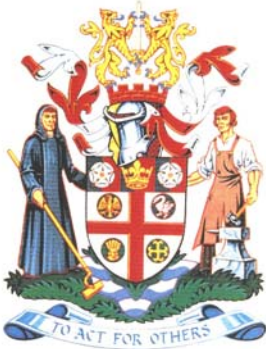


Selby District Council



Agenda

Meeting: **Executive**
Date: **4 April 2013**
Time: **4pm**
Venue: **Committee Room**
To: Councillor Mark Crane, Councillor Mrs Gillian Ivey, Councillor Cliff Lunn, Councillor John Mackman and Councillor Chris Metcalfe

1. Apologies for absence

2. Minutes

The Executive is asked to approve the minutes of the meeting held on 7 March 2013. Pages 3 to 6 attached.

3. 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.

4. Selby District Council Tenancy Policy – Key Decision

Report E/12/68 asks the Executive to approve the Council's Tenancy Policy following consultation. Pages 7 to 24 attached.

5. Programme for Growth – Housing Trust Governance

Report E/12/69 asks the Executive to consider the future governance arrangements of the Housing Trust. Pages 25 to 41 attached.

6. Programme for Growth – Tadcaster Linear Park Project

Report E/12/70 asks the Executive to release funding for the project. Pages 42 to 44 attached.

J Lund
Deputy Chief Executive

Dates of next meetings
18 April 2013 Executive Briefing
9 May 2013 Executive

Enquiries relating to this agenda, please contact Glenn Shelley on:
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Email: gshelley@selby.gov.uk

Selby District Council



Minutes

Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	7 March 2013
Present:	Councillor M Crane (Chair), C Lunn, J Mackman and C Metcalfe
Officers present:	Chief Executive, Deputy Chief Executive, Executive Director (S151), Director of Business Services, Director of Communities Selby, Policy Officer and Democratic Services Manager.
Also Present:	
Public:	0
Press:	0

NOTE: Only minute numbers 99, 100, 101, 102 and 104 are subject to call-in arrangements. The deadline for call-in is 5pm on 19 March 2013. Decisions not called in may be implemented on 20 March 2013.

96. Apologies for Absence

Apologies were received from Councillor Mrs G Ivey.

97. Minutes

The minutes of the meeting on 7 February 2013 were submitted and agreed as a correct record and signed by the Chair.

98. Disclosure of Interest

None received.

99. Income Management Software Upgrade

Councillor Lunn presented the report on the proposed upgrade to the Council's existing income management system and the procurement of an associated bureau service. This would ensure the Council meets its obligations in relation to debit and credit card payments.

Councillor Lunn outlined the savings associated with upgrading the current system in comparison to purchasing a replacement.

Resolved:

To purchase the PARIS Bureau Service and subsequent upgrade to replace the existing Income Management software.

Reason for decision:

To ensure the authority meets its current obligations in respect of debit/credit card compliance.

100. North Yorkshire Choice Based Lettings (Allocations Policy) Review – Key Decision

In the absence of Councillor Ivey, Councillor Crane presented the report which reviewed how the Joint Choice Based Allocation Policy was working and assessed the impact on applicants. The policy had been introduced in June 2011.

Councillor Crane set out the main proposed changes to the policy as a result of the review process. The Executive discussed the process of assessing housing need and, in particular, the use of the Bronze Band.

Resolved:

- i) To note the proposed changes to the Council's Housing Allocation Policy and the reasons why these changes are being considered prior to North Yorkshire wide consultation;**
- ii) To instruct officers to bring a further report back to Executive on completion of the consultation exercise along with the North Yorkshire Partnership's recommendations for policy change.**

Reason for the decision:

To ensure the scheme is operating effectively for the residents of Selby District.

101. Community Right to Challenge

Councillor Metcalfe presented the report which proposed the Council's approach for implementing the Community Right to Challenge.

Councillor Metcalfe outlined that the Community Right to Challenge was introduced under the Localism Act 2011. It gave the relevant bodies the right to submit an expression of interest in running specified local authority services. The Executive considered the scheme set out at paragraph 2.5 within the report.

The Executive approved the below amendment to the recommendation within the report:

- ii) **To delegate decision making on expressions of interest to the Chief Executive in consultation with the Leader of the Council and to amend the Constitution accordingly at the earliest opportunity.**

Resolved:

- i) **To adopt an annual period when expression of interest submissions can be submitted to the Council using a standard form available on the Council's website;**
- ii) **To delegate decision making on expressions of interest to the Chief Executive in consultation with the Leader of the Council and to amend the Constitution accordingly at the earliest opportunity.**

Reason for the decision:

The council has a statutory duty to consider all expressions of interest received under the Community Right to Challenge. The recommendations ensure that this process fits in with the Council's commissioning timetable and that the Council has a decision making process in place for considering any submissions received.

102. Gambling Policy

Councillor Metcalfe presented the report on the Council's Gambling Policy, in line with the requirements of government policy and the Gambling Act 2005.

Resolved:

To recommend to Council

To approve the Gambling Policy prepared under the authority of the Gambling Act 2005.

Reason for the decision:

To ensure the Council fulfils its statutory requirement.

103. Overview and Scrutiny Work Programmes 2013/14

Councillor Crane presented the report to allow the Executive the opportunity to comment upon the Overview and Scrutiny Committees' Work Programmes.

The Executive discussed the links between the Council's programme for growth and Overview and Scrutiny committees.

Resolved:

To recommend to Council:

To approve the Work Programmes.

Reason for the decision:

To ensure the contribution of Scrutiny is effective in supporting service improvement and delivery against district wide and Council priorities.

104. IT Systems Upgrade

The Chair agreed to accept an urgent additional item which had arisen since the dispatch of the agenda and which required consideration before the next meeting of the Executive. It was noted that the matter was not a Key Decision.

The Executive Director (s151) tabled a report requiring an urgent decision in respect of the potential upgrade of the Council's version of Microsoft Office. An opportunity had arisen to purchase the upgrade at a reduced price within a limited timeframe. The total cost would be £44k. There was provision within the ICT Reserve to cover the costs.

Resolved:

To approve the drawdown of £44k from the ICT Reserve.

The meeting closed at 4.42pm

Selby District Council

REPORT

Reference: E/12/68

Public – Item 4



To: The Executive
Date: 4th April 2013
Status: Key decision
Report Published: 25 March 2013
Author: Julia Jennison – Policy Officer
Executive Member: Councillor G. Ivey
Lead Officer: Janette Barlow - Director

Title: Selby District Council Tenancy Policy

Summary: On 6th December 2012 Executive resolved that consultation on the draft Tenancy Policy should proceed, with a further report tabled for Executive on 4th April 2013 including a Final Draft Policy for approval.

Recommendation

To approve the Selby District Council Tenancy Policy

Reasons for recommendation

To enable council housing to be let in accordance with Councillors steer on the Government's revised approach to the effective management of stock.

1. Introduction and background

- 1.1 The background was set out in the report to Executive on 6th December 2012.
- 1.2 As a stock holding local authority, Selby District Council must produce a Tenancy Policy relating to the management of its own stock, which must address specific questions in relation to management and allocations.

2. The Report

- 2.1 On 6th December 2012 Executive resolved that consultation on the draft Tenancy Policy should proceed, with a further report tabled for Executive on 4th April 2013 including a Final Draft, following consideration of the feedback.

Consultation began in January, and has included press releases, articles in Open Door and Citizenlink, a questionnaire on the website, market stalls at Community Engagement Forums, and direct consultation with the Tenant Scrutiny Panel on behalf of tenants.

- 2.2 Policy Review was consulted on 15th January 2013 and was generally supportive of the draft policy, asking that parish councils also be consulted.
- 2.3 The consultation was also highlighted to the Selby Homeless Steering Group, the over 50s Forum, the Disability Forum, parish councils and other local agencies.
- 2.4 Consultation was completed on 17th March, but despite wide ranging awareness raising, only four responses were received. Consequently the consultation is not statistically valid. However, a summary of the responses is published on our website as was planned.
- 2.5 Meetings of the Officer Tenancy Group, which Cllr Ivey is a member of, and the Tenancy Steering Group, were arranged for 21st March to agree the final draft of the Tenancy Policy which is attached at Appendix 1 for approval.

2.6 Timescale

The time line for the Tenancy Policy is scheduled below.

Date	Event	Action
5 April 2012	Executive	Recommendation to develop a local Tenancy Policy
June 2012 – 4 November 2012	Tenancy Policies Steering Group	SDC develops own detailed Landlord Tenancy Policy
4 th October 2012	Executive	Draft Tenancy Policy & consultation plan
3 rd December 2012	Executive	Revised Draft Tenancy Policy & consultation plan
January – 17 th March 2012		Local consultation
4 th April 2013	Executive	Policy Adopted.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

There is a regulatory requirement to develop a Selby District Council Tenancy Policy setting out our approach to the new freedoms relating to the management of our stock. An Equalities Impact Assessment (EIA) was completed prior to consultation.

A new fixed term tenancy agreement will be required.

3.2 Financial Issues

Procedures will need to be drawn up relating to the granting and ending or re-issue of fixed term tenancies, and scoping will be carried out to see how much of this will be covered by existing resources. However, there will be costs relating to the development of a new fixed term tenancy agreement.

4. Conclusion

Following consideration of the consultation and further discussion of the issues, a final draft of the Tenancy Policy is attached for approval.

A new fixed term tenancy agreement will need to be commissioned, and procedures developed, with training completed prior to policy implementation.

5. Background Documents

Executive Papers 6 December 2012

Policy Review Papers 15 January 2013

Housing Act 1985

Local decisions: a fairer future for social housing, 2010

Localism Act 2011

Allocation of accommodation: guidance for local housing authorities in England, June 2012

North Yorkshire Tenancy Strategy, 2012

HCA Regulatory Framework for Social Housing in England from April 2012

Contact Details

Julia Jennison – Policy Officer

jjennison@selby.gov.uk

Appendices

Appendix - Selby District Council Tenancy Policy 2013

Selby District Council Tenancy Policy 2013**Summary Sheet**

Policy Title	Selby District Council Tenancy Policy 2013
Policy Number	020
Date Introduced/Revised	2013
Replaced Policy	No previous policy
Responsible Directorate	Access Selby
Responsible Officer	Business Manager – Access Selby
Responsible Champion	The Lead Member for Communities
Review Date	Annual
Related Policies and Strategies	North Yorkshire Tenancy Strategy 2012

Selby District Council Tenancy Policy 2013

1. Introduction

- 1.1 The Localism Act 2011 introduced a number of new flexibilities for local authorities to consider when deciding how to make best use of existing social housing. These include the option to introduce for new tenants fixed term tenancies and/or higher rents, to consider changes to how we manage allocations and homelessness, and the promotion of increased mobility for social tenants.
- 1.2 The key objectives of social housing reform are:
 - 1.2.1 Localism, fairness and focusing social housing on those most in need in a way that enables them to use it as a springboard to opportunity
 - 1.2.2 Social housing is flexible and available to more people and to those that genuinely need it
 - 1.2.3 Make the best use of social rented homes
 - 1.2.4 Increase the freedoms available to all social landlords to determine the sort of tenancy they grant to new tenants
 - 1.2.5 Protect the rights of existing tenants
- 1.3 There is a new duty on local authorities to develop a Tenancy Strategy which all social landlords (Housing Associations, Registered Social Landlords, Registered Providers, and stock holding Local Authorities) will be expected to have regard to. This will provide an overview of what is expected in their individual Tenancy Policies.

2. Background

- 2.1 A sub regional approach to the development of a Tenancy Strategy was agreed by the North Yorkshire Housing Board in order that consistency is provided across the county, where there are already a number of joint strategies in place such as the Housing and Homelessness Strategy, and a joint housing allocations scheme, North Yorkshire HomeChoice.
- 2.2 There is significant flexibility built into the strategy to allow for individual landlords to respond to local circumstances. The strategic aim of the North Yorkshire Tenancy Strategy is:

To enable Housing Providers in North Yorkshire to co-ordinate their policies and practices to produce tenancies for customers who meet local housing needs, provide support to those who need it, improve choice and contribute to sustainable communities and economic growth and recovery.

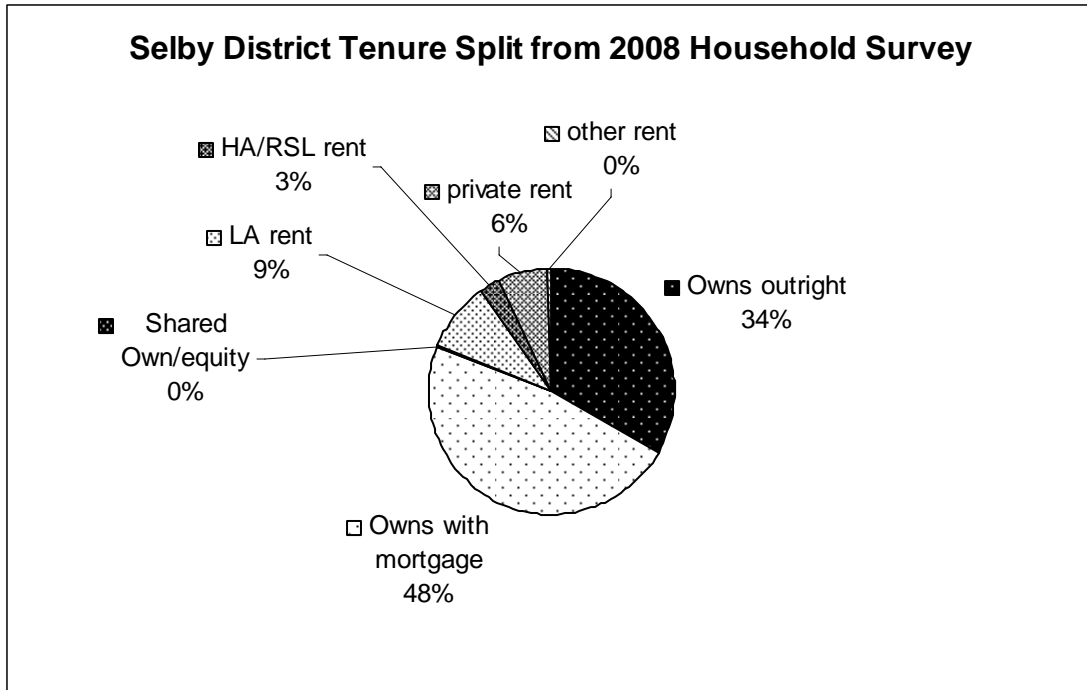
- 2.3 Executive approved the overarching North Yorkshire Tenancy Strategy on 4th October 2012, and this guides our approach to our own Tenancy Policy.
- 2.4 The Selby District Council Tenancy Policy sets out how we intend to introduce fixed term tenancies for new Council tenants in the future.

It will not apply to existing Selby District Council tenants.
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- 2.5 The policy is intended to assist residents who most need our support, and recognises that the supply of housing at a low rent for life is a limited resource. We aim to balance the needs of all of our residents against this scarce resource; whilst people may at some stage of their life need social housing (because for example they have become homeless) this may only be a short term need. In the longer term, many new tenants may not need the assistance of a lifetime tenancy at a low rent, and at some point in the future may be able to consider other housing options such as shared ownership, shared equity or renting privately.
- 2.6 We are considering these new flexibilities through two interrelated pieces of work:
- a) the development of a new Selby District Council Tenancy Policy which will set out how we intend to manage our stock in Selby district in the future, and
 - b) the current review of the North Yorkshire Choice Based lettings scheme, Home Choice, with other partner landlords, which will include consideration of what new opportunities there are to allocate our properties in a different way .

3. Context

- 3.1 In Selby district, there are limited opportunities to rent property. The 2008 Household Survey which provided the evidence for the 2009 Selby Strategic Housing Market Assessment (SHMA) showed that owner occupation is the most common tenure in the district at 82% of the market.
- 3.2 Only 12% of the local market is social rented, of which 9% is local authority stock, and 3% is Housing Association (Registered Provider) stock. Just 6% of the market is private rented.



- 3.3 The conclusion of the 2009 SHMA, which is the most recent housing market assessment for the district, was that over the next 5 years (2009-2014) we had a need for 409 new affordable dwellings per annum to be developed. This reflects the national picture where the need identified for affordable housing is extremely unlikely to be met. Between 2009 and 2012, a total of 227 affordable homes were developed in the district.
- 3.4 At June 2012 there were 1760 applicants on the waiting list for homes in the Selby district. It is likely that recent Housing Benefit changes and the effects of recession will result in more people needing help with their housing. We need to ensure that our own stock is used to its full potential to provide homes for those who need them most. Whilst the introduction of new fixed term tenancies is not likely to produce significant numbers of additional homes for relet, it will help us manage our stock more effectively and help with other initiatives such as those to encourage underoccupiers to downsize.
- 3.5 In 2011-12 there were 307 new tenancies in our own stock including mutual exchanges (a turnover of around 10%). If we could create additional turnover in our current stock through tenants whose home no longer suits their needs moving on, this would allow additional re-lets to come to the market.

Selby District Council Tenancy Policy

The Policy is set out in two sections for ease of reference; Tenancies (Section 4) and Allocations (Section 10).

4. Tenancies

- 4.1 Every social landlord, including local authorities, needs to develop a Tenancy Policy. This will set out the types of tenancy they will grant, and should include detail of:
 - 4.1.1 How the needs of those who are vulnerable by reason of age, disability or illness, and households with children are taken into account including through tenancies which provide a reasonable degree of stability
 - 4.1.2 The advice and assistance to be given to tenants to find alternative accommodation if a fixed term tenancy is not renewed
 - 4.1.3 How a tenant or prospective tenant can appeal or complain about the length and/or type of fixed term tenancy offered and a decision not to renew the tenancy at the end of the fixed term
- 4.2 Fixed term tenancies are renewable tenancies of not less than 2 years which can be offered to new tenants instead of secure tenancies. The Selby District Council Tenancy Policy sets out how we will, in most cases, use flexible fixed term tenancies of 5 years for our own housing stock. It follows the principles set out in the North Yorkshire Tenancy Strategy, and government guidance.
- 4.3 Existing council tenants will not be affected by these changes unless they choose to move (see Section 8). They will continue to enjoy their existing security of tenure and other terms and conditions including the right to buy, succession rights and the right to exchange their tenancy with another secure tenant.

Objectives

- 4.4 Whilst people at some stage of their lives may need social housing (because for example they have become homeless) this may only be short term need. The Government's intention is to encourage landlords to make better use of their stock and enable more existing affordable housing to become available to those who need it at that time. Landlord policies need to be flexible enough to reflect the fact that individual circumstances do change.
- 4.5 Executive agreed 5th April 2012 that the following broad aims of the policy should be –
 - 4.5.1 **Target resources at those in greatest need** – by ensuring as far as we can that we assist those who need our help
 - 4.5.2 **Meet more residents' long term housing aspirations by improving access to home ownership** – by assisting applicants and tenant to explore the opportunities for alternative housing options

- 4.5.3 **Make better use of our stock** – by addressing over and underoccupation
 - 4.5.4 **Continue to support more tenants into work through signposting** – ensuring that tenants are aware of the help that is available locally
 - 4.5.5 **Maintain sustainable communities by considering the impact of policy decisions** – assessing the possible impact of changes to the way we let properties
- 4.6 Currently all the tenancies Selby District Council grants are secure, lifetime tenancies, starting with a 12 month introductory period. In essence, as long as tenancy conditions are met, these tenancies provide the security of a home for life.

Who should be given which type of tenancy

- 4.7 In order to ensure that our scarce housing stock is used in the best way to help those most in need, Selby District Council now intends to use 12 month introductory tenancies followed by fixed term tenancies for the majority of new tenants.
- 4.8 We have considered the best way to do this whilst protecting those households who need our support most, and households whose circumstances are highly unlikely to change in the future, and not to penalise existing secure tenants who may need to move.
- 4.9 We will offer life-time tenancies to the following:
- 4.9.1 Applicants moving into sheltered housing, whatever age they are
 - 4.9.2 Applicants of state pensionable age or over
 - 4.9.3 Applicants who are ‘vulnerable’, and are unable to take care of themselves; protect themselves from harm; or prevent themselves from being exploited.
They may be vulnerable because they:
 - have severe learning difficulties
 - have severe and enduring mental health problems
 - are old, frail or chronically ill

A lifetime tenancy will be granted where in the judgement of the Housing Officer such vulnerability creates a requirement for a greater security of tenure through the granting of a tenancy longer than 5 years. Independent verification may be required from a relevant professional or registered medical practitioner.

- 4.10 In all other circumstances a fixed term tenancy will be granted with automatic renewal in certain circumstances. The circumstances for automatic renewal are set out in Section 6 – Tenancy Reviews.

- 4.11 The reason for this approach is that there may be situations where the household's make up has changed and they no longer need that particular property. For example where we let a non sheltered adapted property, the granting of a lifetime tenancy in every case would prevent us making best use of the property if the household no longer needed the adaptation. Automatic renewal where the household continues to have the same needs will provide the necessary certainty to households to be able to plan ahead.

Minimum length of Tenancy

- 4.12 As suggested by the North Yorkshire Tenancy Strategy, we will offer a 12 month introductory tenancy followed by a 5 year tenancy in most circumstances where a fixed term tenancy is being granted (6 years in total). We consider that a 5 year tenancy offers reasonable security to most households and is considerably more secure than the average initial tenancy granted in the private sector.
- 4.13 In addition, we expect the majority of fixed term tenancies will be renewed because people's circumstances have not changed materially and the household size still matches the size of property. However, reviewing the tenancy periodically will enable tenants to consider with us what other housing options there are or might be in the future.

We consider that all fixed term tenancies should be renewed unless the household's circumstances have changed to such an extent that the property would not be considered suitable for their needs (if it was considered as a new letting).

- 4.14 The Localism Act allows the granting of shorter tenancies of no less than two years in exceptional circumstances. We may grant a shorter tenancy period in exceptional circumstances such as those specified below.

4.14.1 If when considering any of the circumstances under Section 6 for renewal of a tenancy, the tenant could move to another property but it would be unreasonable in the view of a Senior Manager to enforce a move at this time

4.14.2 To enable a temporary move where a property or area is to be redeveloped, and a shorter tenancy period is appropriate in the view of a Senior Manager.

5. Succession

- 5.1 The government has reduced existing rights of succession for all new secure tenancies from 1st April 2012; there is now only a statutory right of succession to a spouse or civil partner.
- 5.2 However, local authorities do have the power to grant additional succession rights through their Tenancy Agreement if they choose to.

In view of the limited amount of social housing available in Selby district, and our aim to make best use of stock, we consider that allowing succession further than this does not allow for the best use of our stock.

- 5.3 Therefore Selby District Council has decided that new tenants will only have this statutory right of succession to the spouse or civil partner; this will not extend to family members. This will apply to both lifetime tenancies and fixed term tenancies.

NB These changes do not affect secure tenancies that began before 1st April 2012.

6. Tenancy review and advice and assistance at end of fixed term

- 6.1 The tenancy review is an opportunity for us to consider with the tenant whether the current home still best meets the household's needs. In addition we can offer advice regarding future housing aspirations through our Housing Options Team, for example looking at home ownership and low cost home ownership options available in the district, and signposting non working households to agencies who can help with identifying local employment and training initiatives.

We expect the majority of fixed term tenancies to be renewed.

- 6.2 We will carry out the review at least 6 months before the tenancy is due to come to an end. This is considered sufficient time for a tenant to find alternative housing if the tenancy is not renewed, and alternative accommodation is not to be provided.
- 6.3 All new fixed term tenancies will be automatically renewed if the following household circumstances are unchanged since they were originally housed:
- 6.3.1 The property still matches the current housing needs of the tenant and their household (assessed against our allocations scheme, HomeChoice), or
 - 6.3.2 A member of the household is disabled validated by means testing for disability benefits, and the property meets their specific needs, or
 - 6.3.3 The tenant was a Care Leaver (see Appendix 1 for definition) and is still receiving support from the County Council
- 6.4 Examples where the property is no longer suitable could be where the property is under-occupied, or where the property has been extensively adapted but for someone with a disability who no longer lives in the household. Under these circumstances we consider that the property would be better relet to someone who needs it. As part of the advice and assistance we offer we may choose to offer an alternative suitably

sized property as a direct let (an option available to us through our HomeChoice allocations policy).

6.5 However, even where the existing property is no longer suitable, there may be other considerations to be taken into account with regard to the suitability of alternative accommodation which might include specific individual circumstances and access to family support networks. We will consider allowing a tenancy to continue if:

6.5.1 The household is overcrowded but there is no suitable accommodation available

6.5.2 There are children attending a local school at key stages of education, specifically in year 10/11 or year 12/13 and no suitable alternative housing is available within a reasonable travelling distance (taking into account local transport services)

6.5.3 A member of the household is suffering from a terminal illness

6.5.4 The tenant is a foster carer and the tenancy is needed to continue to enable them to fulfil this role

6.6 In any of the above circumstances it may be appropriate to offer a shorter tenancy renewal of two years, or a further five year tenancy depending on individual circumstances. Written evidence to support these cases will be required.

6.7 The Tenancy Review will be carried out by trained Community Officers. Where a tenancy is not to be renewed, they will offer appropriate proactive advice and assistance to find alternative accommodation through HomeChoice.

6.8 Where a Tenancy Review is being carried out with a vulnerable household, Care Leaver or other vulnerable adult, appropriate support arrangements will be made such as use of an advocate or advocacy service. We will also ensure that advice and assistance at tenancy reviews is properly linked to Adult Social Care processes, to ensure wherever possible that the outcome for an individual household is appropriate.

7. Tenancy sustainment and the avoidance of unnecessary eviction

In most cases, the fixed term tenancy will be renewed.

7.1 Where the household's circumstances have changed to such an extent that the property is no longer suitable for their needs, we will not offer a further tenancy on that property. See Appendix B for guidance.

7.2 We will work closely with tenants during the review and throughout the notice period to ensure that all other housing options are seriously considered. Where tenants need help to access the HomeChoice scheme and bid for properties, we will ensure that assistance is

available, and we will signpost other opportunities such as housing association or private lets, or low cost purchase initiatives.

- 7.3 If limited options are available, and tenants do not meet the exceptional criteria for a new tenancy to be granted set out in Clause 6.5, we may consider making a direct let of a suitable property through HomeChoice.
- 7.4 If a tenant who does not meet the criteria for tenancy renewal has not moved out of the property by the due date, the case will be referred for enforcement action. Community Officers, Housing Options and the Enforcement Team will work closely to endeavour to produce the best outcome for the tenant; it may be that during this process a suitable property comes available. However, the purpose of offering a fixed term tenancy in the first instance is to ensure that stock is appropriately let, and enforcement action must be part of this process.
- 7.5 At the end of a flexible tenancy the landlord has an unqualified right of possession in domestic law. The Localism Act states that the court can only refuse possession if the correct procedure has not been followed, or if the court is satisfied that the decision not to renew the tenancy was otherwise wrong in law.

8. Mutual exchanges and Fixed term tenancies

- 8.1 In summary, an existing lifetime (secure) tenant will retain their security of tenure when they move if their tenancy commenced before 1 April 2012 and the property they are moving to is being let at a social rent.
- 8.2 In the case of a mutual exchange both tenants will surrender their current tenancies and be granted new ones, so that the existing lifetime tenant can be given another secure, lifetime tenancy.
- 8.3 However, this protection only applies to tenure, not the level of rent paid. So if an existing tenant paying social rent chooses to exchange with a tenant who pays a higher affordable rent, they will take on the new higher level of rent.

NB Individual circumstances will differ and each case must be considered with the benefit of advice from Selby District Council's legal team.

9 Reviews and Complaints

There are two stages at which an applicant can seek a review of any decision relating to the flexible tenancy.

A. Review of offer of a flexible tenancy

- 9.1 At the end of the introductory tenancy a notice will be served on the tenant stating that when it ends it will become a flexible tenancy for a period of 5 years (or 2 years where appropriate). The tenant can request a review of the Council's decision about the length of the period of the flexible tenancy. A review can only be requested on the basis that the term (length) of the flexible tenancy does not accord with the Council's policy.
- 9.2 These reviews are likely to be very small in number as we will mostly be granting 5 year flexible tenancies.
- 9.3 A request for a review has to be made within 21 days of receipt of the notice, although the Council can extend the time period for seeking such a review. The review will be conducted by a Senior Manager who has had no previous involvement in the case.
- 9.4 The applicant will be notified of the outcome of the review including the reasons for the decision within 56 days.

B. Review of decision not to renew the flexible tenancy

- 9.5 Where the Council is not going to renew a tenancy following the Tenancy review, after discussion with the tenant the Council will serve notice 6 months before the tenancy is due to end. The notice will state that we will not be renewing the tenancy on the expiry of the flexible tenancy, the reasons why the tenancy is not being renewed and explain the review process ("the First Notice).

The Council will also serve a notice 3 months before the tenancy is due to end giving the tenant not less than two months notice that the Council requires possession of the property and the date after which court proceedings may be begun ("the Second Notice"). If the tenant refuses to move when the notice period set out in the Second notice expires a court order will be applied for and the usual eviction process followed.

- 9.6 The tenant has a right to request general information about the tenancy review, including the facts that have been taken into account and the reason for not renewing the tenancy
- 9.7 If a tenant disagrees with the Council's decision not to renew their tenancy they may use the following informal review process; a request for a review has to be made within 21 days of service of the First Notice. They should in the first instance contact the Housing Officer to explain why they think the decision is unreasonable. This can be done face-to-face, over the telephone, by email or letter.

- 9.8 They will be notified in writing whether the decision still stands and the reasons for this, usually within 5 working days.
- 9.9 If they wish to pursue the matter further, they can make a request for a formal review of the decision and must do so within 21 days of service of the informal decision letter. The Council will consider a review out of time if there has been a delay during the informal review. The request for a formal review may be made orally or in writing. Where the request is made orally, the Council may hold an oral hearing at which the applicant can be accompanied by an advocate or representative. The applicant will be asked to make submissions stating the reasons for the review request. The Council will seek any further information it considers necessary, including advice from other specialist advisers. This formal review will be conducted by a Senior Manager who has had no previous involvement in the case. The applicant will be notified of the outcome of the review including the reasons for their decision within 56 days and by no later than 7 days prior to the date specified in the Second Notice as the date after which proceedings for the possession of the property may be begun.
- 9.10 The applicant also has the right to complain to the Housing Ombudsman and/or seek judicial review of the Council's decision not to renew the tenancy.
- 9.11 If the formal review upholds the decision but the tenant refuses to leave, a possession order will be applied for and the usual eviction process followed.
- 9.12 The Court has the discretion to refuse to grant an order for possession if the Court is satisfied that the Council has either failed to carry out the review or that the decision on the review is otherwise wrong in law.

10. Allocations

- 10.1 Earlier in 2012, revised guidance was published by the government on how we let our homes. It encourages use to be made of new flexibilities to ensure that social homes go to the people who 'need and deserve them most.'
- 10.2 Selby District Council is a member of the North Yorkshire Choice Based Lettings (NYCBL) Partnership, HomeChoice, which launched a joint allocations scheme in 2011. A review of the policy was already planned for summer 2012 once the scheme had been up and running for 12 months, and this is timely given the new requirements contained within the Localism Act 2011, and Welfare Reform Act 2012. The revised policy is planned for 2013.
- 10.3 For detail of our Allocations scheme please refer to the North Yorkshire HomeChoice Policy.

11 Tenancy Fraud

- 11.1 We will not tolerate fraud which allows applicants to prioritise themselves unfairly over other applicants. Our Tenancy Agreement, Clause A9 states that

‘You will be breaking your Tenancy Agreement if you, or someone acting on your behalf, knowingly makes a false statement or give us incorrect information which leads to us granting you this tenancy.’

- 11.2 This will include but is not restricted to incorrect or false information being provided on an application for housing, or where a succession has been requested. Action may include loss of the home, in which case an application as homeless may be turned down following assessment as the loss may be deemed to be intentional.

12 Our approach to Affordable Rent (80% market rent)

- 12.1 The Affordable Rent model enables eligible housing providers (those with a delivery agreement with the Homes and Communities Agency) to set rent at up to 80% market rents, both on a proportion of their existing relets, and on new build units. This would fund new development.
- 12.2 Selby District Council now has the opportunity to consider developing new housing stock itself and entering the affordable rent market.
- 12.3 If it did so, individual properties could be advertised at Affordable Rent for applicants to bid for in the usual way; however, an applicant who felt the rent was not affordable for them would be under no obligation to apply. Direct lets would be limited to properties where the rent is considered to be affordable for the particular household.
- 12.4 A separate Affordable Rent Policy will be developed outlining our approach to the provision of Affordable Rent properties in the district both by Selby District Council and by Housing Associations.

13 Equalities

- 13.1 A draft Equalities Impact Assessment has been completed in respect of this policy, which will be updated following any amendments coming out of the consultation.

14 Reviewing the Tenancy Policy

- 14.1 This policy will be monitored and reviewed annually to assess the impact of flexible tenancies on new tenants, and the wider management of our stock.

Definition of a Care Leaver

There are the 3 means through which a young person can acquire care leaver status:

- 1) On reaching 18 years of age a young person who was looked after immediately before being made subject to a Special Guardianship Order qualifies for assistance under section 24 of the Children Act 1989 and its subsequent amendments.
- 2) A young person who is looked after beyond 16 years of age qualifies for assistance under section 24 of the Children Act 1989 and its subsequent amendments.
- 3) A young person who is looked after for an aggregated period of 13 weeks after their 14th birthday on reaching 16 years of age is eligible for the full provisions of the Children (Leaving Care) Act 2000 as amended by CYPA 2008.

1 and 2 place a duty to provide advice and stay in touch and a power upon the responsible local authority to provide assistance. 3 requires the responsible local authority to appoint a personal adviser and prepare a pathway plan with a view to providing support until at least the care leavers 21st birthday and if in education or training up to 25 years of age.

Guidance for renewal of tenancy

Situation	Action
Property is occupied by a household of the appropriate size	Offer a further fixed term tenancy
Property is under occupied and there is 1 or more bedroom spare	Discuss the option of moving to a smaller home, but offer a further fixed term tenancy if the household wishes to stay (in line with the HomeChoice allocations policy which allows bids for 1 bedroom more than required) NB this may need to be amended dependent on the outcome of the CBL review
Property is under occupied and there are 2 or more bedrooms spare	Discuss the option of moving to a smaller home, outline the assistance we can give to find alternative property. No renewal. 6 months notice to be served to make best use of stock and free the property up for a larger household We may consider the use of a direct let in accordance with our allocations scheme, HomeChoice.
Property is over occupied ie there are insufficient bedrooms to meet the household's need as assessed through our allocations scheme, Homechoice	Discuss the option of moving to a larger home, outline the assistance we can give to find alternative property. Ensure that suitable preference is included on their HomeChoice application. We may consider offering a further 5 or 2 year tenancy while they seek alternative accommodation, or we may consider using a direct let.
Property no longer matches household's needs	It would better suit another household eg where the adaptation in a property was no longer required. The review provides an opportunity to discuss with the family a possible move to free up the adapted home for someone who needs it. We will be sensitive to the household in considering the timing of such action – see Clause 4.14.1
The tenant, their partner or a member of their household now meets the criteria set out in Clause 4.9	At review of the fixed term, if appropriate, a secure, lifetime tenancy could be offered either on the existing property (provided the property remains a suitable size etc) or another more suitable property
Disposal or refurbishment of property	To enable a temporary move where a property or area is to be redeveloped, and a shorter tenancy period of 2 or 5 years is appropriate in the view of a Senior Manager

Selby District Council

REPORT

Reference: E/12/69

Public – Item 5



To: The Executive
Date: 4 April 2013
Status: Non – Key Decision
Report Published: 25 March 2013
Author: Karen Iveson, Executive Director (s151)
Executive Member: Cllr John Mackman
Lead Officer: Karen Iveson

Title: Housing Trust Governance

Summary:

This report presents the proposed articles of association for the new housing trust that is to be established by the Council.

In accordance with the resolution by full Council the articles reflect a company limited by guarantee and the objectives aim to reflect those of a charitable organisation, although registration with the Charity Commissioners has not yet been taken place.

The board of trustees and membership of the company are to be limited to 7 with the Council (delegated to the Executive) appointing 3 'Council Trustees' and the remaining 4 'Ordinary Trustees' being independent.

Once the company is established the articles can only be changed with the written consent of the Council.

Recommendations:

- i. To approve the Articles of Association.
- ii. To appoint 3 Council Trustees

Reasons for recommendation

To enable the company to be established.

1. Introduction and background

- 1.1 On 26 February 2013 full Council resolved to establish a new Housing Trust and delegated authority to the Executive to approve the governance documents and appoint up to 3 the Council Trustees.
- 1.2 Trowers and Hamlins, the legal firm appointed to provide advice on the feasibility and set up of the company, have drafted the 'Articles of Association' attached at Appendix A.
- 1.3 The articles have been reviewed by the project team responsible for the Trust project and are submitted for final comment and approval.

2. The Report

- 2.1 The articles are in a standard form and are based upon previous organisations similar to the proposed trust. The articles cover the objectives of the Trust and set out how it will be governed.
- 2.2 The proposed structure provides for:
 - Up to 7 trustees who will also be members of the company;
 - The liability of members will be limited - they will provide a guarantee of up to £10 each if the company is dissolved;
 - 3 Trustees will be Council Trustees;
 - 4 Trustees will be Ordinary Trustees;
 - A quorum will be 3 Trustees one of which must be a Council Trustee;
 - The articles can not be amended without written consent from the Council.
- 2.3 Subject to any further comments from the Executive the draft articles are proposed for approval.

Appointment of trustees

- 2.4 The Executive have delegated authority to appoint 3 Council Trustees and the nominations are still awaited.

3. Legal/Financial Controls and other Policy matters

- 3.1 The proposed articles comply with the legislative requirements concerning Councils' involvement in companies and are in accordance with the legal advice provided to the Council as part of the feasibility study approved by full Council.
- 3.2 There are no budget implications as a direct result of this report.

4.0 Conclusion

- 4.1 The proposed articles are in accordance with the recommendations of the feasibility report approved by full Council.

Contact Details

For further information contact:

Karen Iveson – Executive Director (s151)

Appendices:

Appendix A – Selby and District Housing Trust Articles of Association

Selby and District Housing Trust

Articles of Association

Trowers & Hamlins LLP
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London
EC1Y 8YZ

t +44 (0)20 7423 8000
f +44 (0)20 7423 8001
www.trowers.com

Registered Number []

Company limited by guarantee and not having a share capital

Articles of Association

of

Selby and District Housing Trust

1 **Name**

The name of the company is Selby and District Housing Trust (the **Charity**).

2 **Registered Office**

The registered office of the Charity is to be in England and Wales.

3 **Objects**

The Objects of the Charity shall be to carry on for the benefit of the community (on a not-for-profit basis):

- a the provision and management of housing, social housing, hostels and other residential accommodation to people in necessitous circumstances;
- b the provision of associated amenities, facilities and services for those housed by the Charity or for the relief of aged, disabled (whether physically or mentally) or chronically sick people;

 and on a basis which is associated with or incidental to objectives a and b
- c the provision of recreation or other leisure facilities in the interest of social welfare;
- d the relief of poverty;
- e the advancement of education, training or retraining, particularly among unemployed people and providing unemployed people with work experience;
- f the maintenance, improvement or provision of public amenities for the public benefit in the interests of regeneration in areas of social and economic deprivation;
- g any other charitable object that can be carried out from time to time by a company registered as a provider of social housing with the Regulator.

4 **Powers**

4.1 The Charity shall have the power to do anything that a natural or corporate person can lawfully do which is necessary or expedient to achieve its Objects except as expressly prohibited in the Articles.

4.2 Without limiting its general powers the Charity shall have the following powers:

- 4.2.1 to acquire, lease or hire dwellings or other property of any kind,
- 4.2.2 to construct, maintain and alter buildings,
- 4.2.3 to provide services and facilities including not only the provision of land, buildings and equipment but also the organisation of recreational or other leisure time activities,
- 4.2.4 to co-operate and enter into arrangements with other bodies including any authorities, national, local or otherwise,
- 4.2.5 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act),
- 4.2.6 to promote or carry out research,
- 4.2.7 to provide advice,
- 4.2.8 to publish or distribute information,
- 4.2.9 to support, administer or set up other charities,
- 4.2.10 to raise funds (but not by means of taxable trading),
- 4.2.11 to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act),
- 4.2.12 to make grants or loans of money and to give guarantees,
- 4.2.13 to set aside funds for special purposes or as reserves against future expenditure,
- 4.2.14 to deposit or invest in funds in any manner (but to invest only after obtaining such advice from a financial expert as the Trustees consider necessary and having regard to the suitability of investments and the need for diversification),
- 4.2.15 to delegate the management of investments to a financial expert, but only on terms that:
 - a the investment policy is set down in writing for the financial expert by the Trustees,
 - b every transaction is reported promptly to the Trustees,
 - c the performance of the investments is reviewed regularly with the Trustees,
 - d the Trustees are entitled to cancel the delegation arrangement at any time,
 - e the investment policy and the delegation arrangement are reviewed at least once a year,
 - f all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt, and
 - g the financial expert must not do anything outside the powers of the Trustees.

- 4.2.16 to arrange for investments or other property of the Charity to be held in the name of a nominee company acting under the control of the Trustees or of a financial expert acting under their instructions, and to pay any reasonable fee required,
- 4.2.17 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required,
- 4.2.18 to pay for indemnity insurance for the Trustees,
- 4.2.19 subject to article 5, to employ paid or unpaid agents, staff or advisers,
- 4.2.20 to enter into contracts to provide services to or on behalf of other bodies,
- 4.2.21 to establish or acquire subsidiary companies to assist or act as agents for the Charity,
- 4.2.22 to pay the costs of forming the Charity, and
- 4.2.23 to do anything else within the law which promotes or helps to promote the Objects.

5 **Application of income and property**

- 5.1 The Charity shall not trade for profit. The income and property of the Charity shall be applied solely towards the promotion of its Objects and no portion thereof shall be paid or transferred, directly or indirectly, save as provided below, by way of dividend, bonus or otherwise howsoever by way of profit, to members and no Trustee shall be appointed to any office of the Charity paid by salary or fees or receive any remuneration or other benefit or money or money's worth from the Charity PROVIDED THAT nothing herein shall prevent any payment in good faith by the Charity:
- 5.2 of reasonable and proper remuneration (including pensions, contributory pension payments, payment of premiums to pension policies and terminal grants and gratuities) to any officer or employee of the Charity (not being a member or Trustee) in return for any services rendered to the Charity;
- 5.3 of fees, remuneration or other benefit in money or money's worth to a company of which a Trustee may be a member holding not more than 2% of the share capital of the company;
- 5.4 of reasonable out-of pocket expenses to any Trustee;
- 5.5 of reasonable and proper rent or hiring fees for property or equipment demised or let or hired to the Charity by a member or a Trustee;
- 5.6 of reasonable and proper interest on money lent to the Charity by a member or Trustee;
- 5.7 of any premium in relation to indemnity insurance in respect of liabilities of its Trustees or any of them in accordance with these Articles;
- 5.8 of any benefits to members or Trustees which are granted on the same terms and in accordance with the same criteria as they provide to any other beneficiary of the Charity;

PROVIDED FURTHER THAT nothing shall prevent a disposal by the Company of a property whether by way of sale, lease, tenancy, licence or otherwise to any person in good faith and in pursuance of the objects of the Charity notwithstanding the fact that such

person may be a member and/or Trustee and further nothing shall prevent the Charity from managing a property in accordance with its Objects notwithstanding the fact that the tenant, lessee or licensee of such property may be a member or Trustee **SUBJECT TO** the proviso that any Trustee who is a beneficiary of the Charity shall not be entitled to speak in any debate or cast his/her vote in respect of any matter relating solely to the property of which he/she is lessee, tenant or licensee and shall absent himself/herself from such proceedings but such Trustee shall be entitled to speak and vote in respect of matters which relate not only to such property but also to other properties owned or managed by the Charity.

5.9 A Trustee or a person who is for the purposes of the Companies Act 2006 connected (which expression shall have the meaning given thereto by section 252 of the Companies Act 2006) with a Trustee may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit if:

5.9.1 the goods or services are actually required by the Charity,

5.9.2 the nature and level of the benefit is no more than reasonable in relation to the value of the goods or services and is set at a meeting of the Trustees in accordance with the procedure in articles 14 to 21, and

5.9.3 no more than one third of the Trustees are interested in such a contract in any financial year.

6 **Limited Liability**

The liability of members is limited.

7 **Guarantee**

Every member promises, if the Charity is dissolved while he, she or it remains a member or within twelve months afterwards, to pay up to £10 (ten pounds) towards the costs of dissolution and the liabilities incurred by the Charity while he, she or it was a member.

8 **Dissolution**

8.1 If, upon the winding up or dissolution of the Company, there remains, after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the members, but shall be given or transferred to some other charitable institution or institutions having objects similar to the objects of the Charity, and which shall prohibit the distribution of its or their income and property to an extent at least as great as is imposed on the Charity under or by virtue of Article 5. The decision as to which such institution or institutions is to be determined by the members at or before the time of dissolution, and in so far as effect cannot be given to such provision, then to some other similar objects **PROVIDED THAT** if the Charity is registered as a non-profit registered provider with the Regulator such disposal shall be governed by Section 167 of the Housing and Regeneration Act 2008.

9 **Membership**

9.1 The Charity must maintain a register of members.

- 9.2 The only members of the Charity shall be the Trustees from time to time, who shall be admitted as members upon appointment or election as a Trustee.
- 9.3 Membership is terminated if the member concerned:
- 9.3.1 gives written notice of resignation to the Charity;
- 9.3.2 dies;
- 9.3.3 is removed from membership by resolution passed by at least three quarters of the members present and voting at a general meeting after the meeting has invited the views of the member concerned and considered the matter in the light of any such views. The member concerned shall not be entitled to vote on the decision whether or not to remove them from membership; or
- 9.3.4 having been a Trustee, they cease to be a Trustee for any reason.
- 9.4 Membership is not transferable.
- 9.5 Notwithstanding anything herein contained, the Trustees may not admit any Local Authority Person (other than the Council Trustees) to membership of the Charity.
- 10 **General Meetings**
- 10.1 Members are entitled to attend general meetings in person or by proxy. Proxy forms must be delivered to the Secretary at least 48 hours before the meeting. General meetings are called on at least 14 clear days' written notice specifying the business to be discussed.
- 10.2 No business shall be transacted at any general meeting unless a quorum is present. A quorum at a general meeting is three, at least one of whom must be a Member who is Council Trustee.
- 10.3 The Chair or (if the Chair is unable or unwilling to do so) some other Trustee elected by those Trustees present shall preside at a general meeting.
- 10.4 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by a majority of the votes cast.
- 10.5 Every member present in person or by proxy has one vote on each issue.
- 10.6 The members of the Charity may pass a resolution in writing in accordance with the terms of the Companies Act. A proposed written resolution of the members of the Charity shall lapse if it is not passed before the end of the period of six months beginning with the circulation date of such resolution (as defined in section 290 of the Companies Act 2006).
- 10.7 The Charity must hold an AGM in every year. The first AGM must be held within 18 months after the Charity's incorporation.
- 10.8 At an AGM the members:
- 10.8.1 receive the accounts of the Charity for the previous financial year,
- 10.8.2 receive the Trustees' report on the Charity's activities since the previous AGM,

- 10.8.3 accept the retirement of those Ordinary Trustees who wish to retire or who are retiring by rotation,
- 10.8.4 elect Ordinary Trustees to fill the vacancies arising,
- 10.8.5 appoint auditors for the Charity,
- 10.8.6 may discuss and determine any issues of policy or deal with any other business put before them by the Trustees.
- 10.9 A general meeting may be called at any time by the Trustees and, on the requisition of members pursuant to the Companies Act, the Trustees shall convene a general meeting in accordance with the provisions of the Companies Act.

11 **Amendments to the Articles**

- 11.1 No resolution to amend Articles 3 to 8, 9.2 to 9.4, 11, 12.1 to 12.7 or 13.2 shall be passed by the members unless and until the Council has given its written consent to the amendments. A consent signed by the Chief Executive of the Council (or such authorised individual) and delivered to the Secretary shall be conclusive as to the Council's consent.

12 **The Trustees**

- 12.1 The Trustees as charity trustees shall have control of the Charity and its property and funds.
- 12.2 There shall be seven Trustees, comprising three individuals nominated by the Council in accordance with article 12.3.2 (the **Council Trustees**) and four individuals appointed or elected in accordance with article 12.3.4 (the **Ordinary Trustees**).
- 12.3.1 The first Trustees of the Charity shall be those persons notified to Companies House as the first directors of the Charity. Future Trustees shall be appointed as provided in these Articles.
- 12.3.2 The Council Trustees shall be appointed by the Council to serve for such period of office as shall be confirmed by the Council. A written notice delivered by the Chief Executive (or such other authorised individual) of the Council to the Secretary shall be conclusive as to who has been appointed as a Council Trustee and for what period of time. The Council may remove and replace any Council Trustee at any time on written notice given to the Secretary.
- 12.3.3 An Ordinary Trustee must be a person who:
- is not a Local Authority Person, and
 - is not a tenant of the Charity or the Council.
- 12.3.4 The Ordinary Trustees shall be those persons elected by the members of the Charity in accordance with article 10.8.4. Ordinary Trustees can also be appointed in accordance with article 12.6.

- 12.4 Every Trustee after appointment or reappointment must sign a declaration of willingness to act as a charity trustee of the Charity before he or she may vote at any meeting of the Trustees.
- 12.5.1 One Ordinary Trustee must retire at each AGM, the longest in office retiring first and the choice between any of equal service being made by drawing lots. Each retiring Ordinary Trustee shall be eligible for reappointment at such AGM but if they are not reappointed the retiring Ordinary Trustee shall vacate office at the conclusion thereof.
- 12.5.2 If the members of the Charity, at the meeting at which a Trustee retires in the above manner, do not fill the vacancy, the Trustee shall, if willing to act, be deemed to have been reappointed unless at the meeting it is expressly resolved not to fill the vacancy.
- 12.6 The Trustees shall have power at any time to appoint any person to be an Ordinary Trustee, either to fill a casual vacancy or as an addition to the existing Trustees but so that the total number of Trustees shall not at any time exceed any maximum number fixed in accordance with Article 12.2. Any Ordinary Trustee so appointed shall hold office only until the next following AGM, and shall then be eligible for re-appointment.
- 12.7 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 12.8 A Trustee's term of office automatically terminates if he or she:
- 12.8.1 is disqualified under the Charities Act from acting as a charity trustee,
- 12.8.2 is incapable, whether mentally or physically, of managing his or her own affairs,
- 12.8.3 is absent without notice from three consecutive meetings of the Trustees and removed by a majority of the other Trustees as a consequence,
- 12.8.4 resigns by written notice to the Trustees (but only if at least three Trustees will remain in office),
- 12.8.5 is removed from Trusteeship by a resolution passed by at least three quarters of the Trustees present and voting at a meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views. The Trustee concerned shall not be entitled to vote on the decision whether or not to remove them from Trusteeship; or
- 12.8.6 ceases to have the required qualifications,
- 12.8.7 is a Council Trustee and the Council serves notice to the Secretary removing that Trustee from office,
- 12.8.8 is an Ordinary Trustee and ceases to be eligible in accordance with Article 12.3.3.,
- 12.8.9 dies

13 **Trustees' proceedings**

- 13.1 The Trustees must hold at least four meetings each year.
- 13.2 A quorum at a meeting of the Trustees is three Trustees, at least one of whom must be a Council Trustee.
- 13.3 A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants.
- 13.4 The Chair or (if the Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 13.5 Every issue may be determined by a simple majority of the votes cast at a meeting, but a written resolution signed by three quarters of the Trustees is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature.
- 13.6 Except for the Chair of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.
- 13.7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

14 **Trustees' interests**

- 14.1 A Trustee who is interested directly or indirectly in any matter which is under discussion by the Trustees shall disclose the nature and extent of his interest in that matter; and
- 14.2 A Trustee who is directly interested in any matter which is under discussion by the Trustees,
 - 14.2.1 shall not vote on that matter, and
 - 14.2.2 shall not (unless required to do so by the chair) remain during the Trustees' discussion of such matter.

15

- 15.1 A Trustee who is a beneficiary of the Charity shall not have a direct interest for the purpose of article 14 in any decision affecting all or a substantial group of beneficiaries.
- 15.2 A Trustee who is a Council Trustee shall not have a direct interest for the purposes of article 14 in any decision relating to a contract, arrangement, transaction or proposal concerning the Council.

- 16 If a conflict of interests arises for a Trustee because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the Articles , the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply:

- 16.1 Article 14 is complied with;
- 16.2 the conflicted Trustee is not to be counted when considering whether a quorum of Trustees is present at the meeting;
- 16.3 the unconflicted Trustees consider it is in the interests of the charity to authorise the conflict of interest in the circumstances applying.

17 Permitted transactions

- 17.1 For the purposes of sections 175(3) of the Companies Act 2006 as substituted by section 181(2)(a) of the Companies Act 2006 the duty to avoid conflicts of interest shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the Charity in relation to the following:
 - 17.1.1 A matter authorised by the Charity Commission;
 - 17.1.2 An interest in any contract, arrangement, transaction or proposal concerning the purchase and/or maintenance of any insurance policy pursuant to article 4.2.18;
 - 17.1.3 Any payment permitted by article 5 or any benefit granted to a Trustee in the capacity of a beneficiary of the Charity;
 - 17.1.4 A contract, arrangement, transaction or proposal concerning the Council.

18 Interested Trustee not to count for quorum

- 18.1 A Trustee shall not be counted in the quorum in relation to, any resolution of the Trustees or of a committee of the Trustees concerning any contract, arrangement, transaction or any proposal to which the Charity is or is to be a party and in which he or she has an interest unless that interest is authorised by these Articles.

19 Chair's ruling conclusive on Trustee's interests

- 19.1 If any question arises at any meeting as to the entitlement of any Trustee (other than the Chair of the Trustees) to vote or be counted in a quorum, and such question is not resolved by his or her voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be referred to the Chair of that meeting. The Chair's ruling in relation to the Trustee concerned shall be final and conclusive.

20 Trustees' resolution conclusive on Chair's interest

- 20.1 If any question arises at any meeting as to the entitlement of the Chair to vote or be counted in a quorum, and such question is not resolved by his or her voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be decided by resolution of the Trustees or committee members present at that meeting (excluding the Chair), whose majority vote shall be final and conclusive.

21 Charity may ratify

- 21.1 Subject to the provisions of the Companies Act, the Charity may by ordinary resolution suspend or relax the provisions of articles 14-20 or ratify any transaction not duly authorised by reason of a contravention of these articles 14-20 provided always that such

ordinary resolution is passed only if the necessary majority is obtained disregarding votes in favour of the resolution by the Conflicted Trustee (as a member of the charity) and provided further that such ratification shall not extend to any matter prohibited by article 5 .

21.2 For the purposes of articles 14-21 an interest of a person who is for the purposes of the Companies Act 2006 connected (which expression shall have the meaning given thereto by section 252 of the Companies Act 2006) with a Trustee shall be treated as an interest of the Trustee.

22 **Trustees' powers**

22.1 The Trustees have the following powers in the administration of the Charity:

22.1.1 to appoint (and remove) any individual or corporation (who may be a Trustee) to act as Secretary in accordance with the Companies Act,

22.1.2 to appoint a Chair from among their number,

22.1.3 to delegate any of their functions to committees consisting of two or more individuals appointed by them. At least two members of every committee must be Trustees and all proceedings of committees must be reported promptly to the Trustees,

22.1.4 to make standing orders consistent with the Articles and the Companies Act to govern proceedings at general meetings,

22.1.5 to make rules consistent with the Articles and the Companies Act to govern their proceedings and proceedings of committees,

22.1.6 to make regulations consistent with the Articles and the Companies Act to govern the administration of the Charity and the use of its seal (if any),

22.1.7 to establish procedures to assist the resolution of disputes or differences within the Charity, and

22.1.8 To exercise any powers of the Charity which are not reserved to a general meeting.

22.2 There shall from time to time be policies of the Charity including in relation to Trustees' interests, recruitment of Trustees and membership. Trustees shall comply with any policy of the Charity in the exercise of their powers under the Articles.

23 **Secretary**

23.1 Subject to the provisions of the Companies Act, the Secretary shall be appointed by the Trustees for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

24 **Records and Accounts**

24.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the Commission of:

24.1.1 annual returns,

- 24.1.2 annual reports, and
- 24.1.3 annual statements of account.
- 24.2 The Trustees must keep proper records of:
 - 24.2.1 all proceedings at general meetings,
 - 24.2.2 all proceedings at meetings of the Trustees,
 - 24.2.3 all reports of committees, and
 - 24.2.4 all professional advice obtained.
- 24.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours.
- 24.4 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or member. A copy must also be supplied, within two months, to any other person who makes a written request and pays the Charity's reasonable costs.

25 **Notices**

- 25.1 Notices under the Articles may be sent by hand, by post or by suitable electronic means such as fax or e-mail or (where applicable to members generally) may be published in any suitable journal or newspaper circulating in the United Kingdom or any journal distributed by the Charity.
- 25.2 The only address at which a member is entitled to receive notices sent by post is an address shown in the register of members.
- 25.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:
 - 25.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address,
 - 25.3.2 two clear days after being sent by first class post to that address,
 - 25.3.3 three clear days after being sent by second class or overseas post to that address,
 - 25.3.4 on the date of publication of a newspaper containing the notice,
 - 25.3.5 on being handed to the member personally, or, if earlier,
 - 25.3.6 as soon as the member acknowledges actual receipt.

26 **Indemnity**

The Charity may indemnify any Trustee against every liability incurred by him or her in that capacity to the extent permitted by the Companies Act.

27 **Interpretation**

27.1 In the Articles, unless the context indicates another meaning:

AGM means an annual general meeting of the Charity,

the Articles means the Charity's articles of association,

Chair means the chair of the Trustees,

the Charity means the company governed by the Articles,

the Charities Act means the Charities Act 2011 including any statutory modification or re-enactment thereof for the time being in force,

charity trustee has the meaning prescribed by section 177 of the Charities Act 2011,

clear day means 24 hours from midnight following the relevant event,

the Commission means the Charity Commissioners for England and Wales,

the Companies Act means the Companies Act 1985 and the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force,

Council means Selby District Council or its successor,

custodian means a person or body who undertakes safe custody of assets or of documents or records relating to them,

financial expert means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000,

financial year means the Charity's financial year,

firm includes a limited liability partnership,

indemnity insurance means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty,

Local Authority Person means any person:

(i) who is or has been a member of Council in the preceding four years; or

(ii) who is or has been an officer of Council in the preceding four years; or

(iii) who is or has been an employee of a company which is under the control of Council in the preceding four years;

material benefit means a benefit which may not be financial but has a monetary value,

member and **membership** refer to company membership of the Charity,

month means calendar month,

nominee company means a corporate body registered or having an established place of business in England and Wales,

the Objects means the Objects of the Charity as defined in article 3,

Regulator means the Homes and Communities Agency acting through the Regulation Committee established by it pursuant to Part 2 of the Housing and Regeneration Act 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions;

Secretary means the company secretary of the Charity or any other person appointed to perform the duties of the secretary of the Charity, including a joint, assistant or deputy secretary,

social housing has the same meaning as in sections 68 and 77 of the Housing and Regeneration Act 2008, as may be amended or re-enacted from time to time,

taxable trading means carrying on a trade or business for the principal purpose of raising funds and not for the purpose of actually carrying out the Objects, the profits of which are subject to corporation tax,

Trustee means a director of the Charity and 'Trustees' means the directors.

written or in writing refers to a legible document on paper including a fax message and electronic mail,

year means calendar year.

27.2 Expressions defined in the Companies Act have the same meaning.

27.3 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

Name and address of subscriber

Subscriber's signature

dated 2013

witness to the above signature:

name:

address:

occupation:

signature

Selby District Council

REPORT

Reference: E/12/70

Public – Item 6



To: The Executive
Date: 4 April 2013
Status: Non Key Decision
Report Published: 25 March 2013
Author: Rose Norris
Executive Member: Cllr Chris Metcalfe
Lead Director: Rose Norris

Title: Programme for Growth – Tadcaster Linear Park Project

Summary: The report proposes that the Executive releases the funds allocated for Tadcaster to the Riverside Linear Park project.

Recommendations:

To release the funds allocated for Tadcaster to the Riverside Linear Park project.

Reasons for recommendation

The Council adopted the Programme for Growth in July 2012. As part of the funding allocated to the programme, specific sums were allocated to the district's three towns. This recommendation relates to releasing the funding allocated to Tadcaster for a project which will help revitalise Tadcaster town centre.

1.0 Introduction and background

1.1 The council has prioritised work to unlock the potential of Tadcaster as part of 'Tackling the Tough Stuff', one of the Five Big Things in the Corporate Plan 2011-15. As part of the work on 'Tackling the Tough Stuff' a project board, chaired by Cllr Chris Metcalfe, was set up in March 2012 to take forward the work to unlock the potential of Tadcaster. The project board has recognised the importance of engaging with the Tadcaster and Villages Community Engagement

Forum (CEF) on this work and a member of the CEF Partnership Board sits on the project board.

- 1.2 In order to help deliver the Five Big Things, the council adopted the Programme for Growth in July 2012. As part of the funding allocated to the programme, specific sums were allocated to the district's three towns.

2.0 The Report

- 2.1 In recent months the 'Tackling the Tough Stuff' a project board has been working closely with the Tadcaster and Villages Community Engagement Forum (CEF) partnership board on a number of initiatives to help revitalise the town. The Riverside Linear Park project, led by the CEF partnership board, is one such initiative.

- 2.2 The Riverside Linear Park project aims to create a linear park along the west side of the River Wharfe, in Tadcaster town centre. This will provide a pleasant recreational and exercise environment, supported by distinctive children's play provision, outdoor fitness equipment, and new footpaths and seating, and will fill an important gap in Tadcaster's provision, since the town has no park at present.

- 2.3 Project benefits will include:

- an attraction to draw local people and visitors to Tadcaster, with spin-off benefits to local retailers through increased footfall in the town centre;
- environmental improvements to a prominent, high-visibility area of the town, allowing closer access to natural beauty;
- an opportunity to promote exercise at a variety of levels, and to engage with partners' aspirations to widen and extend participation;
- improved health and mental health for the community, and increased social interaction; and
- increased confidence in the community's capacity to change for the better.

- 2.4 It is proposed that the £100,000 funds allocated for Tadcaster are released to the Riverside Linear Park project.

3.0 Legal/Financial Controls and other Policy matters

3.1 Legal Issues

The council has power to do this under section 1 of the Localism Act 2011. Also, the council's constitutional requirements are met through this report. Additional legal advice will be sought when required as the project is implemented.

3.2 Financial Issues

Currently the total project is expected to cost £251k. To date, with the £100k from the council, the project has £216k committed.

In previous discussions the Executive noted that £12k already allocated to Tadcaster under a previous initiative remains unspent and that £18k could be allocated from the leisure underspend accruing as a result of the temporary unavailability of the Abbey Leisure Centre. This would reduce the shortfall by £30.

The remaining shortfall will be sought from large businesses in Tadcaster and NYCC. Groundwork North Yorkshire is investigating grants opportunities (e.g. Biffa, etc) and Cllr Ivey has agreed to look at options with the Tadcaster and Villages Partnership Board under the 'Living Well' agenda.

4.0 Conclusion

Releasing the funds allocated for Tadcaster to the Riverside Linear Park project will allow the project to continue without delay. In turn the project provides a tangible outcome for the Programme for Growth and demonstrates the council's commitment to 'Tackling the Tough Stuff' which is on the 'to do' list in the Corporate Plan.

5.0 Background Documents

None

Contact Details:

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