, as per the CIPFA Treasury Management Code of Practice, Council are asked to consider the proposed treasury management investment arrangements.

1. Introduction and background

- 1.1 Treasury management in Local Government is governed by the CIPFA “Code of Practice on Treasury Management in the Public Services” and in this context is the management of the Council’s cash flows, its banking and its capital market transactions, the effective control of the

risks associated with those activities and the pursuit of optimum performance consistent with those risks. This Council has adopted the Code and complies with its requirements.

- 1.2 Executive Members were appraised of the new proposals for treasury management investments as part of the Treasury Management – Annual Review 2013/14 Executive Report which went to Executive 3 July 2014. The report also set out the requirements for the Authority to adopt the North Yorkshire County Council Investment Strategy and Lending List.
- 1.3 As per the report of 3 July 2014 Executive Members recommended to Council that the North Yorkshire County Council 2014/15 Annual Investment Strategy and Lending List is adopted.

2. The Report

- 2.1 A proposal is currently being finalised for the future investments of this Council to be managed as part of an overall investment pool operated by North Yorkshire County Council (NYCC).
- 2.2 NYCC operate an investment pool with several other public sector organisations in which NYCC's own cash balances and those of the other organisations are merged together to form a combined investment pool.
- 2.3 The arrangements are operated and investments made by NYCC as a total investment pool. Investments are made on behalf of the overall investment pool - individual tailored investments are not made for the separate participating organisations.
- 2.4 The pooling of the Councils funds into the investment pool is achieved through a 'daily sweeping' arrangement. An automated sweep is undertaken on a daily basis whereby the Council's bank account balance (either debit or credit) is swept into NYCC's account, along with the balances of relevant other organisations to form a combined investment pool.
- 2.5 The pooling arrangement ensures the Council has instant access to required funds for its cash flow purposes while surplus cash is invested automatically. Interest is paid to the Council at the same average rate as earned by NYCC on the total funds loaned out through the investment pool.
- 2.6 NYCC's investment priorities are in line with those of the Council – firstly the security of capital and secondly the liquidity of investments. The highest return (yield) is sought on investments only when proper levels of security and liquidity are achieved. However, the investment risk appetite of NYCC is low in order to give priority to the security of investments.

- 2.7 Any loss incurred by NYCC as a result of default by a bank / building society counterparty would be apportioned between NYCC and the Council, and other organisations operating a similar arrangement with NYCC, in proportion to the total surplus cash funds at the time of default.
- 2.8 In order to operate the pooling arrangements with NYCC as described above the Council will be required to adopt the Annual Investment Strategy and resulting Approved Lending list of NYCC. The Annual Investment Strategy of NYCC for 2014/15 as approved in February 2014 and resulting latest Approved Lending List both of which are required to be adopted are attached as Appendix A and Appendix B respectively, for consideration and approval.
- 2.9 NYCC's Annual Investment Strategy to be adopted largely mirrors the Council's current policy to be replaced. The NYCC Investment Policy has the same two fundamental objectives as the Council:
- The security of capital (protecting the capital sum from loss) and then
 - The liquidity of investments (keeping the money readily available for expenditure when needed).

In order to ensure the security and liquidity of investments NYCC also maintains a creditworthiness policy underpinned by the Capita Asset Services model.

- 2.10 NYCC's 2014/15 Investment Strategy which the Council is now being recommended to adopt as detailed in Appendix A, does differ slightly in some areas to the Council's current strategy. For example, the forecast average rate of return set out in the Council's Annual Strategy approved on 25 February 2014 was 1.25% whereas due to the continuing challenging investment environment, NYCC's forecast investment return was lower at 0.75%. It is not expected however that these differences will have a negative impact on the Council's investment activities in terms of security of capital, liquidity or rate of return.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

There are no legal issues as a result of this report.

3.2 Financial Issues

The charge for the Treasury Management sweeping arrangement will be incorporated into the overall Service Level Agreement with North Yorkshire County Council for the provision of accountancy services, which is currently being finalised.

The operation of the sweeping arrangement will result in reduced Finance Team involvement in day to day cash flow management and investments - the level of expected time saving is currently being assessed. The potential for a further saving through reduced treasury management consultancy fees is also being considered in conjunction with NYCC.

4. Conclusions

The proposed treasury management sweeping arrangement will achieve economies of scale in terms of overall better interest returns together with the efficiencies resulting from not having to administer individual authority investment operations. A Service Level Agreement is being finalised for this arrangement.

5. Background Documents

Finance treasury management records.

Contact Officer

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Appendices:

Appendix A – NYCC Annual Investments Strategy 2014/15
Appendix B – NYCC Approved Lending List
Appendix C – NYCC Annual Investment Strategy Specified Investments
Appendix D – NYCC Annual Investment Strategy Non-Specified Investments
Appendix E – NYCC Approved Countries for Investment

NORTH YORKSHIRE COUNTY COUNCIL ANNUAL INVESTMENT STRATEGY 2014/15

Background

- 1.1 Under the Local Government Act 2003 the County Council is required to have regard to Government Guidance in respect of the investment of its cash funds. This Guidance was revised with effect from 1 April 2010. The Guidance leaves local authorities free to make their own investment decisions, subject to the fundamental requirement of an Annual Investment Strategy being approved by the County Council before the start of the financial year.
- 1.2 This Annual Investment Strategy must define the investments the County Council has approved for prudent management of its cash balances during the financial year under the headings of **specified investments** and **non specified investments**.
- 1.3 This Annual Investment Strategy therefore sets out
- revisions to the Annual Investment Strategy (**paragraph 1.4**)
 - the Investment Policy (**paragraph 1.5**)
 - the policy regarding loans to companies in which the County Council has an interest (**paragraph 1.6**)
 - specified and non specified investments (**paragraph 1.7**)
 - Creditworthiness Policy - security of capital and the use of credit ratings (**paragraph 1.8**)
 - the Investment Strategy to be followed for 2014/15 (**paragraph 1.9**)
 - investment reports to members (**paragraph 1.10**)
 - investment of money borrowed in advance of need (**paragraph 1.11**)
 - investment (and Treasury Management) training (**paragraph 1.12**)

Revisions to the Annual Investment Strategy

- 1.4 In addition to this updated **Investment Strategy**, which requires approval before the start of the financial year, a revised Strategy will be submitted to County Council for consideration and approval under the following circumstances:
- (a) significant changes in the risk assessment of a significant proportion of the County Council's investments
 - (b) any other significant development(s) that might impact on the County Council's investments and the existing strategy for managing those investments during 2014/15.

Investment Policy

- 1.5 The parameters of the Policy are as follows:

- (a) the County Council will have regard to the Government's Guidance on Local Government Investments as revised with effect from 1 April 2010, and the 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes.
- (b) the County Council's investment policy has two fundamental objectives
 - the security of capital (protecting the capital sum from loss); and then
 - the liquidity of its investments (keeping the money readily available for expenditure when needed)
- (c) the County Council will also aim to seek the highest return (yield) on its investments provided that proper levels of security and liquidity are achieved. The risk appetite of the County Council is low in order to give priority to the security of its investments
- (d) the borrowing of monies purely to invest or lend and make a return is unlawful and the County Council will not engage in such activity
- (e) investment instruments for use in the financial year listed under **specified** and **non-specified investment** categories (see **paragraph 1.7**)
- (f) counterparty limits will be set through the County Council's Treasury Management Practices Schedules.

Policy regarding loans to companies in which the County Council has an interest

- 1.6
- (a) the County Council's general investment powers under this Annual Treasury Management and Investment Strategy come from the Local Government Act 2003 (Section 12). Under this Act a local authority has the power to invest for any purpose relevant to its functions or for the purpose of the prudent management of its financial affairs
 - (b) in addition to investment, the County Council has the power to provide loans and financial assistance to Limited Companies under the Localisation Act 2011 (and also formally under the general power of wellbeing in the Local Government Act 2000) which introduced a general power of competence for authorities (to be exercised in accordance with their general public law duties)
 - (c) any such loans to limited companies by the County Council, will therefore be made under these powers. They will not however be classed as investments made by the County Council and will not impact on this Investment Strategy. Instead they will be classed as capital expenditure by the County Council under the Local Authorities (Capital Finance and Accounting) Regulations 2003, and will be approved, financed and accounted for accordingly
 - (d) at present the County Council has made loans to two companies in which it has an equity investment (ie Yorwaste and NYnet). In both cases loan limits are set, and reviewed periodically, by the Executive.

Specified and non-specified Investments

1.7 Based on Government Guidance as updated from 1 April 2010.

- (a) investment Instruments identified for use in the forthcoming financial year are listed in the Schedules attached to this Strategy under the **specified** and **non-specified** Investment categories
- (b) all **specified** Investments (see **Appendix E**) are defined by the Government as options with “relatively high security and high liquidity” requiring minimal reference in investment strategies. In this context, the County Council has defined Specified Investments as being sterling denominated, with maturities up to a maximum of 1 year meeting the minimum high credit quality
- (c) **Non-specified** investments (see **Appendix F**) attract a greater potential of risk. As a result, a maximum local limit of 20% of “core cash” funds available for investment has been set which can be held in aggregate in such investments
- (d) for both **specified** and **non-specified** investments, the attached Schedules indicate for each type of investment :-
- the investment category
 - minimum credit criteria
 - circumstances of use
 - why use the investment and associated risks
 - maximum % age of total investments
 - maximum maturity period
- } (Non-Specified only)
- (e) there are other instruments available as Specified and Non-Specified investments which the County Council will NOT currently use. Examples of such investments are:-

Specified Investments - Commercial Paper
 - Gilt funds and other Bond Funds
 - Treasury Bills

Non-Specified Investments - Sovereign Bond issues
 - Corporate Bonds
 - Floating Rate notes
 - Equities
 - Open Ended Investment Companies
 - Derivatives

A proposal to use any of these instruments would require detailed assessment and be subject to approval by Members as part of this Strategy. Under existing scrutiny arrangements, the County Council’s Audit Committee will also look at any proposals to use the instruments referred to above.

Creditworthiness Policy - Security of Capital and the Use of Credit Ratings

1.8 The financial markets have experienced a period of considerable turmoil since 2008 and as a result attention has been focused on credit standings of counterparties with whom the County Council can invest funds.

It is paramount that the County Council's money is managed in a way that balances risk with return, but with the overriding consideration being given to the security of the invested capital sum followed by the liquidity of the investment. The Approved Lending List will, therefore, reflect a prudent attitude towards organisations with whom funds may be deposited.

The rationale and purpose of distinguishing specified and non-specified investments is detailed in **paragraph 1.7** above. Part of the definition for a Specified investment is that it is an investment made with a body which has been awarded a high credit rating with maturities of no longer than 364 days

It is, therefore, necessary to define what the County Council considers to be a "high" credit rating in order to maintain the security of the invested capital sum.

The methodology and its application in practice will, therefore, be as follows:-

- (a) the County Council will rely on credit ratings published by the three credit rating agencies (Fitch, Moody's and Standard & Poor's) to establish the credit quality (ability to meet financial commitments) of counterparties (to whom the County Council lends) and investment schemes. Each agency has its own credit rating components to complete their rating assessments. These are as follows:

Fitch Ratings

- | | |
|------------|---|
| Long Term | - generally cover maturities of over five years and acts as a measure of the capacity to service and repay debt obligations punctually. Ratings range from AAA (highest credit quality) to D (indicating an entity has defaulted on all of its financial obligations) |
| Short Term | - cover obligations which have an original maturity not exceeding one year and place greater emphasis on the liquidity necessary to meet financial commitments. The ratings range from F1+ (the highest credit quality) to D (indicating an entity has defaulted on all of its financial obligations) |
| Viability | - a measure of an institution's intrinsic safety and soundness on a stand-alone basis. This rating is designed to assess an institution's exposure to risk and, as a result, represents Fitch's view on the likelihood that it would run into difficulties which would require support. These ratings are graded from aaa (very strong) to f (an institution that has either defaulted or, in Fitch's opinion, would have defaulted if it had not received external support). |
| Support | - a view of the likely presence of a lender of last resort, either government or parent, with the willingness and the resources to aid a failing financial institution. Support ratings do not assess the intrinsic credit quality of a bank. Rather they communicate the agency's judgement on whether the bank would receive support should this |

become necessary. The rating is graded from 1 (a bank with an extremely high probability of external support) to 5 (external support cannot be relied on).

Moody's Ratings

- Long Term - an opinion of the relative credit risk of obligations with an original maturity of one year or more. They reflect both the likelihood of a default on contractually promised payments and the expected financial loss suffered in the event of default. Ratings range from Aaa (highest quality, with minimal credit risk) to C (typically in default, with little prospect for recovery of principal or interest)
- Short Term - an opinion of the likelihood of a default on contractually promised payments with an original maturity of 13 months or less. Ratings range from P-1 (a superior ability to repay short-term debt obligations) to P-3 (an acceptable ability to repay short-term obligations)
- Financial Strength - an opinion of a bank's intrinsic safety and soundness. This rating also takes in account other risk factors in the bank's operating environment, including the strength and prospective performance of the economy as well as the structure and relative fragility of the financial system, and the quality of banking regulation and supervision. Ratings range from A (highest level, showing intrinsic financial strength) to E (very modest strength, with a higher likelihood of periodic outside support).

Standard & Poor's Ratings

- Long Term - considers the likelihood of payment. Ratings range from AAA (best quality borrowers, reliable and stable) to D (has defaulted on obligations)
- Short Term - generally assigned to those obligations considered short-term in the relevant market. Ratings range from A-1 (capacity to meet financial commitment is strong) to D (used upon the filing of a bankruptcy petition).

In addition, all three credit rating agencies produce a Sovereign Rating which assesses a country's ability to support a financial institution should it get into difficulty. The ratings are the same as those used to measure long term credit.

- (b) the County Council will review the "ratings watch" and "outlook" notices issued by all three credit rating agencies referred to above. An agency will issue a "watch", (notification of likely change), or "outlook", (notification of a possible longer term change), when it anticipates that a change to a credit rating may occur in the forthcoming 6 to 24 months. The "watch" or "outlook" could reflect either a positive

(increase in credit rating), negative (decrease in credit rating) or developing (uncertain whether a rating may go up or down) outcome.

(c) no combination of ratings can be viewed as entirely fail safe and all credit ratings, watches and outlooks are monitored on a daily basis. This is achieved through the use of Capita Asset Services creditworthiness service. This employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies. The credit ratings of counterparties are then supplemented with the following overlays:

- credit watches and credit outlooks from credit rating agencies
- CDS spreads to give early warning of likely changes in credit ratings
- sovereign ratings to select counterparties from only the most creditworthy countries

This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the County Council to determine the duration for investments. The County Council will therefore use counterparties within the following durational bands:-

Colour	Maximum Investment Duration
Yellow	5 Years
Purple	2 Years
Orange	1 Year
Blue	1 Year (UK nationalised / semi nationalised banks only)
Red	6 months
Green	100 days
No colour	No investments to be made

(d) Given that a number of central banks/government are now supporting their banking industries in some way, the importance of the credit strength of the sovereign has become more important. The County Council will therefore also take into account the Sovereign Rating for the country in which an organisation is domiciled. As a result, only an institution which is domiciled in a country with a minimum Sovereign Rating of AA- from Fitch or equivalent, would be considered for inclusion on the County Council’s Approved Lending List (subject to them meeting the criteria above). Organisations which are domiciled in a Country whose Sovereign Rating has fallen below the minimum criteria will be suspended, regardless of their own individual score/colour. The list of countries that currently qualify using this credit criteria are shown in **Appendix G**. This list will be amended should ratings change, in accordance with this policy.

(e) in order to reflect current market sentiment regarding the credit worthiness of an institution the County Council will also take into account current trends within the Credit Default Swap (CDS) Market. Since they are a traded instrument they reflect

the market's current perception of an institution's credit quality, unlike credit ratings, which often focus on a longer term view. These trends will be monitored through the use of Capita Asset Services creditworthiness service which compares the CDS Market position for each institution to the benchmark CDS Index. Should the deviation be great, then market sentiment suggests that there is a fear that an institution's credit quality will fall. Organisations with such deviations will be monitored and their standing reduced by one colour band (**paragraph 1.8 (c)**) as a precaution. Where the deviation is great, the organisation will be awarded 'no colour' until market sentiment improves. Where entities do not have an actively traded CDS spread, credit ratings are used in isolation.

- (f) fully and part nationalised banks within the UK currently have credit ratings which are not as high as other institutions. This is the result of the banks having to have to accept external support from the UK Government and, consequently, being awarded low Viability, Support and Financial Strength ratings. However, due to this Central Government involvement, these institutions now effectively take on the credit worthiness of the Government itself (ie deposits made with them are effectively being made to the Government). This position is expected to take a number of years to unwind and would certainly not be done so without a considerable notice period. As a result, institutions which are significantly or fully owned by the UK Government will be assessed to have a high level of credit worthiness.
- (g) all of the above will be monitored on a weekly basis through Capita Asset Services creditworthiness service with additional information being received and monitored on a daily basis should credit ratings change and/or watch/outlook notices be issued. Sole reliance will not be placed on the information provided by Capita Asset Services however. In addition the County Council will also use market data and information available from other sources such as the financial press and other agencies and organisations.
- (h) in addition, the County Council will set maximum investment limits for each organisation which also reflect that institution's credit worthiness – the higher the credit quality, the greater the investment limit. These limits also reflect UK Government involvement (ie Government ownership or being part of the UK Government guarantee of liquidity). These limits are as follows:-

Maximum Investment Limit	Criteria
£75m	UK "Nationalised" banks / UK banks with UK Central Government involvement
£30m to £65m	Selected UK "Clearing Banks" and organisations covered by the UK Government's Guarantee of Liquidity
£20m or £40m	High quality foreign banks and selected UK Building Societies

- (i) should a score/colour awarded to a counterparty or investment scheme be amended during the year due to rating changes, market sentiment etc, the County Council will take the following action:-

- reduce or increase the maximum investment term for an organisation dependent on the revised score / colour awarded (in line with the boundaries and colours set in **paragraph 1.8(c)**)
 - temporarily suspend the organisation from the Approved Lending List should their score fall outside boundary limits and not be awarded a colour
 - seek to withdraw an investment as soon as possible, within the terms and conditions of the investment made, should an organisation be suspended from the Approved Lending List
 - ensure all investments remain as liquid as possible, ie on instant access until sentiment improves.
- (j) if a counterparty / investment scheme, not currently included on the Approved Lending List is subsequently upgraded, (resulting in a score which would fulfil the County Council's minimum criteria), the Corporate Director – Strategic Resources has the delegated authority to include it on the County Council's Approved Lending List with immediate effect,
- (k) a copy of the current Approved Lending List, showing maximum investment and time limits is attached at **Appendix C**. The Approved Lending List will be monitored on an ongoing daily basis and changes made as appropriate. Given current market conditions, there continues to be a very limited number of organisations which fulfil the criteria for non specified investments. This situation will be monitored on an ongoing basis with additional organisations added as appropriate with the approval of the Corporate Director – Strategic Resources.

The Investment Strategy to be followed for 2014/15

- 1.9 Recognising the categories of investment available and the rating criteria detailed above
- (a) the County Council currently manages all its cash balances internally
- (b) ongoing discussions are held with the County Council's Treasury Management Advisor on whether to consider the appointment of a external fund manager(s) or continue investing in-house – any decision to appoint an external fund manager will be subject to Member approval
- (c) the County Council's cash balances consist of two basic elements. The first element is **cash flow derived** (debtors/creditors/timing of income compared to expenditure profile). The second, **core element**, relates to specific funds (reserves, provisions, balances, capital receipts, funds held on behalf of other organisations etc)
- (d) having given due consideration to the County Council's estimated level of funds and balances over the next three financial years, the need for liquidity and day to day cash flow requirements it is forecast that a maximum of £20m of the overall balances can be prudently committed to longer term investments (eg between 1 and 3 years)
- (e) investments will accordingly be made with reference to this core element and the County Council's ongoing cash flow requirements (which may change over time) and the outlook for short term interest rates (ie rates for investments up to 12 months)

- (f) the County Council currently has no non-specified investments over 364 days
- (g) bank rate has been unchanged at 0.5% since March 2009 and underpins investment returns. It is not expected to start increasing until about September 2016.

The County Council will, therefore, avoid locking into long term deals while investment rates are down at historically low levels unless attractive rates are available with counterparties of particularly high creditworthiness which make longer term deals worthwhile and within a 'low risk' parameter. Thus no trigger rates will be set for longer term deposits (two or three years) but this position will be kept under constant review and discussed with the Treasury Management Advisor on a regular basis.

Based on current bank rate forecasts, as outlined above, an overall investment return of about 0.75% is likely in 2014/15.

- (h) for its cash flow generated balances the County Council will seek to utilise 'business reserve accounts' (deposits with certain banks and building societies), 15 and 30 day accounts and short dated deposits (overnight to three months) in order to benefit from the compounding of interest.

Investment Reports to Members

1.10 Reporting to Members on investment matters will be as follows:

- (a) in-year investment reports will be submitted to the Executive as part of the Quarterly Performance and Budget Monitoring reports
- (b) at the end of the financial year a comprehensive report on the County Council's investment activity will be submitted to the Executive as part of the Annual Treasury Management Outturn report
- (c) the regular meetings between the Corporate Director – Strategic Resources, the Deputy Leader and the Chairman of the Audit Committee provide an opportunity to consider and discuss issues arising from the day to day management of Treasury Management activities.

Investment of Money Borrowed in Advance of Need

1.11 The Borrowing Policy covers the County Council's policy on Borrowing in Advance of Spending Needs

Although the County Council has not borrowed in advance of need to date and has no current plans to do so in the immediate future, any such future borrowing would impact on investment levels for the period between borrowing and capital spending.

Any such investments would, therefore, be made within the constraints of the County Council's current Annual Investment Strategy, together with a maximum investment period related to when expenditure was expected to be incurred.

Treasury Management Training

- 1.12 The training needs of the County Council's staff involved in investment management (within the Corporate Accountancy arm of Integrated Finance in Central Services) are monitored, reviewed and addressed on an on-going basis and are discussed as part of the staff appraisal process. In practice most training needs are addressed through attendance at courses and seminars provided by CIPFA, the LGA and others on a regular ongoing basis.

The CIPFA Code also requires that Members with responsibility for treasury management receive adequate training in treasury management. This especially applies to Members responsible for scrutiny (ie the Audit Committee). An in-house training course for Members (which was also attended by officers) was provided by Capita Asset Services – Treasury Solutions on 30 September 2013. Further training will be arranged as required. The training arrangements for officers mentioned in the paragraph above will also be available to Members.

APPROVED LENDING LIST AS AT 18 AUGUST 2014

Maximum sum invested at any time (The overall total exposure figure covers both Specified and Non-Specified investments)

	Country	Specified Investments (up to 1 year)		Non-Specified Investments (> 1 year £20m limit)	
		Total Exposure £m	Time Limit *	Total Exposure £m	Time Limit *
UK "Nationalised" banks / UK banks with UK Central Government involvement					
Royal Bank of Scotland	GBR	75.0	364 days	-	-
Natwest Bank	GBR				
Ulster Bank Ltd (suspended)	GBR				
Bank of Scotland	GBR	75.0	364 days	-	-
Lloyds TSB	GBR				
UK "Clearing Banks" and organisations covered by the UK Government guarantee of liquidity					
Santander UK plc (includes Cater Allen)	GBR	40.0	6 months	-	-
Barclays Bank	GBR	65.0	6 months	-	-
HSBC	GBR	30.0	364 days		
Clydesdale Bank (trading as Yorkshire Bank)	GBR	30.0 (Shared with NAB)	Temporarily suspended	-	-
Nationwide Building Society	GBR	40.0	6 months	-	-
Other UK based banks and high quality Foreign Banks					
National Australia Bank	AUS	30.0 (Shared with Clydesdale)	364 days	-	-
Commonwealth Bank of Australia	AUS	20.0	364 days	-	-
Canadian Imperial Bank of Commerce	CAN	20.0	364 days	-	-
Deutsche Bank	DEU	20.0	6 months	-	-
Nordea Bank Finland	FIN	20.0	364 days	-	-
Credit Industriel et Commercial	FRA	20.0	6 months	-	-
BNP Paribas Fortis	FRA	20.0	6 months	-	-
Nordea Bank AB	SWE	20.0	364 days	-	-
Svenska Handelsbanken	SWE	40.0	364 days	-	-
Goldman Sachs International Bank	UK	40.0	3 months	-	-
Local Authorities					
County / Unitary / Metropolitan / District Councils		20.0	364 days	5.0	2 years
Police / Fire Authorities		20.0	364 days	5.0	2 years
National Park Authorities		20.0	364 days	5.0	2 years
Other Deposit Takers					
Money Market Funds		20.0	364 days	5.0	2 years
UK Debt Management Account		100.0	364 days	5.0	2 years

* Based on data as 15 August 2014

NORTH YORKSHIRE COUNTY COUNCIL ANNUAL INVESTMENT STRATEGY 2014/15 – SPECIFIED INVESTMENTS

Investment	Security / Minimum Credit Rating	Circumstances of Use
Term Deposits with the UK Government or with UK Local Authorities (as per Local Government Act 2003) with maturities up to 1 year	High security as backed by UK Government	In-house
Term Deposits with credit rated deposit takers (Banks and Building Societies), including callable deposits with maturities less than 1 year	Organisations assessed as having “high credit quality” plus a minimum Sovereign rating of AA- for the country in which the organisation is domiciled	In-house
Certificate of Deposits issued by credit rated deposit takers (Banks and Building Societies) up to 1 year		Fund Manager or In-house “buy and hold” after consultation with Treasury Management Advisor
Forward deals with credit rated Banks and Building Societies less than 1 year (i.e. negotiated deal plus period of deposit)		In-house
Money Market Funds i.e. collective investment scheme as defined in SI2004 No 534 <i>(These funds have no maturity date)</i>	Funds must be AAA rated	In-house After consultation with Treasury Management Advisor Limited to £20m
Gilts (with maturities of up to 1 year)	Government Backed	Fund Manager or In-house buy and hold after consultation with Treasury Management Advisor
Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI 2004 No 534) with maturities under 12 months <i>(Custodial arrangements required prior to purchase)</i>		After consultation with Treasury Management Advisor

NORTH YORKSHIRE COUNTY COUNCIL ANNUAL INVESTMENT STRATEGY 2014/15 – NON-SPECIFIED INVESTMENTS

Investment	A) Why use it? B) Associated Risks?	Security / Minimum Credit Rating	Circumstances of Use	Max % of overall investments or cash limits in cash category	Maximum investment with any one counterparty	Maximum Maturity Period	
<p>Term Deposit with credit rated deposit takers (Banks & Building Societies), UK Government and other Local Authorities with maturities greater than 1 year</p>	<p>A) Certainty of return over period invested which could be useful for budget purposes</p> <p>B) Not Liquid, cannot be traded or repaid prior to maturity</p> <p>Return will be lower if interest rates rise after making deposit</p> <p>Credit risk as potential for greater deterioration of credit quality over a longer period</p>	<p>Organisations assessed as having “high credit quality”</p> <p>Plus</p> <p>A minimum Sovereign rating of AA- for the country in which an organisation is domiciled</p>	In-house	100% of agreed maximum proportion (20%) of core cash funds that can be invested for more than 1 year (estimated at £20m)	£5m	2 years subject to potential future review with a maximum of no longer than 5 years	
<p>Certificate of Deposit with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year</p> <p><i>Custodial arrangements prior to purchase</i></p>	<p>A) Attractive rates of return over period invested and in theory tradable</p> <p>B) Interest rate risk; the yield is subject to movement during life of CD which could negatively impact on its price</p>			Fund Manager or In-house “buy & hold” after consultation with Treasury Management Advisor	25% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m)	£3m	
<p>Callable Deposits with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year</p>	<p>A) Enhanced Income – potentially higher return than using a term deposit with a similar maturity</p> <p>B) Not liquid – only borrower has the right to pay back the deposit; the lender does not have a similar call</p> <p>Period over which the investment will actually be held is not known at outset</p> <p>Interest rate risk; borrower will not pay back deposit if interest rates rise after the deposit is made</p>			To be used in-house after consultation with Treasury Management Advisor	50% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£12.5m)	£5m	

Investment	A) Why use it? B) Associated Risks?	Security / Minimum Credit Rating	Circumstances of Use	Max % of overall investments or cash limits in cash category	Maximum investment with any one counterparty	Maximum Maturity Period
Forward Deposits with a credit rated Bank or Building Society > 1 year (i.e. negotiated deal period plus period of deposit)	A) Known rate of return over the period the monies are invested – aids forward planning B) Credit risk is over the whole period, not just when monies are invested Cannot renege on making the investment if credit quality falls or interest rates rise in the interim period	Organisations assessed as having “high credit quality” Plus A minimum Sovereign rating of AA- for the country in which an organisation is domiciled	To be used in-house after consultation with the Treasury Management Advisor		£3m	2 years subject to potential future review with a maximum of no longer than 5 years
Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase	A) Excellent credit quality Relatively Liquid If held to maturity, yield is known in advance Enhanced rate in comparisons to gilts B) Interest rate risk; yield subject to movement during life off bond which could impact on price			25% of greed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m)	n/a	
Bonds issued by Multilateral development banks (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase	A) Excellent credit quality Relatively Liquid If held to maturity, yield is known in advance Enhanced rate in comparison to gilts B) Interest rate risk; yield subject to movement during life off bond which could negatively impact on price	AA or Government backed	In-house on a “buy and hold” basis after consultation with Treasury Management Advisor or use by Fund Managers		£3m	

Investment	A) Why use it? B) Associated Risks?	Security / Minimum Credit Rating	Circumstances of Use	Max % of overall investments or cash limits in cash category	Maximum investment with any one counterparty	Maximum Maturity Period
UK Government Gilts with maturities in excess of 1 year Custodial arrangements required prior to purchase	A) Excellent credit quality Liquid If held to maturity, yield is known in advance If traded, potential for capital appreciation B) Interest rate risk; yield subject to movement during life if the bond which could impact on price	Government backed	Fund Manager	25% of greed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m)	n/a	2 years subject to potential future review with a maximum of no longer than 5 years
Collateralised Deposit	A) Excellent credit quality B) Not liquid, cannot be traded or repaid prior to maturity Credit risk as potential for greater deterioration of credit quality over a longer period	Backed by collateral of AAA rated Local Authority LOBO's	In-house via money market broker or direct	100% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£20m)	£5m	

**NORTH YORKSHIRE COUNTY COUNCIL
APPROVED COUNTRIES FOR INVESTMENTS**

Based on the lowest available rating

Sovereign Rating	Country
AAA	Australia Canada Denmark Finland Germany Luxembourg Norway Singapore Sweden Switzerland
AA+	Hong Kong Netherlands UK USA
AA	Abu Dhabi (UAE) France Qatar
AA-	Belgium Saudi Arabia



Public Session

Report Reference Number: C/14/6

Agenda Item No: 14

To: Council
Date: 2 September 2014
Author: Jonathan Lund, Monitoring Officer

Title: Standards Annual Report 2013/14

Summary:

New arrangements for dealing with standards, conduct and ethics were introduced in July 2012 in response to the Localism Act 2011.

2013/14 was the first full year of operation. This Annual Report covers the period from July 2012 to March 2014 and deals with first part year and the past full year of activity.

Recommendations:

- i. To receive and note the Standards Annual Report 2013/14 attached at Appendix 1**
- ii. To consider any issues arising from the Standards Report.**

Reasons for recommendation

To demonstrate compliance with Section 27 of the Localism Act 2011 and the duty to promote and maintain high standards of conduct by Councillors and co-optees.

1 The Report

1.1 The attached Annual Report 2013/14 sets out details of the legislation, arrangements and procedures in place to govern standards at Selby District Council. The Report also provides details of the training activity, complaints and levels of compliance for the period in question.

1.2 The Council's Independent Persons have been consulted on the content of the report and have been invited to attend the Council Meeting when the report is presented and considered.

3. Legal/Financial Controls and other Policy matters

As set out in the Annual Report

5. Background Documents

LGO Annual review Letter 2014

Contact Officer: Jonathan Lund jlund@selby.gov.uk

Appendices:

Appendix 1: Standards Annual Report 2013/14

STANDARDS ANNUAL REPORT 2013/14

Jonathan Lund
Monitoring Officer
September 2014



Introduction – Ethical Standards

The Localism Act 2011 swept away the standards regime first introduced as part of the Local Government Act 2000. In its place was a duty placed upon all councils to promote and maintain high standards of conduct by councillors and co-opted members.

Personal and Prejudicial interests were replaced by a set of nationally defined “Disclosable Pecuniary Interests” – reinforced by new criminal sanctions - and locally determined “other interests”.

All Councils were required to develop and adopt their own local Code of Conduct based upon the Seven General Principles of Public Conduct. As a consequence those councillors serving their electorate in Selby District might be governed by different codes of conduct for North Yorkshire County Council, Selby District Council or their Town or Parish Council.

In addition, principal councils were required to adopt their own arrangements for dealing with complaints against councillors alleged to have breached their council’s code of conduct. The arrangements adopted by Selby District Council came into force on 1 July 2012 and deal with complaints against Selby District Councillors and Town and Parish Councillors in the District of Selby.

The Council’s Monitoring Officer is responsible for advising the Council on its duty to maintain high ethical standards; for advising councillors on their responsibilities to conduct themselves appropriately, register and declare their interests and not otherwise jeopardise the proper decision-making of the Council; and for managing the arrangements for dealing with complaints.

The Council has appointed two Independent Persons to provide an invaluable independent view on how the Council manages its ethical standards.

These new arrangements were introduced part way through the 2012/13 municipal year. 2013/14 is the first full year of operation. This is the first Annual Report under the new arrangements and covers the period July 2012 to the end of March 2014.

Code of Conduct

Selby District Council adopted a local Code of Conduct on 24 April 2012. The new Code came into effect from 1 July 2012. The Code is broadly similar to the Code adopted by North Yorkshire County Council. Town and Parish Councils in Selby District have either adopted the same Code as the District Council or they have adopted the model code issued by the National Association of Local Councils (NALC).

The Localism Act 2011 required that all codes of conduct should be based upon the seven principles of public life:-

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

A copy of the Selby District Council Code of Conduct is available at

www.selby.gov.uk/upload/SDC_CODE_OF_CONDUCT_FINAL_2012.doc

In 2013 all District Councillors signed an undertaking to observe the code of conduct.

Standards Committee

The Local Government Act 2000 required all principal authorities to establish a Standards Committee as the body with responsibility for promoting high standards of ethical conduct. The Localism Act 2011 did away with the obligation to appoint a Standards Committee and removed the special status the Committee was granted by the 2000 Act. Many local authorities chose to retain a Standards Committee as part of their new local arrangements. Selby District Council decided not to appoint a Standards Committee. Instead, ethical matters are considered by Council and the arrangements for dealing with complaints are delegated to the Monitoring Officer, advised by the Independent Persons.

Monitoring Officer

Jonathan Lund, Deputy Chief Executive, is the Council's Monitoring Officer (MO) and is supported in this role by the Deputy Monitoring Officer, Gillian Marshall, Solicitor to the Council.

The Monitoring Officer is a statutory role and is required to ensure that the Council, its Councillors and Officers carry out their functions in a proper and lawful manner. The MO also has an important role to play in ensuring that high standards of conduct are promoted and maintained throughout the organisation.

The MO is responsible for establishing, maintaining and publishing the Register of Councillors' Interests for District, Town and Parish Councils and for ensuring that the Council's Constitution is effective.

Monitoring Officers across North Yorkshire meet periodically to share best and emerging practice, co-ordinate training and development and co-operate in the investigation and hearing of complaints.

Independent Persons

The Council has appointed Hilary Putman and Wanda Stables as its two independent persons. A job role and person specification were drawn up prior to the recruitment of the two independent persons. Both of the Independent Persons were previously independent members of the former Standards Committee. Hilary Putman served as Chair of the Standards Committee from 2009 to 2012.

The role of the Independent Persons is to:-

- Be consulted by the Monitoring Officer as part of the complaint handling process
- Be consulted by the Council before it makes a finding about whether a Councillor or co-optee has failed to comply with the Code of Conduct.
- Advise the Council, when consulted, on the effective working of the Code of Conduct and the Council's arrangements for dealing with complaints; and
- Be available to be consulted by a Councillor against whom a complaint has been made
- Have a freestanding remit to offer comment to the Council on its performance of the general duty to promote high standards of ethical conduct.

The Chairs of Standards Committees (where Councils have them) and Independent Persons meet from time to time to share their experience, consider best and emerging practice and discuss training and development. A copy of the minutes of the last meeting of the Chairs and Independent Persons Group is attached as Appendix 1 to this Report.

Local Determination of Complaints

In May 2008 day-to-day responsibility for dealing with complaints about Councillor Conduct was transferred from the Standards Board for England to Standards Committees in each Local Authority area. Selby District Council's Standards Committee dealt with complaints made against Selby District Councillors and against Town or Parish Councillors within Selby District. A lengthy and proscriptive "Standards Framework" issued by the Standards Board regulated how complaints were dealt with and local discretion was limited.

The Localism Act 2011 removed the obligation to have a Standards Committee and replaced the Standards Framework with a new obligation placed upon each council

to promote and maintain high standards of conduct by councillors and co-opted members. The requirement to appoint a Monitoring Officer remained, as did the statutory responsibilities attached to the post. Every Council was required to adopt a local Code of Conduct which incorporated the seven principles of public life. Instead of a detailed Standards Framework all principal Councils were required to adopt their own local arrangements for dealing with complaints. The arrangements adopted by Selby District Council in April 2012 are available at

www.selby.gov.uk/upload/Arrangements_Localism_Act_2011_FINAL_Web.doc

The new arrangements came into force in July 2012. Since then the complaints set out in Table 1 have been received and determined.

	Council	Allegation	Note	Outcome
1	Hemingbrough PC	Disrespect and disrepute	Local settlement negotiated by MO but refused by complainant. As the complainant was not the subject of the actions complained of, and the subject was happy with the local settlement, the complaint was closed following a letter of apology.	No further action
2	Kelfield PC	Disrepute and improper use of position	Complaint submitted 2 years after actions complained of and after a change in Codes of Conduct. Deputy MO concluded that complaint was not valid	No further action
3	Selby DC	Disrespect and disrepute	Complaint submitted 2 years after actions complained of and after a change in Codes of Conduct. Deputy MO concluded that complaint was not valid	No further action
4	Kelfield PC	Disrespect, compromising the impartiality of officers and disrepute	Complaint about a Parish Council Clerk. As the subject was not acting as a Councillor when the actions complained about occurred the complaint was not valid	No further action
5	Selby DC	Disrepute and preventing lawful access to information	Complaint about a leaflet distributed by a District Councillor in Escrick Parish. MO concluded that even if the actions complained about were proven, it would not represent a breach of the Code. MO decided not to investigate	No further action. Complainant referred the matter to the LGO who investigated and upheld the MO decision.
6	Escrick PC	Disrespect, bullying and disrepute	MO decided to refer the complaint for hearing. Complainant subsequently chose to withdraw complaint	Complaint withdrawn by complainant

	Council	Allegation	Note	Outcome
7	Church Fenton PC	Disrespect, disrepute, compromising the impartiality of officers, improper use of position, failure to declare a DPI and participating in a decision despite a DPI	Complaints about actions of two parish councillors at a public meeting about the high speed rail link. MO decided the two were not acting in their capacity as Parish Councillors at the public meeting, therefore the complaint was not valid	No further action
8	Church Fenton PC	Disrespect and disrepute	Complaints about actions of Parish councillor at a public meeting about the high speed rail link. MO decided subject was not acting in the capacity as Parish Councillor at the public meeting, therefore the complaint was not valid	No further action
9	Church Fenton PC	Disrepute	Complaints about actions of the subject member at a public meeting about the high speed rail link. MO decided he was not acting in the capacity as Parish Councillor at the public meeting, therefore the complaint was not valid	No further action
10	Selby DC	Disrespect and Disrepute	Complaint about foul and insulting language at a Planning Committee Meeting. Hearing conducted on behalf of MO by MO of NYCC. Complaint proven and breach found. Recommended sanctions reported to Council and endorsed. Subject Member has not complied fully with the sanctions agreed by Council.	Hearing found breach and recommended sanctions. Findings accepted and sanctions imposed by Council

The new arrangements have proved to be more flexible and have provided sufficient discretion to deal appropriately with the complaints which have come forward. Each case has been dealt with promptly and the complaint that progressed to a hearing was lodged, assessed, heard and determined within 8 weeks – this is a significant improvement on the previous procedures.

Case number 10 in Table 1 will be known to Councillors. At a meeting of Council held on 23 April 2013 the Council received the report of the Monitoring Officer which set out the findings of the hearing and recommended a number of sanctions against the Councillor who had breached the Code of Conduct. The findings and the recommended sanctions were unanimously endorsed by the Council. The sanctions were

- a) To publish the findings of the hearing;
- b) To recommend to the Independent Group that Councillor J McCartney should be replaced as an Independent Group Member on Planning Committee;
- c) To require Councillor J McCartney to undertake one to one training with the Monitoring Officer or his representative on the Code of Conduct;
- d) To require, in future, all Councillors to sign an undertaking to observe the provisions of the Code of Conduct.

It is now over a year since the Council considered the matter. The Independent Group did not replace Councillor John McCartney as a member of the planning committee, but this matter was overtaken by the decision of the Council in May 2013 not to allocate the Independent Group any places on the Planning Committee.

Councillor John McCartney has not undertaken one-to-one training with the Monitoring Officer. In April 2014 Councillor McCartney was invited to attend the Councillor Briefing/Training on Standards held on 23 April 2014 in light of the Council's resolution. He did not attend.

Councillor John McCartney has signed an undertaking to observe the provisions of the Code of Conduct.

Given the failure of Councillor John McCartney to comply fully with the Council resolution of 23 April 2013 Councillors may wish to consider whether further sanctions should be imposed.

Parish and Town Councils

The Parish and Town Councils in Selby District are under the same obligation to promote and maintain high standards of conduct and to adopt a local code of conduct for councillors. Across Selby the local councils have adopted an adapted version of either the Selby District Council Code of Conduct or the National Association of Local Councils (NALC) Code. The two are broadly similar.

Parish and Town Council representatives were invited to a series of training evenings when the new arrangements were introduced in 2012 and the events were very well attended.

There was some concern about the new legal requirement to register the disclosable pecuniary interests (DPIs) of both the councillor and their spouse or partner and about the criminal offence created to deal with breaches of that part of the law. There were a notable number of resignations from Parish Councils as a consequence. However this concern appears to have abated.

All Parish and Town Councillors have an obligation to register their DPIs and other interests and compliance is high.

I have no reason to be concerned that any Parish or Town Council is knowingly failing to meet its statutory obligations. I remain grateful for the co-operation I have received from Parish and Town Council Clerks and Councillors in dealing with standards matters.

Registration of Interests

The Localism Act 2011 requires all Councils to adopt a local Code of Conduct which includes provisions for the registration and disclosure of pecuniary interests and other interests. Councillors with disclosable pecuniary interests in the business of their Council are prohibited from participating in such business unless they have a dispensation. The Act also introduced a criminal offence relating to failure to register disclosable pecuniary interests. Councillors convicted of such offences are liable to a scale 5 fine (up to five thousand pounds) and may also be disqualified from being a councillor for up to five years.

Training has been provide to District, Town and Parish Councillors explaining the new obligations, the procedures for registering and disclosing interests and the consequences if the obligations are not met. Councillors have also been made aware that even if a Councillor's interest does not amount to a disclosable pecuniary interest, if the interest might lead them to predetermine a decision, it would not be appropriate for them to participate in the decision. If they do participate the decision could be vulnerable to challenge.

The Monitoring Officer has a legal duty to establish and maintain a register of interests for the District Council and also for Town and Parish Councils in the District. The Register(s) must be available for inspection at all reasonable hours and must be published on the Council's website. Where a Town or Parish Council also has a website a copy of the Register for that Town or Parish Council must also be published on that website. For convenience many Parish and Town Councils opt to provide a link to the District Council's website to comply with this requirement.

Dispensations

No requests for dispensations have been received during the period covered by this report.

Training and Development

Training sessions for District Councillors and also for Town and Parish Councillors and Clerks was provided in September and October 2012. The events were well attended and lively.

The training dealt with

- The new Localism Act 2011 and the new Standards Regime
- The Seven Principles of Public Life
- The Local Code of Conduct
- Disclosable Pecuniary Interests
- Other Interests
- The Register of Interests
- Sensitive Interests
- Dispensations
- Arrangements for dealing with complaints of breaches of the code

In addition to the training sessions the Monitoring Officer has also attended a number of Parish and Town Council meetings to speak about standards issues, offer advice and answer questions.

Refresher training was provided in April 2014 for District Councillors.

Further training sessions will be scheduled to take place in summer 2015 following the District/Town and Parish Council elections in May.

All Councillors are encouraged to attend the training sessions. They provide useful updates on the obligations placed on elected officials, ensure that everyone is informed about good ethical practice so that we can all help each other comply with the rules, and helps demonstrate that the Council is taking seriously its duty to promote and maintain high standards of conduct.

The Monitoring Officer attends national and regional training events from time to time to keep informed of developments in the field of standards. The Independent Persons are also due to attend a regional workshop in Lincoln in November 2014.

Reports of the Local Government Ombudsman

The LGO provides an Annual Review Letter summarising the statistics on complaints made to her about Selby District Council.

The 2014 Annual Review Letter was received on 7 July 2014 and covers the year to 31 March 2014.

The letter indicates that 18 complaints were determined over the year. Five were referred to the Council to be dealt with locally. Three were closed by the LGO after initial enquiries. Five were investigated and the complaints were not upheld. Five complaints against the Council were upheld.

Four of the five complaints which were upheld all relate to the same complaint about the procedure adopted by the Council for selecting Burn Airfield as a potential site for a Gypsy and Traveller site. Because the proposal to develop the site did not proceed, the LGO decided not to issue a formal report.

The other complaint relates to a planning matter and is the subject of a separate report to Council.

In all cases where complaints are received and considered by the Council opportunities are taken to identify how the Council can improve its procedures in the future to ensure that mistakes and errors are minimised and that lessons are learned.

Review of the Constitution

The Audit Committee has been tasked by the Council with undertaking a review of the Council's Constitution. The results of that review will be reported to Council later this year. As part of that review consideration was given to whether the Council's standards regime and arrangements for dealing with complaints needed to be reconsidered. The Committee resolved not to propose any changes.

North Yorkshire and York neighbouring authorities

Meeting of Standards Committee Chairs, Vice-Chairs and Independent Persons

5 December, 2013, York

Notes of meeting

1. Welcome

Councillor Carol Runciman, Chair of Standards, City of York Council, welcomed everyone to the meeting.

2. Introductions

Those present introduced themselves:

Jonathan Lund, Selby District Council

Hilary Putman, Independent Person for Selby DC

Wanda Stables, Independent Person for Selby DC

Andy Docherty, City of York Council

Councillor Carol Runciman – Chair of Standards, City of York Council

Councillor Denis Martin – Vice Chair of Standards, City of York Council

Nick Hall, Independent Person for City of York Council

David Laverick, Independent Person for City of York Council (former President of the Adjudication Panel for England)

Carole Dunn, North Yorkshire County Council

Moira Beighton, North Yorkshire County Council

County Councillor Caroline Patmore, Chair of Standards Committee, North Yorkshire County Council

Hilary Gilbertson, Independent Person for North Yorkshire County Council

Louise Holroyd, Independent Person for North Yorkshire County Council

Gill Cooper, Craven District Council

Councillor Carl Lis, Chairman of Standards, Craven District Council

Councillor John Roberts, Vice Chairman of Standards, Craven District Council

3. Standards arrangements in each authority

Responsibilities for standards matters within each authority were outlined:

CYC: Standards Committee; two Independent Persons. They consult both IPs at the outset of a matter, who tend to agree on the way forward. It is AD's decision whether a complaint should proceed to investigation. CYC will be looking to see if the role of Independent Person can be expanded eg to promote the standards regime within the authority or to be the face of high ethical standards. A report from the Standards Committee is taken to Council, focussing on procedural matters rather than individual complaints.

SDC: no Standards Committee; responsibilities rest with Monitoring Officer; two Independent Persons (one consulted, leaving other free for further consultation).

CDC: Standards Committee; three Independent Persons; delegations to Monitoring Officer which has led to a reduction in the number of cases.

NYCC: Standards Committee which meets twice per annum; two Independent Persons; standards arrangements in place also provide for the Standards Committee to provide support to officers regarding the handling of vexatious complaints;

JL was invited to discuss the process within SDC's arrangements where there was no Standards Committee. In SDC, complaints go to the Monitoring Officer for assessment in consultation with the Independent Person. The Monitoring Officer decides whether any formal action is required. If the Monitoring Officer decides that a complaint merits further formal action, then he arranges a hearing conducted by the Monitoring Officer. The Monitoring Officer will then decide whether a breach of the Code has occurred: if there is a finding of no breach, then the matter is at an end. If there is a finding of a breach, the Monitoring Officer may, after consulting the Independent Person, seek a local resolution, however if that is not acceptable to the complainant then a report is taken to full Council with a recommendation on the appropriate sanction, and full Council determines the matter. Of the 10 complaints received (seven relating to parish councillors, three relating to district councillors), only one had gone through that full process. There is a similar process for parish councils, but the final report is sent to the parish council concerned. HP commented that she had experience of the old standards regime and the new, and felt the new process was much better in terms of the time taken to deal with complaints.

A member commented that at HDC, responsibility for standards rested with the Audit Committee.

A general discussion took place around complaint handling for parish councils and the possibility of joint committees with parish councils. It was noted that at times there could be a lack of professionalism at parish council level in relation to complaint handling. Complaints could be very divisive within villages.

4. Role of the Independent Person in each authority

The Independent Persons present discussed their role and the nature of liaison with officers and members. There was a mixture of relatively new and more experienced Independent Persons present at the meeting.

LH commented that it was very useful to have more than one Independent Person, to share ideas. Many decisions were based on common-sense and most of the time there is agreement between the Independent Persons and the Monitoring Officer. In response to a question, she confirmed that she had not noticed politics having any influence in the complaint process.

HG felt she felt very highly valued by members and officers and was encouraged to be very independent in matters. She was treated with an enormous amount of respect and was hugely supported.

Some commented that they thought the standards regime had been weakened through the new framework, with particular concern over the level of sanction which could be imposed.

Independent Persons need to retain their independence, so a lack of government knowledge could be helpful in that respect.

Regarding a possible wider role for Independent Persons, for example in relation to mediation, HG confirmed that NYCC IPs had helped with training to Members on standards issues and it was nice to be seen as a positive force in trying to help them comply with the regime. GC confirmed that CDC was introducing a Protocol regarding areas of contact, covering the situation whereby key relationships break down. Provision was contained in the Protocol for Independent Persons to be able to contact the media if they felt it was necessary. Others present at the meeting felt that their regimes provided for differences of opinion between officers and Independent Persons, for example at SDC, where the Independent Person's view is different from the Monitoring Officer's that is reflected in the decision letter.

The Independent Persons present at the meeting agreed that it would be helpful to be involved in training on standards.

5. General thoughts on standards regime

Those present discussed areas of the new ethical framework thought to be operating well and also areas of perceived difficulty:

Positive factors	Areas of difficulty
Decision making is quicker.	There are different Codes of Conduct within the North Yorkshire area.
Flexibility for the Monitoring Officer.	The level of knowledge of standards requirements at parish council level and the level of sense of ownership by parish councils of their Code.
Good liaison with Monitoring Officers.	
Although the sanctions available under the regime are less wide ranging than previously, and may of themselves be perceived to be less of a deterrent, the publicity around complaints can prevent drift into more serious misconduct. Serious misconduct is also now dealt with under the criminal offence provisions.	Fewer, less wide-ranging, sanctions available under the standards regime. Perception of 'lack of punishment' unless serious, fraudulent misconduct.
The quarterly Standards Bulletin produced by NYCC was thought to be very useful. It is an inexpensive, online, form of regular communication with councillors re standards issues, of which councillors take notice.	Failure to register interests is now a criminal offence. This was felt to be an inflexible approach for the more minimal, inadvertent, breaches where there was no gain to the councillor concerned. It was felt that this should be addressed at a political level.
The introduction and value of Independent Persons as advisers on standards issues.	
Standards issues are taken more seriously.	
Awareness-raising of standards issues.	
On balance, there are few complaints about standards in local government.	

6. Complaint handling since implementation of Localism Act regime in July 2012

Those present at the meeting discussed the amount and nature of complaints received and any sanctions imposed.

AD confirmed that CYC had received approximately 7 complaints the previous year. Within the first two months of the new regime being introduced, CYC had reached the level of complaints of the previous two or three years however the rate and level of complaints has now settled down.

The meeting felt that generally the level of complaints had reduced. Certainly complaints of any merit had reduced.

Discussion took place of the use of mediation in complaint handling. It was felt that local regimes made provision for local settlement where appropriate and that formal mediation may be more appropriate where there are systemic/dysfunctional problems within the authority. It would also be important to identify the right person to mediate.

7. Challenging situations encountered

Discussion focussed on authorities' experience in dealing with persistent/vexatious complainants.

NYCC updated the meeting regarding developments in dealing with complainants who submitted numerous complaints and FOI requests to officers and members of the authority. The Council's Standards Committee has a role in supporting members and officers in dealing with vexatious/unreasonably persistent complainants and had recently been consulted in this respect for the first time and had been supportive of officers in dealing with such complainants. The process had been very helpful. CAD will keep the Monitoring Officer Group informed of developments.

These types of issue are encountered by all the authorities and seem to be increasing.

8. Training requirements

It was agreed that there may be value in organising joint training for Standards Chairs and Independent Persons if there are new ethical framework developments or new guidance issued.

9. Any other issues

No other issues were raised.

10. Future meeting

It was agreed that Standards Chairs and Independent Persons should meet as often as may be required in terms of developments in the standards regime.

CAD will circulate proposed dates and suggestions for future meetings.

Moira Beighton
North Yorkshire County Council

Public Session

Report Reference Number: C/14/7

Agenda Item No: 15

To: Council
Date: 2 September 2014
Author: Jonathan Lund, Deputy Chief Executive
Executive Member Cllr Mark Crane

Title: Report of the Local Government Ombudsman

Summary:

In December 2013 the Council considered a report issued by the Local Government Ombudsman which found the Council guilty of maladministration in the way that it dealt with a planning application. The Council resolved not to agree to the Ombudsman's recommendation that the Council should apologise for the failure of its service and pay the complainants £1,896 for the cost of their planning consultant's fees and £250 for their time and trouble in bringing their complaint to the Ombudsman's attention.

The Ombudsman has now considered the Council's response and has issued a further report which the Council is required to receive and consider and decide how to respond. As with the first report, the Council is not obliged to implement the recommended remedy although it must act lawfully and reasonably if it decides not to implement the recommendation.

Recommendations:

- i. To receive and note this Report and the Further Report of the Local Government Ombudsman attached at Appendix 1**
- ii. To consider how to respond to the Report to enable the Council to notify the Ombudsman what action it has taken or proposes to take.**

Reasons for recommendation

To comply with Section 31 of the Local Government Act 1974

1 Introduction and background

- 1.1** The Council received a planning application for an extension to a property in the District. The application was dealt with in accordance with established procedure and was capable of being determined under officer delegations. The planning assessment was that the application was suitable for approval and planning permission was granted.
- 1.2** One letter of objection to the proposals was received from the complainants (Mr X and Ms Y) raising concerns that the extension would come too close to the complainants' kitchen-dining room, blocking light and affecting the outlook.
- 1.3** The letter of objection was received by the Council and was considered as part of the assessment. The Case Officer's report identified potential overlooking, overshadowing and oppression from size and scale as key issues and concluded that the proposals location, size and height did not have any significant adverse effect of overshadowing, oppression or overlooking. The report also sought to remove future permitted development rights to minimise the risk of overlooking in the future. The report addressed these issues, but it did so in general terms and did not specifically refer to the letter of objection.
- 1.4** Mr X and Ms Y subsequently engaged a planning consultant who complained to the Council on their behalf. The Council accepted that the case officer's report should have referred to the letter of objection but set out the view that the issues of overlooking, overshadowing and oppression, raised by the objectors, had been properly taken into account and had been reflected in the report.
- 1.5** Mr X and Mrs Y then complained to the Local Government Ombudsman who decided to investigate the complaint.

2 The Report

- 2.1** The Local Government Ombudsman investigated the complaint and issued her Report in October 2013 following representations from the Council pointing to a number of inaccuracies and flaws in the LGO's initial assessment. The Council also pointed out that the issue of permitted development rights were relevant and had not been taken into account by the LGO, the professional planning consultants she had engaged or by the complainants' planning consultants. As a consequence of these representations the LGO reduced the amount she had originally proposed that the Council should pay to the complainants from £12,396 to £2,146.
- 2.2** This reduced amount was intended to cover:-
 - 2.2.1** £1896 for the cost of the complainants' planning consultant's fees

- 2.2.2 £250 for time and trouble in bringing the complaint to the Ombudsman
- 2.3 The Council considered the report in the light of the following
 - 2.3.1 The Council reached the correct planning decision in this case;
 - 2.3.2 In any event the development could have been carried out under permitted development rights;
 - 2.3.3 The Complainants' planning advisors wrongly advised their client that the Council's decision was flawed because s/he failed to address permitted development rights;
 - 2.3.4 The LGO investigator wrongly concluded that the Council's decision was flawed because he failed to address permitted development rights;
 - 2.3.5 Two independent planning consultants engaged by the LGO investigator wrongly concluded that the Council's decision was flawed because they failed to address permitted development rights ;
 - 2.3.6 Eventually, the LGO had to accept that the Council had reached the correct planning decision but declined to state this fact in her report;
 - 2.3.7 The planning assessment properly considered issues of overshadowing, oppression and overlooking but, with hindsight, it would have been better if specific reference had been made to the letter of objection instead of dealing with the issues in general terms;
 - 2.3.8 The Council had offered to apologise for this omission and pay £250 to the complainants towards their time and trouble in bringing their complaint to the Ombudsman.
- 2.4 After carefully considering the matter the Council, in December 2013 resolved:-
 - 2.4.1 To receive and note the Ombudsman's report
 - 2.4.2 To inform the Ombudsman that the Council takes all of their reports seriously and that is why the Council had tried hard to point out how they could have made this report a more balanced account of the events
 - 2.4.3 To note that the Council reached the right planning decision in this case and that no material harm or injustice could have been caused to the complainants as a result
 - 2.4.4 As a consequence the Council does not accept the conclusion or the remedy proposed by the LGO and resolves not to make the suggested payments.
- 2.5 This resolution was reported to the Ombudsman and she has now given the matter further consideration and has issued a further report. A copy of the Further Report into complaint 11 017 203 is attached at appendix 1.

- 2.6 The Ombudsman has reaffirmed her view that her original conclusions are sound and that her recommendations are an appropriate remedy for the injustice caused to the complainants by the Council's fault.
- 2.7 Whilst it is disappointing that the Ombudsman continues to take the view that the Council should pay the complainants the sum of £2,146 the report does now acknowledge (at paragraph 20) that the Ombudsman has "no reason to criticise the decision" made by the Council on the planning matter.
- 2.8 The remaining matter of disagreement between the Council and the Ombudsman is the question of whether the Council should pay compensation to the complainants for the £1,896 fees they incurred in engaging a planning consultant to challenge the decision of the Council.
- 2.9 The Ombudsman maintains that if the Council had advised the complainants or their planning consultant that permitted development rights existed the consultant's fees would not have been incurred. The Council has maintained that this assumption is speculative. The Council has also argued that the planning consultant owed a professional duty of care to the complainants to fully assess all of the issues and provide comprehensive planning advice to them. This would have highlighted to them that permitted development rights existed in this case and that their complaint could not be sustained. In these circumstances the Council has argued that the complainants should seek recompense from their planning advisor and not from the Council. It is not reasonable for the Council to be held responsible for the provision of incomplete advice by a third party.
- 2.10 The Ombudsman appears to have subsequently asked the applicant and their professional advisor if they would have acted differently if the issue of permitted development rights had been explained to them by the Council. They have said that they would. However, asking the question after the event allows an element of hindsight to be introduced.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

Section 30 of the Local Government Act 1974 requires the Council to publish a notice in the local press within two weeks of receiving the report and to make copies of the report available for public inspection. The Council has complied with this requirement and the Ombudsman is aware.

Section 31 of the same Act requires the Council to consider the Ombudsman's Report and tell the Ombudsman, within three months, of the action it has taken or proposes to take. The Ombudsman is aware that the report is being considered at Council on 2 September 2014.

The Council is obliged to accept that the Ombudsman has reached the conclusion of maladministration set out in the report, however the Council is not obliged to implement the recommended remedy.

In considering whether to implement the remedy the Council must act in a reasonable manner that is to say that it must take into account any relevant matters and not any irrelevant matters and must act with proper motives. The Council may therefore take into account that there is no evidence (other than that obtained with the benefit of hindsight) that the failure to refer to permitted development rights in the initial officer report caused the complainants to incur professional fees that they would not have otherwise incurred nor that it caused the professional advisor to overlook that matter in the assessment. In addition recent case law indicates that it is acceptable for the Council to consider the financial impact of the suggested remedy (albeit that it is much reduced) in considering whether to accept it.

3.2 Financial Issues

The Ombudsman recommends that the Council pay to Mr X and Ms Y

£1,896 to meet their costs in engaging a planning consultant

£ 250 towards their time and trouble in bringing their complaint to the Ombudsman's attention.

If this remedy was approved by the Council the costs would be met from existing development management budgets.

4. Conclusion

The investigation of this complaint has been lengthy and much of that has been the result of an initially flawed investigation by the LGO.

The Council must now consider whether it is reasonable to make this apology and £250 payment and whether, in addition, it is reasonable to pay £1896 for the planning advice given to Mr X and Mrs Y by their planning advisor.

5. Background Documents

***Correspondence with the LGO and draft Key Facts reports
January 2013 and July 2013***

Contact Officer: Jonathan Lund jlund@selby.gov.uk

Appendices:

***Appendix 1: Further Report of an investigation into complaint 11 017
203 against Selby District Council***

**Further Report
on an investigation into
complaint ref no 11 017 203 against
Selby District Council**

23 June 2014

Investigation into complaint 11 017 203 against Selby District Council

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr X and Ms Y - the complainants

Introduction

1. In October 2013 we issued a report on a complaint by Mr X and Ms Y. They live in a converted barn which sits very close to a cottage. Their neighbour applied for planning permission to add a single storey extension to the cottage. Mr X and Ms Y wrote to the Council objecting to the planning application. In their objection they specifically referred to the impact the new extension would have by reducing light to their kitchen-dining room window.
2. The Council's Planning Case Officer's report made no reference to their objection. The report contained no analysis of how the development would impact on their kitchen-diner window.
3. Officers approved the extension using delegated powers.
4. Mr X and Ms Y sought advice from a local Councillor, who had been a member of the planning committee. He advised them to seek help from a specific planning consultant. They contacted the planning consultant to help them challenge the decision and they later made a formal complaint to the Council.
5. The Council accepted the Case Officer's report should have mentioned Mr X and Ms Y's objection to the application. However, the Council argued that this was 'technical maladministration' that had made no difference to its decision. As the Council did not uphold their complaint, Mr X and Ms Y complained to the Ombudsman.
6. At a late stage of our investigation the Council said the extension, or something very similar, could have been built without planning permission using permitted development rights.
7. The Council said its Case Officer assessed the applicant's permitted development rights during evaluation of the planning application. There was no mention of this assessment in the Case Officer's report, or in the later interview with our investigator. The Case Officer also did not mention it when he had a telephone discussion with Mr X before the decision was made.
8. Planning authorities are required by law to take account of all material planning considerations before making their decisions.
9. We found the Council acted with maladministration as material planning considerations were not included in the Case Officer's report. The Council failed to:
 - show it had considered the complainants' objection to the proposed extension and specifically its impact on their kitchen-diner window; and

- consider the issue of permitted development rights and that the extension, or something similar could be built without planning permission.

10. We found this maladministration caused Mr X and Ms Y injustice.

11. If the Council had refused the application, the extension or something very similar to it might have been built without needing planning permission. Because of this, we cannot say that maladministration by the Council in the way it considered the planning application has directly affected Mr X and Ms Y's amenity.

12. Both the Councillor and the independent planning consultant Mr X employed at the Councillor's suggestion say that, if the Council had referred to the development being permitted development in the Case Officer's report, they would have advised Mr X there was nothing he could do about the extension. The planning consultant would not have taken his case up, as it would not have achieved anything.

13. If the relevant planning issues had been properly addressed in the Case Officer's report, Mr X and Ms Y would have known much sooner that their objection could not make a difference to the outcome. But for this failure, they would have avoided the time, trouble and expense of pursuing their complaint, including the cost of instructing a planning consultant.

14. To remedy the injustice sustained by Mr X and Ms Y, we recommended on 9 October 2013 that the Council:

- apologise to Mr X and Ms Y for the failure of its planning service to deal properly with relevant and material planning considerations when considering their neighbour's planning application;
- pay them £1,896 for their planning consultant's fees, which they would not have paid if the Council had clearly explained permitted development rights in the Case Officer's report; and
- pay them £250 for their time and trouble in bringing their complaint to our attention.

The Council's response

15. Our report was considered at a meeting of all elected Councillors on 10 December 2013.

16. The Council passed the following resolution:

- to receive and note the Ombudsman's report;
- to inform the Ombudsman that the Council takes all of her reports seriously and that is why the Council had tried hard to point out how she could have made this report a more balanced account of events;

- to note that the Council reached the right planning decision in this case and that no material harm or injustice could have been caused to the complainants as a result;
- as a consequence the Council does not accept the conclusion or remedy proposed by the Ombudsman and resolves not to make the suggested payments.

17. The Council has raised a number of concerns with the report. It believes the Ombudsman should establish that the decision taken on the planning application was the right decision. It has objected to an earlier draft of the report, before the Council told us that the extension would have been permitted development, which said the decision was wrong. It questions why we were prepared to say the Council's decision was wrong, but not that it was right.
18. The Council does not accept that it should reimburse the complainants' fees for professional advice. It says if that advice was flawed, then the complainants should pursue that with the advisers directly, not with the Council. It also argues that we cannot know that the complainants would not have engaged the planning consultant if it had been clear in the Case Officer's report that the extension would be permitted development. The Council understands that the planning consultant was the initial adviser to the complainants, before a complaint was made to the Ombudsman and the Council.
19. The Council says it offered to apologise to the complainants for not making specific reference to their objection in the planning assessment. It says it has advised its planning officers on this point in the future. It also offered to pay £250 in recognition of time and trouble. The Ombudsman does not consider this offer provides a satisfactory resolution to the complaint.

The Ombudsman's consideration

20. The Ombudsman's role is to consider complaints of administrative fault, known as maladministration, leading to injustice. The Ombudsman's role does not extend to approving decisions made by a council. However we can say a decision is unsound if there was fault in how that decision was made and that has or may have affected the outcome. In this case we have no reason to criticise the decision.
21. An earlier draft of the report found that because the Council had failed to specifically consider the impact of the extension on Mr X and Ms Y's kitchen-diner window, and that impact was very significant, the decision was unsound. The Council then told us that the extension could have been built under permitted development rights. This meant that even though there was fault in the process, because the impact on the kitchen-diner window was not considered, we could not conclude that this led to injustice. This is because the extension could have been built even if the Council had refused the planning application.

22. The Council says that we cannot know that the complainants would not have engaged planning consultants if the Case Officer's report had been clear that the extension would have been permitted development.
23. The Ombudsman makes decisions on the balance of probabilities. In this case we are satisfied that if the Councillor and planning consultant had seen reference to permitted development in the Case Officer's report they would have advised the complainants that they would not be successful in any challenge to the decision. The planning consultant would not have taken the work on.
24. Because the complainants would not have engaged the planning consultant if they had known the extension would be permitted development, the Council's points about the competence or otherwise of the consultant are not relevant.
25. A Councillor was the initial adviser to the complainants, not the planning consultant. It is not clear why the Council believes this make a difference to the findings.
26. The Council did offer to apologise to the complainants and pay £250 to reflect their time and trouble in pursuing their complaint. However it refused to accept the Ombudsman's remedy to reimburse the planning consultant's fees. The Council made this offer on the basis of the Ombudsman closing the complaint without issuing a report. Since the remedy offered by the Council did not put right all the injustice suffered by the complainants, the Ombudsman had no choice but to reject the Council's offer and issue a report highlighting her unresolved concerns.
27. The Council questions our conclusions as well as the recommended remedy. Case law is clear that the Ombudsman's conclusions can only be challenged in the courts. It is however for the Council to take a view on our recommendations.

Conclusion

28. Our report highlighted that the Council failed to deal properly with relevant and material planning considerations when considering a planning application. We trust the Council will now recognise that we have given careful consideration to all that it has said. The Ombudsman is satisfied that her conclusions are sound and her recommendations are an appropriate remedy for the injustice caused to the complainants by the Council's fault.

29. For the reasons outlined above, the Ombudsman is not satisfied with the action the Council has proposed to take in response to her recommendations. As such, the Local Government Act 1974 requires her to issue a further report. The Ombudsman has therefore issued this further report in relation to Mr X and Ms Y's complaint and calls on the Council to reconsider its position, accept the conclusions of her report and agree the remedy she has recommended.

Handwritten signature of Jane Martin, consisting of the letters 'J Martin' in a cursive script, with a horizontal line underneath.

**Dr Jane Martin
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

23 June 2014