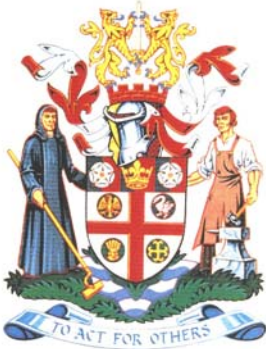


# Selby District Council



## Agenda

Meeting: **Executive**  
Date: **6 June 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 9 May 2013. Pages 1 to 4 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](http://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. Start time of Meetings**

For the Executive to consider the start time of its meetings for the 2013/14 municipal year.

**5. Treasury Management Annual Review 2012/13 – Key Decision**

Report E/13/1 provides the Executive with details of the Council's Treasury Management Activities in 2012/13. Pages 5 to 13 attached.

**6. National Non - Domestic Rates (NNDR) – Discretionary Rate Relief Policy**

Report E/13/2 asks the Executive to approve the Council's NNDR Discretionary Rate Relief Policy. Pages 14 to 50 attached.

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

Report E/13/3 asks the Executive to approve the revised HomeChoice Allocations scheme. Pages 51 to 121 attached.

**8. Selby Affordable Housing Supplementary Planning Document – Key Decision**

Report E/13/4 asks the Executive to approve the Affordable Housing SPD for consultation. Pages 122 to 153 attached.

**9. 43 Kirkgate, Tadcaster**

Report E/13/5 seeks agreement from the Executive that the Council applies for planning permission for the change of use of the building at 43 Kirkgate, Tadcaster. Pages 154 to 156 attached.

**10. Section 237 Powers**

Report E/13/6 asks the Executive to note powers available under Section 237 of the Town and Country Planning Act 1990 to facilitate the development of important sites. Pages 157 to 160 attached.

**M Connor**  
**Chief Executive**

<b>Dates of next meetings</b>
<b>20 June 2013 Executive Briefing</b>
<b>4 July 2013 Executive</b>

Enquiries relating to this agenda, please contact Glenn Shelley on:

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# Selby District Council



## Minutes

### Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	9 May 2013
Present:	Councillor M Crane (Chair), Mrs G Ivey, C Lunn, J Mackman and C Metcalfe
Officers present:	Chief Executive, Deputy Chief Executive, Director of Community Services, Executive Director S151 and Democratic Services Manager.
Also Present:	
Public:	0
Press:	0

NOTE: Only minute numbers 114, 115 and 116 are subject to call-in arrangements. The deadline for call-in is 5pm on 21 May 2013. Decisions not called in may be implemented on 22 May 2013.

#### 111. Apologies for Absence

No apologies were received.

#### 112. Minutes

The minutes of the meeting on 4 April 2013 were submitted and agreed as a correct record and signed by the Chair.

#### 113. Disclosure of Interest

None were received.

#### **114. Executive Appointments to Outside Bodies**

Councillor Crane presented the report which detailed the current representatives on Outside Bodies and asked the Executive to consider these appointments for 2013/14.

The Executive discussed the list of appointments presented and in particular representation on Internal Drainage Boards

**Resolved:**

**To approve the schedule of appointments on outside bodies as amended, attached at appendix A;**

Reason for decision:

To ensure the Council is represented on Outside Bodies as necessary in 2013/14.

#### **115. Neighbourhood Plans**

Councillor Crane outlined that the Localism Act introduced a new duty on Councils to provide support for communities to draw up neighbourhood plans. The report updated the Executive on the proposals to fulfil this new duty.

Councillor Crane set out the proposal to commission Access Selby to work with one local community on a pilot to assist a community group through the neighbourhood planning process. Following completion of the pilot a review would be undertaken to establish both the costs and resources required to support the process.

The Executive discussed the potential demand from local communities for Neighbourhood Plans and the funding available from the Government. The Executive Director S151 outlined work required from Access Selby at the Designation Stage of the process and the associated grant payment from the Government.

An amendment was moved and seconded which requested the pilot be extended to four Neighbourhood Plans. A vote was taken and the amendment lost.

**Resolved:**

- i) To note the report;**
- ii) To endorse the proposed approach to neighbourhood plans.**

Reason for the decision:

To meet the Council's duty to support local communities drawing up neighbourhood plans.

## **116. Right to Buy Scheme**

Councillor Lunn presented the report on the Government's enhanced Right to Buy (RTB) scheme and the arrangements for 'one-for-one' replacement homes. It sought approval to enter into an agreement with the Government to retain the additional capital receipts from RTB sales. The retained capital receipts could be used to fund up to 30% of the cost of replacement homes.

The Executive welcomed the scheme and discussed the potential benefits for the Council in the context of its plans to deliver more affordable housing through both the Housing Revenue Account and the new Housing Trust.

The Executive Director S151 clarified the impact of the scheme on any potential purchase of one of the Council's Airey Homes.

### **Resolved:**

**To enter into the agreement for the retention of additional right to buy receipts.**

Reason for the decision:

To enable the Council to formally enter into the agreement with the Government and retain additional receipts for Quarter 1 of 2013/14 and onwards.

The meeting closed at 4.55 pm

OUTSIDE BODY	CURRENT COUNCILLORS REPRESENTATIVE	TERM EXPIRES/NO. OF PLACES	REPORT REFERENCE NO.
Local Government North Yorkshire and York	Cllr M Crane Deputy – Cllr G Ivey	2014 (1)	E/12/71
Local Government Association	Cllr C Metcalfe Deputy – Cllr C Lunn	2014(2)	E/12/71
Local Authorities -Yorkshire and the Humber	Cllr M Crane	2014 (1)	E/12/71
Yorkshire and Humber Employers' Committee	Cllr M Crane	2014 (1)	E/12/71
Selby District Local Strategic Partnership	Cllr G Ivey	2014 (1)	E/12/71
York & North Yorkshire Strategic Housing Board	Cllr G Ivey sub: Cllr J Mackman	2014 (1)	E/12/71
Leeds City Region	Cllr M Crane	2014 (1)	E/12/71
The First Ainsty Internal Drainage Board	Cllr D Mackay Cllr K Ellis	2014 (2)	E/12/71
Danvm Drainage Board	Cllr Mrs G Ivey Cllr Mrs S Ryder Cllr M Jordan Cllr Mrs A Spetch Cllr Mrs C Mackman	2014 (5)	E/12/71
Ouse and Derwent Internal Drainage Board First Electoral Division – Ouse  Third Electoral Division – Cliffe	Cllr W Inness Cllr J Cattnach Cllr K Ellis Cllr B Marshall Cllr Mrs K McSherry Cllr J Deans	2014 (6)	E/12/71
Selby Area Internal Drainage Board	Cllr J Mackman Cllr M Dyson Cllr C Pearson Cllr J Cattnach Cllr I Chilvers Cllr Mrs A Spetch Mrs J Dyson Cllr M Crane Cllr Mrs C Mackman Cllr D Peart Cllr M Jordan	2014 (11)	E/12/71
North Yorkshire Building Control Partnership	Cllr C lunn  Sub: Cllr M Crane	2014 (1 place and 1 sub)	E/12/71
Groundwork (North Yorkshire)	Cllr D Peart  Cllr J Thurlow	2014 (2)	E/12/71
Community Safety Partnership	Cllr M Hobson	2014 (1)	E/12/71
North Yorkshire Joint Procurement Committee	Cllr M Crane	2014	E/12/71
North Yorkshire Spatial Planning Board	Cllr J Mackman	2014 (1)	E/12/71
Housing Trust	Cllr J Mackman Cllr I Reynolds Cllr R Packham	2014 (3)	E/12/71 and E/12/69

# Selby District Council

## REPORT

Reference: E/13/1

Public – Item 5



**To:** The Executive  
**Date:** 6 June 2013  
**Status:** Key Decision  
**Report Published:** 29 May 2013  
**Author:** Jodie Taylor – Lead Officer Finance  
**Executive Member:** Councillor C Lunn – Lead Member for Finance & Resources  
**Lead Director:** Karen Iveson, Executive Director (s151)

**Title:** Treasury Management – Annual Review 2012/13

### Summary:

This report reviews the Council's borrowing and investment activity (Treasury Management) for the financial year to 31<sup>st</sup> March 2013 and presents performance against the Prudential Indicators.

On average the Council's investments totalled £24.1m over the year at an average rate of 1.30% and earned interest of £312k which was £127k higher than the budget.

Long-term borrowing totalled £60.3m at 31 March 2013, with an average interest rate of 4.19%. £57.7m of long term borrowing related to the Housing Revenue Account (HRA). The Council had no short term borrowing in place as at 31 March 2013.

Prudential Indicators – the Council's affordable limits for borrowing were not breached during this period.

### Recommendations:

- i. **Councillors endorse the actions of officers on the Council's treasury activities for 2012/13 and approve the report.**



## Reasons for recommendation

**To comply with the Treasury Management Code of Practice, the Executive is required to receive and review regular Treasury Management monitoring reports including the annual review.**

### 1. Introduction and background

- 1.1 This is the final monitoring report for Treasury Management in 2012/13 and covers the period 1 April 2012 to 31 March 2013. During this period the Council complied with its legislative and regulatory requirements.
- 1.2 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.
- 1.3 The Council’s Treasury Strategy, including the Annual Investment Strategy was approved by the Executive on 2 February 2012 and this incorporated the Prudential Indicators which were then approved by Council at its meeting on 28 February 2012.
- 1.4 The two key budgets related to the Council’s treasury management activities are the amount of interest earned on investments £185k (£165k General Fund, £20k Housing Revenue Account) and the amount of interest paid on borrowing £2.5m (£119k General Fund, £2.4m Housing Revenue Account).

### 2. The Report

#### **Interest Rates and Market Conditions**

- 2.1 The financial year 2012/13 continued the challenging investment environment, namely low investment returns and continued heightened levels of counterparty risk. The Bank of England maintained interest rates at 0.5% (the bank rate) and due to the difficult economic environment forecasters are now not expecting a rise until at least March 2015.
- 2.2 Consumer Price Inflation (CPI) fell from a peak of 3.0% at the start of the financial year to end at 2.8% in March. An expected fall in CPI to back below 2.0% has been pushed back to June 2016. The Retail Price Index (RPI) was 3.5% in April and since fallen to 3.3% in March.

**Table 1: Average Interest Rates 1 April 2012 to 31 March 2013**

	<b>April 2012</b>	<b>June 2012</b>	<b>Sept 2012</b>	<b>Dec 2012</b>	<b>March 2013</b>
<b>Base Rate (Bank Rate)</b>	0.50	0.50	0.50	0.50	0.50
<b>Over Night</b>	0.50	0.50	0.40	0.40	0.40
<b>7 Days</b>	0.50	0.50	0.45	0.40	0.40
<b>1 month</b>	0.73	0.50	0.40	0.40	0.40
<b>3 Months</b>	1.05	0.85	0.48	0.45	0.45
<b>6 Months</b>	1.35	1.10	0.71	0.60	0.55
<b>1 Year</b>	1.85	1.65	1.00	0.90	0.80

2.4 Gilt yields oscillated during the year as events in the on-going Eurozone debt crisis continued to unfold, causing corresponding fluctuations in flows into and out of UK gilts. This together with a further £50bn of Quantitative Easing (QE) in July and widely expected QE still to come, combined to keep PWLB rates depressed for much of the year at historically low levels.

2.5 The Council's Treasury Advisors, Sector provided a forecast for interest rates for both investments and PWLB borrowing as part of the Treasury Management Strategy. Table 2 shows the actual bank rate and PWLB rates at the end of the year compared to forecasts during the year. The table shows the bank rate ended the year at 0.5%, the same level as at the start of the year, whilst PWLB rates are up to 0.4% lower.

**Table 2: Interest Rates Forecast During Year & Actual at 31 March 2013**

	<b>Forecast 1 April 2012</b>	<b>Forecast 30 June 2012</b>	<b>Forecast 30 September 2012</b>	<b>Forecast 31 December 2012</b>	<b>Actual 31 March 2013</b>
<b>Bank Rate</b>	0.50	0.50	0.50	0.50	0.50
<b>5 Yr PWLB</b>	2.05	1.83	1.89	1.50	1.72
<b>10 Yr PWLB</b>	3.21	2.74	2.91	2.50	2.81
<b>25 Yr PWLB</b>	4.32	3.98	4.15	3.70	4.06
<b>50 yr PWLB</b>	4.36	4.15	4.32	3.90	4.21

## **Annual Investment Strategy**

2.6 The Annual Investment Strategy outlines the Council's investment priorities which are :

- ⊕ Security of Capital and
- ⊕ Liquidity of its investments

These priorities are consistent with those recommended by DCLG and CIPFA.

2.7 The Council's aim was to achieve optimum return on investments commensurate with these priorities. In the current economic climate it was considered prudent to keep investments with financial institutions short-term thus minimising the ongoing risks within the banking sector. Investments were however placed with other local authorities for longer periods.

2.8 The Council continues to invest in only highly credit rated institutions using the Sector suggested creditworthiness matrices which take information from all the credit ratings agencies. Officers can confirm that the Council has not breached its approved investment limits during the year. Appendix A shows an analysis of Investments at 1 April, 30 June, 30 September, 31 December 2012 and 31 March 2013.

2.9 The Council set a budget target rate of return for investments for the year at 1.25%. This was with the expectation the economy would improve and rates would rise as a result. Despite interest rates remaining low throughout the year and the challenge of increased security risks reducing the timeframe and the choice of institutions that the Council could invest with, the Council achieved an annual rate of return of 1.30% on investments. This enabled the Council to achieve investment income of £312k (£127k higher than budgeted) of which £263k will be allocated to the General Fund (an additional £98k) and £49k to the HRA (an additional £29k).

2.10 The interest earned by both the General Fund and the HRA was above target due to surplus balances continuing to be relatively high. The average level of funds available for investment during the year was £24.1m. This was predominantly due to changes in the capital programme as well as a combination of savings and rephasing of expenditure within the revenue budget.

2.11 An average of £19.4m was invested in fixed term deposits (mainly with other local authorities and government backed banks) throughout the year at an average of 1.49%, £3.4m was invested in Money Markets at an average rate of 0.51% and £1.3m was held in the Council's immediate access deposit account at a rate of 0.51%. These funds were available on a temporary basis, and the level of funds available was mainly dependent on the timing of precept payments, receipt of grants and progress on the capital programme. The Council held

approximately £14.0m of core cash balances made up of earmarked reserves and capital receipts set aside to repay debt for investment purposes (i.e. funds available for more than one year). Table 3 shows the Council's investment position as at 31 March 2013.

**Table 3: Investment Portfolio Position**

	As at 31 <sup>st</sup> March 2012		As at 31 <sup>st</sup> March 2013	
	Principal £'000	Annual Return %	Principal £'000	Annual Return %
Total Investments:	21,030	1.3500	17,459	1.52

- 2.12 The Council had a benchmark of its budget target of 1.25% to reflect performance of investments. The overall average rate of 1.30% is above benchmark. The Council's cash flows remained healthy, enabling the interest earned to be above budget, with an average of £24m invested against the £15m forecast.

**Borrowing**

- 2.13 It is a statutory duty for the Council to determine and keep under review its "Affordable Borrowing Limits". The Council's approved Prudential Indicators (affordable limits) were outlined in the Treasury Management Strategy Statement (TMSS). A list of the limits is shown at Appendix B. Officers can confirm that the Prudential Indicators were not breached during the year.
- 2.14 Table 4, which sets out an analysis of the Council's long term debt position, shows no further borrowing was undertaken in 2012/13 to support the capital programme as originally indicated in the TMSS.

**Table 4: Current Long Term Debt Position**

	31 <sup>st</sup> March 2012		31 <sup>st</sup> March 2013	
	Principal £'000	Rate %	Principal £'000	Rate %
Long Term Fixed Rate Funding:				
- PWLB (Public Works Loan Board)	53,837	3.63	53,833	3.63
- Market	6,500	8.79	6,500	8.79
Total Long Term Funding	60,337	4.19	60,333	4.19
Short Term				
- Market	4,500	0.50	0	0.00
Total Debt	64,837	3.93	60,333	4.19

- 2.15 The long term debt is split into two portfolios, one for the General Fund with £2.6m at an average rate of 4.31% and one for the HRA with £57.733m at an average rate of 4.18%.
- 2.16 The Council approved an Authorised Borrowing Limit of £75.0m and an Operational Borrowing Limit of £71.0m for 2012/13.

### **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**

There are no financial implications as a result of this report. However, the Executive Director (s151) and Lead Officer - Finance will, with advice from the Council's advisor (Sector Treasury Services) look to maximise opportunities with the Council's investment and borrowing position.

### **4. Conclusion**

- 4.1 The impact of the economy, and the turmoil in the financial markets, has had an impact on the Council's investment returns and will continue to do so for some while, however this has been mitigated by better than expected cash flows.

### **5. Background Documents**

Finance treasury management files

#### **Contact Details**

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Lead Officer - Finance  
Selby District Council  
[jotaylor@selby.gov.uk](mailto:jotaylor@selby.gov.uk)

#### **Appendices:**

Appendix A – Analysis of Deposits at 1 April 2012, 30 June 2012, 30 September 2012, 31 December 2012, 31 March 2013.  
Appendix B – Prudential Indicators as at 31 March 2013.

Analysis of Deposits At 1 April 2012, 30 June 2012, 30 September 2012, 31 December 2012, March 31 2013

APPENDIX A

Institution	At 1 April 2012			At 30 June 2012			At 30 Sept 2012			At 31 December 2012			At 31 March 2013		
	Amount £'000	Maturity	Rate %	Amount £'000	Maturity	Rate %	Amount £'000	Maturity	Rate %	Amount £'000	Maturity	Rate %	Amount £'000	Maturity	Rate %
Barclays				1,000	14-Sep-12	0.92	1,000	14-Dec-12	0.59						
Doncaster MBC	1,000	24-May-12	1.40	1,000	24-May-13	1.40	1,000	24-May-13	1.40	1,000	24-May-13	1.40	1,000	24-May-13	1.40
Fife Council	2,000	29-Mar-13	0.90	2,000	29-Mar-13	0.90	2,000	29-Mar-13	0.90	2,000	29-Mar-13	0.90			
Fife Council	1,000	06-Jan-14	1.30	1,000	06-Jan-14	1.30	1,000	06-Jan-14	1.30	1,000	06-Jan-14	1.30	1,000	06-Jan-14	1.30
HBOS													61	Call	0.50
Leeds City Council	2,000	12-Sep-12	2.00	2,000	12-Sep-12	200.00									
Lloyds TSB	3,000	16-Jul-12	1.75	3,000	16-Jul-12	1.75	3,000	16-Oct-12	1.35	3,000	16-Oct-13	2.25	3,000	16-Oct-13	2.25
Lloyds TSB							2,000	01-Aug-14	3.20	2,000	01-Aug-14	3.20	2,000	01-Aug-14	3.20
Nat West							1,000	09-Sep-13	1.28	1,000	09-Sep-13	1.28	1,000	09-Sep-13	1.28
Nat West										1,000	15-Nov-13	1.50	1,000	15-Nov-13	1.50
Nat West	2,030	Call	0.50	3,249	Call	0.50	331	Call	0.50	255	Call	0.5	2,397	Call	0.6
Nat West				3,000	30 Day	1.10	2,500	30 Day	1.10	2,000	30 Day	1.10			
Newcastle City Council	2,000	02-Apr-12	1.30							3,000	07-May-15	1.00	3,000	07-May-15	1.00
Newcastle City Council	2,000	03-Sep-12	1.70	2,000	03-Sep-12	1.70							1,000	28-Sep-15	1.00
Newcastle City Council	1,000	30-May-12	1.60												
North Lanarkshire	2,000	20-May-13	1.20	2,000	20-May-13	1.20	2,000	20-May-13	1.20	2,000	20-May-13	1.20	2,000	20-May-13	1.20
Sheffield City Council	3,000	29-Nov-12	1.55	3,000	29-Nov-12	1.55	3,000	29-Nov-12	1.55						
Svenska Handelsbanken							3,000	Call	0.80				1	Call	0.35
<u>Money Market Funds</u>															
Ignis				500	Call	0.69	2,750	Call	0.61	5,000	Call	0.43			
<b>Total Deposits</b>	<b>21,030</b>		<b>1.35</b>	<b>23,749</b>		<b>1.31</b>	<b>24,581</b>		<b>1.21</b>	<b>23,255</b>		<b>1.3</b>	<b>17,459</b>		<b>1.52</b>

**Prudential Indicators – As at 31 March 2013**

Note	Prudential Indicator	2012/13 Indicator	Quarter 4 Actual
1.	Mid Year Capital Financing Requirement £'000	63,529	62,407
	Gross Borrowing £'000	63,481	62,080
	Investments £'000	15,000	17,459
2.	Net Borrowing £'000	48,481	44,621
3.	Authorised Limit for External Debt £'000	75,000	75,000
4.	Operational Boundary for External Debt £'000	71,000	71,000
5.	Limit of fixed interest rates based on net debt %	100%	100%
5.	Limit of variable interest rates based on net debt %	30%	30%
6.	Principal sums invested for over 364 days		
	1 to 2 Years £'000	20,000	2,000
	2 to 3 Years £'000	15,000	4,000
	3 to 4 Years £'000	5,000	0
	4 to 5 Years £'000	5,000	0
7.	Maturity Structure of external debt borrowing limits		
	Under 12 Months %	20	0
	1 Year to 2 Years %	20	0
	2 Years to 5 Years %	50	0
	5 Years to 10 Years %	90	12.43
	10 Years to 15 Years %	90	0
	15 Years and above %	90	87.57

**Notes to the Prudential Indicators**

1. Capital Financing Requirement – this is a measure of the Council's underlying need to borrow long term to fund its capital projects. The information in the table shows a need to borrow £62.407m at 31 March.

## APPENDIX B

2. Net Borrowing (Gross Borrowing less Investments) – this must not, except in the short term, exceed the capital financing requirement.
3. Authorised Limit for External Debt – this is the maximum amount of borrowing the Council believes it would need to undertake its functions during the year. It is set above the Operational Limit to accommodate unusual or exceptional cashflow movements.
4. Operational Boundary for External Debt – this is set at the Council’s most likely operation level. Any breaches of this would be reported to Councillor’s immediately.
5. Limit of fixed and variable interest rates on net debt – this is to manage interest rate fluctuations to ensure that the Council does not over expose itself to variable rate debt.
6. Principal Sums Invested for over 364 days – the purpose of these limits is so that the Council contains its exposure to the possibility of loss that might arise as a result of having to seek early repayment or redemption of investments.
7. Maturity Structure of Borrowing Limits – the purpose of this is to ensure that the Council is not required to repay all of its debt in one year. The debt in the 15 years and over category is spread over a range of maturities from 23 years to 50 years.



# Selby District Council

## REPORT

Reference: E/13/2

Public – Item 6



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<b>To:</b>	<b>The Executive</b>
<b>Date:</b>	<b>6 June 2013</b>
<b>Status:</b>	<b>Non Key Decision</b>
<b>Report Published:</b>	<b>29 May 2013</b>
<b>Author:</b>	<b>Michelle Dinsdale - Assistant Policy Officer</b>
<b>Executive Member:</b>	<b>Councillor Lunn</b>
<b>Lead Officer:</b>	<b>Director - Karen Iveson</b>

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**Title: National Non - Domestic Rates (NNDR) - Discretionary Rate Relief Policy**

### **Summary:**

A Scrutiny Committee Task and Finish Group consisting of Councillors C Pearson (Chair), I Chilvers and M Hobson was set up to review discretionary rate relief for non-domestic rates. The findings of the group were then submitted to Scrutiny Committee for their comments and subsequent submission to the Executive for consideration.

The proposed outcomes of the review were:

- Ascertain if the existing polic(ies) were fit for purpose
- A defined policy for Discretionary Rate Relief
- A revised and effective process for awarding rate relief which:
  - is easy for applicants to understand and apply for
  - is easy for the authority to administer
  - enables the Council to plan its budget

The review focused on two areas:

1. Reviewing the current policy for awarding discretionary relief
2. Exploring options under the Council's general power to award discretionary rate relief.

## **Recommendations:**

- 1) The approval of the draft National Non - Domestic Rates (NNDR) Discretionary Rate Relief Policy which includes the following key changes:**
  - i. The implementation of a monetary cap on the level awarded per property per annum on all existing types of relief**
  - ii. The continuation to 'top up' 80% mandatory relief to 100%, for charitable bodies, on a sliding scale, but only where the organisation can evidence investment in the local community. All other awards in respect of charitable bodies to be capped at 80%, in line with non profit making organisations**
  - iii. The introduction of an end date for all awards granted (allowing recipients to reapply)**
  - iv. The introduction of a cut off date for the submission of all applications, except those in respect of general rate relief and hardship**
  - v. The granting of awards against the available budget**
  - vi. The introduction of a general rate relief, linked to attracting new organisations to the District, encouraging expansion and creating employment opportunities for Selby District residents.**
- 2) A cross party panel for consideration of applications for the new general relief.**
- 3) The introduction of a cap on the budget set aside to support the new general relief.**
- 4) The introduction of a cap for individual awards in respect of new general relief.**

## **Reasons for recommendation**

To put in place a robust policy framework to ensure that decisions regarding the award of discretionary rate relief are taken in a fair, consistent and transparent manner giving due consideration to the interests of local tax payers:

- To safeguard the interests of the local tax payer by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way;
- To promote growth and retention in the District, in particular employment opportunities for District residents;
- To generate contingencies to allow for a future increase in applications, including future proofing the policy to avoid potentially costly awards.

## **1. Introduction and background**

The award of rate relief for non domestic properties is discretionary and as such there is no legal requirement for an authority to have a written policy. However, it is considered best practice to have a policy which sets guidelines for the factors that should be considered when making a decision to award or refuse relief.

### **1.1 Current Reliefs**

The current policy was last reviewed approximately ten years ago.

The policy covers awards of rate relief for charities, non-profit making organisations and businesses located in small rural settlements. The District Council has the ability to grant discretionary rate relief, either to 'top up' the 80% mandatory rate relief (charitable bodies), the 50% mandatory relief (rural), or to give discretionary relief alone (non-profit making organisations) up to 100%. The objective of discretionary rate relief is to give assistance to charitable and non profit making organisations that may for example have difficulty in paying their rates and are of benefit to the local community, such as village halls.

### **1.2 New General Relief**

From 1<sup>st</sup> April 2012, section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to replace the limited circumstances in which local authorities can currently give discretionary relief with a power to grant relief in any circumstances.

In exercising these discretionary powers the Council must act reasonably having regard to all relevant considerations and the interests of all tax payers as the full cost of awarding discretionary rate relief would in effect be borne by other Council Tax payers. The Council must not have a blanket policy either to award or not to award relief and each case should be considered on its own merits.

## **2. The Report**

### **2.1 Methodology**

#### **2.1.1 Methodology - review of current awards**

##### Comparison of neighbouring authorities

The Discretionary Rate Relief policies and scoring criteria (where applicable) were obtained from the following authorities:

- Leeds
- York
- Harrogate
- Doncaster
- Ryedale

The information obtained was compared with the current SDC discretionary rate relief criteria and focused on the following areas:

- Responsibility for decision
- Level of award
- Period of award
- Details of any capped awards

Analysis of this data provided a comparison with other authorities which led into the following:

##### Analysis of existing awards

An analysis of existing awards identified the following key issues in relation to discretionary rate relief:

- All awards are currently open ended i.e. there is no end date
- There is no limit to the amount of award which can be granted in terms of a monetary cap
- Difference percentage limits are applied, depending on the type of award granted e.g. up to 100% for charitable bodies and 80% for non-profit making organisations
- There is no cut off date for applications i.e. applications can be submitted at any time throughout the year

- Currently (and historically) the amount granted in awards exceeds the allocated budget.

This information was used to inform the options appraisal.

### **2.1.2 Methodology - the introduction of new local relief**

Discussions took place at three separate meetings of the Task and Finish Group regarding the Council's general power to award discretionary rate relief. Following a presentation by Officers, the group discussed the various options available to them and consideration was given to the following seven sector options:

1. Sector
2. Area
3. Environmental impact
4. Linked to growth and or retention
5. Socio-economic exclusion
6. Size of business
7. Headquarters of the business

Given the Council's aspirations with the Programme for Growth the group chose to focus on options around growth. The group also wanted to be able to have a policy which allows other circumstances to be taken into account.

### **2.2 Summary of Key Findings**

Findings from the research carried out suggest that continuing with the existing policy is no longer considered a viable option.

A change in legislation has resulted in the need for a policy update in order to:

- ensure the interests of the tax payer are taken into account when considering granting awards and
- minimise the risk of challenge and objection.

The significant overspend against the current allocated budget, highlights the need to:

- provide some certainty in future years linked to the budget available and
- ensure that the granting of future awards represents value for money and provides an opportunity for the Council to support those applicants who make a contribution to the area.

### **2.3 Options and Options Appraisal**

An analysis of the information provided the following options for consideration:

### 2.3.1 Current awards

#### **Option 1: A monetary cap on the level awarded per property per annum**

At present, there is no monetary limitation on relief granted per property. Other Authorities use this scheme and some run it alongside a percentage award according to category of organisation.

Table 1 below provides details of the recommended caps and the number of current awards which will be affected (based on current awards as at 29 January 2013).

**Table 1 Proposed caps - Analysis of existing awards**

Type of Award	Amount of current cap	Amount of proposed cap (£)	Number of awards effected (as at Jan 2013)
Charitable Bodies	none	10,000	1
Community Amateur Sports Clubs (CASCs)	none	4,000	0
Non Profit Making	none	4,000	0
Rural	none	2,000	1

This option does not penalise any specific category and recommends setting a cap for all types of awards. The monetary limits set will result in no detrimental effect on any of the small organisations. There will be a negative effect for only one larger organisation within the area.

Whilst the number of organisations which will be effected is limited at present and therefore will result in relatively small savings, this option is an attempt to include an element of future proofing in respect of any potential properties with a high rateable value that may apply for discretionary relief.

#### **Option 2: A percentage cap on the level per property per annum**

This scheme would entail granting discretionary relief up to a specified percentage. A number of options were discussed including applying a percentage cap to:

- all types of relief or
- specific types of relief only i.e. charitable bodies only (currently the greatest cost to the authority)

At present, depending on the type of award, relief can be granted up to 100%.

During the review process Councillors were keen to continue to support organisations that play an important role in delivering key local services.

It was recognised that the largest number of awards and the greatest cost to the authority was from charitable bodies. It was suggested to cap the percentage level to 80%, in line with non profit making organisations, unless organisations can evidence investment in the local community, in which case they will be awarded 10% or 20% depending on the level of investment.

By introducing an overall percentage cap, all the organisations currently receiving the larger award, i.e. a top up of 20% discretionary relief would lose. However, if they can provide evidence of investment in the local community, they will receive either 10% or 20%, depending of the level of investment.

Table 2 below provides details of the current and proposed caps, including the percentage of mandatory relief (which will remain the same).

**Table 2 Current and proposed percentage caps**

Type of Awards	Mandatory (%)	Discretionary (%)	Total (%)
<b>CASCs</b>			
Current	80	20	100
Proposed		20	100
<b>Non-profit making</b>			
Current	0	80	80
Proposed		80	80
<b>Rural</b>			
Current	50	50	100
Proposed		50	100
<b>Charitable relief</b>			
Current	80	20	100
Proposed			
No investment in local community		0	80
Investment in local community *		10 or 20	90 or 100

\*On a sliding scale (10% or 20%) linked to investment in the local community.

This option only affects charitable bodies and brings the cap in line with non profit making organisations. It is not possible to determine the number of awards which will be affected from the introduction of this option. There are currently 78 organisations that receive awards and fall into this category and potentially all could be affected, depending on their level of investment in the local community.

### **Financial Modelling (relating to options 1 and 2)**

The introduction of the proposed caps, both monetary and percentage, will result in contingency funds to allow for a future increase in applications. An

analysis of current recipients of all types of discretionary relief has been undertaken to inform Table 3 below.

**Table 3 Financial Modelling – a comparison of the cost to the different organisations of current awards under the existing and proposed new policy (as at 05 April 2013)**

Type of award and number of transactions	Total Value		Central Government		SDC	NYCC	NYFR
	100%		50%		40%	9%	1%
<b>Current Awards</b>							
Non-Profit (15)	-£ 11,353.70		-£ 5,676.85		-£ 4,541.48	-£ 1,021.83	-£ 113.54
Rural (4) Village Shop (28)	-£ 3,414.85		-£ 1,707.43		-£ 1,365.94	-£ 307.34	-£ 34.15
CASC (1) Charitable (76)	-£ 14,947.52		-£ 7,473.76		-£ 5,979.01	-£ 1,345.28	-£ 149.48
	-£ 1,047.98		-£ 523.99		-£ 419.19	-£ 94.32	-£ 10.48
	-£ 47,137.11		-£ 23,568.56		-£ 18,854.84	-£ 4,242.34	-£ 471.37
	-£ 77,901.16		-£ 38,950.58		<b>-£ 31,160.46</b>	-£ 7,011.10	-£ 779.01
<b>Under Policy</b>							
Non-Profit (15)	-£ 11,353.70		-£ 5,676.85		-£ 4,541.48	-£ 1,021.83	-£ 113.54
Rural (4) Village Shop (28)	-£ 3,414.85		-£ 1,707.43		-£ 1,365.94	-£ 307.34	-£ 34.15
CASC (1) Charitable (76)	-£ 14,764.43		-£ 7,382.22		-£ 5,905.77	-£ 1,328.80	-£ 147.64
	-£ 1,047.98		-£ 523.99		-£ 419.19	-£ 94.32	-£ 10.48
	-£ 42,082.90		-£ 21,041.45		-£ 16,833.16	-£ 3,787.46	-£ 420.83
	-£ 72,663.86		-£ 36,331.93		<b>-£ 29,065.54</b>	-£ 6,539.75	-£ 726.64
<b>Savings</b>	-£ 5,237.30		-£ 2,618.65		<b>-£ 2,094.92</b>	-£ 471.36	-£ 52.37

### **Option 3: An end date for awards**

Currently all awards are open ended. The option to award relief for a predetermined period would assist the Council with planning its budget and also ensure that applications are reviewed to identify changes in circumstances which may affect the level of relief awarded. This is something which a number of other authorities currently do. In line with other authorities the maximum period considered appropriate is 36 months for charities and 24 months for all other types of awards.

### **Option 4: Limiting the date of application**



The introduction of a deadline for applications i.e. 01 January each year will assist the Council with granting awards against the available budget. Under this option applications for general rate relief and hardship relief will be exempt from the deadline and may be submitted when the need arises.

**Option 5: Granting awards against the available budget**

This option involves reducing all awards proportionally where the total relief assessed exceeds the available budget. This type of funding would be based on the annual budget allocation by the Council for discretionary relief. To proceed with this option we would need to implement option 4 as above i.e. a system of limiting the submission date of applications to e.g. January 01 each year.

**Table 4 Summary of Options – existing awards**

<b>Option</b>	<b>Description</b>	<b>Rationale</b>
1	A monetary cap on the level awarded per property per annum	Future proofing in respect of any potential properties with a high rateable value that may apply for discretionary relief. Will generate contingencies to allow for a future increase in applications
2	A percentage cap on the level per property per annum, applied to charitable bodies, on a sliding scale	Encourages investment in local community. Will generate contingencies to allow for a future increase in applications
3	An end date for awards	Assist with budget planning
4	Limiting the date of application (for both new and existing awards)	Assist with budget allocation
5	Granting awards against the available budget	Remove any financial risks associated with the Policy.

**Preferred Options**

The Task & Finish Group’s preferred options are all of the above i.e. 1 - 5 as outlined above.

**2.3.2 New General Relief**

**Option 1: The introduction of specific criteria linked to the creation of employment opportunities within the District, set against a scoring mechanism.**

Members were keen to introduce criteria linked to the Council’s aspirations to promote and encourage economic growth, and in particular increase

employment opportunities for residents of the District. They therefore initially decided upon specific criteria which claimants would have to meet set against a scoring mechanism. However, the authority must not have a blanket policy and therefore, on reflection proposing this option in isolation, was considered to be too restrictive. Also the adoption of policy guidelines to assist in judging the individual merits of each application was considered to be reasonable without the need for a detailed scoring mechanism.

**Option 2: The introduction of general criteria linked to the creation of employment opportunities.**

This option includes criteria where applications will be considered favourably where the Council is satisfied that an award will directly result in attracting businesses, investment or jobs to the local area, but without the rigid scoring mechanism associated with option 1 above.

In deciding whether to grant discretionary relief, the Council will look at the contribution that the organisation makes to the area and relief will be considered on the individual merits of each case.

Under this option it is envisaged that Officers will provide a brief report to accompany the main submission by the applicant. The decision will be made by a panel of Members delegated for the purpose of determining applications. It will be for Members to consider individual applications and decide whether to make an award, based on the Policy, the application and supporting information.

When making a decision Members will need to make a judgement on the benefits which will be achieved by granting the award and also in the absence of any existing budget will need to consider where the funding for granting such an award will come from.

**Preferred option**

The Task and Finish Group's preferred option is 2 as this allows sufficient flexibility to enable awards to be made where there are longer-term benefits, subject to an award being considered in the best interests of local Council Tax payers.

**3. Legal/Financial Controls and other Policy matters**

**3.1 Legal Issues**

Whilst there is no absolute legal requirement to have a policy on the award of discretionary rate relief, government guidance and good practice strongly suggest that the Council should have a policy.

Consultation is also at the discretion of the Council. Officers recommend consulting with the organisations currently receiving relief as well as the

general public. Methods of consultation will be via the Council's website, through the CEFs and the Chamber of Trade. It will also include writing to all those currently in receipt of awards.

An Equalities Impact Assessment (EIA) was carried out which identified that the proposed Policy will have a neutral impact on the Council's statutory equality duty and therefore no changes are required at this present time.

### **3.2 Financial Issues**

There is a requirement to have greater control over budgets, in view of the current pressure on public sector funding. In addition to this there is also no budget allocation in respect of the new general relief.

The significant changes to local government finance from April 2013 will include the local retention by the Council of a proportion of the yield collected from the non-domestic rates payable in the District. Awards of discretionary rate relief will reduce the rates yield and, therefore, will directly affect the Council's finance.

Furthermore, the costs borne by the Council will be the full amount of any relief granted under the new general relief.

It is suggested that consideration be given to allocating a capped budget for any general relief granted and also for the introduction of a cap for individual awards in order to limit the potential costs to the Council.

Resource implications - there will be an increase in Officer time in order to:

- check applications in relation to new general relief, prior to formulating a brief report to assist Members with the decision making process
- review each award after the end of the award period (one, two or three years depending on the type of award).

There will be also be the need to review all existing awards, of which there are currently 124 (as at 05 April 2013), prior to the implementation of the policy, ideally by December 2013. It is envisaged that this process will be undertaken over a four month period.

## **4. Conclusion**

### **Existing Reliefs:**

The Council is keen to continue to support organisations, in particular those who invest in the local community. It is clear in times of scarcity of resources that it is important to consider the cost of any scheme to the Council and the introduction of options 1 and 2 would yield contingency funds, while

continuing to support many of the organisations currently receiving discretionary relief. Option 3 would assist the Council in planning its budget. The introduction of option 4 would allow the Council to implement option 5; granting awards against the available budget, which will in turn limit the amount of discretionary relief awarded in each financial year.

### **New General Relief:**

Option 1 would entail businesses having to meet specific criteria, which may in many instances result in no award. Therefore, this option does not meet the desired outcome to attract and assist those businesses who may be either considering relocating or expanding within the District.

Option 2 would ensure that each application for rate relief will be considered on its individual merits, whilst at the same time aligning with the objectives set out by the Scrutiny Committee Task and Finish Group i.e. attracting new businesses to the District, the expansion of existing ones and the creation of employment opportunities for residents within the District. However, it should be reiterated that the cost of awarding this type of relief will be borne entirely by the Council and Members will need to include this in their decision making process, when considering each application.

Approval is sought on the draft policy, which includes the preferred options detailed in this report. If the Executive is in support of the proposal a six week consultation process is proposed (17 June - 28 July 2013). Following an analysis of responses, the report will then be brought back to the Executive on 05 September, with a revised draft policy updated where appropriate to take account of consultation responses. It will then be taken to Council on 10 September 2013.

It is the intention that following implementation the Policy will be reviewed in twelve months, to test its effectiveness.

## **5. Background Documents**

Local Government Finance Act 1988 - Section 47  
Localism Act 2011

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### **Appendices:**

Appendix A -Draft National Non Domestic Rates (NNDR) Discretionary Rate Relief Policy.



**Selby District Council**

**National Non Domestic Rates (NNDR)**

**Discretionary Rate Relief Policy**

**April 2013**

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## **1. Background**

Local Authorities have the power to grant Discretionary Rate Relief to organisations that meet certain criteria. The amount of relief granted is used to reduce the amount the organisation owes in Non Domestic Rates.

## **2. Legislation**

The law governing the granting of Discretionary Rate Relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation and Section 69 of the Localism Act 2011.

## **3. Purpose of the Policy**

The purpose of this Policy is to specify how the Council will operate its discretionary powers under the Local Government Finance Act 1988 and to indicate the factors it will consider when deciding if relief can be awarded.

Through this policy, Selby District Council is providing a mechanism to reduce, or remove the business rate liability from such charities, non - profit making organisations, certain rural businesses and other businesses that are providing valuable facilities and services to communities within Selby District.

The policy is intended to provide a simple transparent process that aligns awards of discretionary rate relief with the council's corporate priorities.

## **4. Types of Relief Awarded**

The Council will consider awarding Discretionary Rate Relief to all organisations that meet the qualifying criteria as specified in this Policy. The amount of any award is at the discretion of the Council.

Discretionary Rate Relief will be awarded after taking in to consideration all other reliefs an organisation may qualify for.

It will consider each individual application against set criteria. This process ensures that all applications are considered on a fair and transparent basis.

In the first instance organisations that meet the qualifying criteria for Small Business Rates Relief will be considered for this type of relief.



## 4.1 Charitable Bodies

Mandatory relief is given to institutions, organisations or trusts established for charitable purposes in respect of property used wholly or mainly for charitable purposes. Mandatory relief is 80% of the rates chargeable.

Where charitable bodies can evidence investment of funds within the local community the Council may award discretionary relief in addition to mandatory relief, on a sliding scale up to 20%. Thus, up to 100% relief may be achieved. It should be noted that there is a cap on the amount which can be awarded (see Appendix 1). If an applicant organisation delivers services from more than one premises and discretionary rate relief is awarded, the cap will be for each premise where business rates are due.

**Appendix 1: Explanatory Notes - Mandatory and Discretionary Rate Relief for Charitable Bodies** outlines the conditions that apply.

## 4.2 Non-Profit Making Organisations

Non-profit making bodies (ineligible for mandatory relief) can be awarded up to 80%.

It should be noted that there is a cap on the amount which can be awarded (see Appendix 2). If an applicant organisation delivers services from more than one premises and discretionary rate relief is awarded, the cap will be for each premise where business rates are due.

**Appendix 2: Explanatory Notes - Rate Relief for Non Profit Making Organisations** outlines the conditions that apply.

## 4.3 Community Amateur Sports Clubs (CASC)

Both mandatory and discretionary relief are available to registered Community Amateur Sports Clubs (CASC). They can receive 80% mandatory rate relief and up to 20% discretionary relief. Thus, up to 100% relief may be achieved. It should be noted that there is a cap on the amount which can be awarded (see Appendix 1). If an applicant organisation delivers services from more than one premises and discretionary rate relief is awarded, the cap will be for each premise where business rates are due.

**Appendix 1: Explanatory Notes - Rate Relief for Non Profit Making Organisations and Community Amateur Sports Clubs (CASC)** outlines the conditions that apply

## 4.4 Rural Rate Relief

Both mandatory and discretionary relief are available for businesses in rural areas. They can receive 50% mandatory rural relief and up to 50% discretionary rural relief. Thus, up to 100% relief may be achieved. It should be noted that there is a cap on the amount which can be awarded (see Appendix 3). If an applicant organisation delivers services from more than one premises and discretionary rate relief is awarded, the cap will be for each premise where business rates are due.

**Appendix 3: Explanatory Notes - Rural Rate Relief** outlines the conditions that apply.

## 4.5 General Rate Relief

Section 69 of the Localism Act 2011 amends the Local Government Finance Act 1988 to allow local authorities the discretion to award rate relief to all types of businesses.

Selby District Council has the discretion to award relief where it is in the Council Tax payer's interests to do so.

Relief will be considered on the individual merits of each case.

**Appendix 4: Explanatory Notes - General Rate Relief** outlines the factors which will be considered when assessing applications

## 4.6 Hardship Relief

Where the business is suffering hardship that has been caused through exceptional circumstances the Council can grant discretionary relief. When considering an application the Council will require some form of financial statement. Audited accounts are preferred, but if these aren't available, other documents such as bank statements or cash books etc may be accepted. In the case of an individual, the Council may also require a statement of means.

To back up an application the Council will also need to know what exceptional circumstances have led to a particular situation and why, in the applicant's view, the Council should reduce their liability.

Each application shall be determined upon its own merits.

**Appendix 5: National Non-Domestic Rates - Hardship Relief** provides further information.

## 5. Claiming Discretionary Rate Relief

### 5.1 State Aid and Reliefs

European Union competition rules generally prohibit Government subsidies to businesses.

Relief from taxes, including non-domestic rates, can constitute state aid. We need to bear this in mind when granting discretionary rate reliefs.

Any form of discretionary relief can constitute state aid, and this needs to be taken into account with any other state aid that the organisation is receiving.

### 5.2 Claim Forms

A claim must be made on an application form approved and issued without charge by the Council. Applications forms can be downloaded from the Council website.

We will issue application forms on request or in circumstances where we consider an organisation may be entitled to relief.

The form must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

A person authorised to sign on behalf of the ratepayer is:

- a partnership - a partner of the partnership;
- a trust - a trustee of that trust;
- a body corporate – a director of that body, and  
in any other case a person duly authorised to sign on behalf of the ratepayer.

### 5.3 Information required

The information required will depend upon the type of relief being applied for. Where an organisation is required to provide information, this should be submitted with the application. No applications will be considered without the appropriate supporting information. Evidence required may include:

- The rules of the organisation or its Memorandum and Articles of Association.

- The last two years' audited accounts (If the organisation is a new organisation and audited accounts are not available, the organisation should provide a statement on their finances, showing the income and expenditure)

We may, in some cases, verify the information given by the organisation applying by contacting third parties and other organisations.

We may request any reasonable evidence in support of the application.

All information supplied will be dealt with in the strictest confidence.

## **5.4 Deadline for applications**

The deadline for submission of applications for discretionary rate relief is 01 January, except in the case of applications for general relief and hardship relief.

The start date of the relief will normally be determined as follows:-

Applications submitted by 01 January will receive awards from 01<sup>st</sup> April of the year the application is made.

Applications received after 01 January will receive awards from 01<sup>st</sup> April of the start of the following financial year.

This timescale has been introduced in order that the budget available for awarding rate relief can be fairly and consistently shared amongst applicants. Therefore, where the total relief assessed exceeds the available budget the Council will reduce all awards proportionally.

Applications for general relief in respect of a new liability may be submitted from the date the liability commences. Where relief is awarded, it will commence from the date of valid application or the first date of occupation, whichever is the later date.

Awards of discretionary relief cannot be backdated.

## **5.5 Period of Award**

All awards will be made for a set period only.

The Council will decide the period that Discretionary Rate Relief will be awarded for, dependent on the circumstances of the application.

In general the period of award will be for 36 months for charitable organisations and 24 months for all others (this may be subject to change at any time during the period of the award), after which it will be again subject to

review. Continuation of relief will be subject to reapplication. Organisations who do not reapply will not be granted relief and a non domestic rate bill for the full amount will be issued.

Each amount of rate relief awarded under general rate relief policy shall only apply for twelve months.

An award of Discretionary Rate Relief at any time does not guarantee that a further award will be made at a later date even if the circumstances of the organisation have not changed.

## **5.6 Changes in Liability**

The Council may review the award in line with any increase or decrease in liability.

## **6. Payment of Awards**

All relief awarded will be paid to help with the Non Domestic Rate liability. We will credit the relief direct to the organisation's Non Domestic Rate account.

## **7. Notifications**

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and details of the applicant's right to ask us to look at the decision again.

Where the application is successful, the notification will include the following information:-

- The period of the award
- The percentage of the rate liability awarded for that period.
- The amount of Rate Relief to be awarded for the period.
- An amended Non Domestic Rate Demand.
- The right to ask us to look again at the decision.

## **8. Overpayments**

The Council will recover all overpayments of Discretionary Rate Relief through the organisation's Non Domestic Rate account.

## **9. Right of Appeal**

Whilst there is no formal right of appeal, an applicant may write and tell us why they consider the decision is wrong, i.e. if they consider we have not taken all relevant information into account. We will check Discretionary Rate Relief applications thoroughly and take account of any information provided by the applicant. This is called 'reconsidering' the decision.

We will write to advise the applicant of the outcome of our reconsideration and if we are not changing the decision, we will explain why.

## **10. Fraud**

The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Discretionary Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such an offence may have occurred, the matter will be investigated in line with the Council's Enforcement Policy. This may lead to criminal proceedings being instigated.

## **11. Publicity**

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands and within the Non Domestic Rate Section of the Council's website.

## **12. Review**

This policy will be reviewed periodically, taking into account Council policies and priorities and any changes in legislation.

## Explanatory Notes

### Mandatory and Discretionary Rate Relief for Charitable Bodies and Community Amateur Sports Clubs (CASC)

Mandatory and Discretionary Rate Relief may be granted under **Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.**

#### Mandatory Rate Relief

##### Occupied Rates

Mandatory Relief of 80% may be granted to a **Charity** under **Section 43 (occupied rates)**, provided that the property concerned is wholly or mainly used for charitable purposes.

##### Unoccupied Rates

If the property is unoccupied such relief may also be granted to a **Charity** under **Section 45 (unoccupied rates)** if it appears that when **next in use** the property will be wholly or mainly used for charitable purposes.

##### Definition of a Charity

Firstly we have to establish if the organisation is a **Charity**. The definition of a **Charity** comes under **Section 67 of the Local Government Finance Act 1988** as *“an institution or other organisation established for charitable purposes only, or a person administering a trust established for charitable purposes only”*. Registration with the Charity Commission under the **Charities Act 1960** is proof of Charity status.

Absence from the Register does not mean that an organisation has not been established for charitable purposes, as certain organisations are exempt from registration. These include Church Commissioners, Boy Scouts or Girl Guides, any registered society within the meaning of the **Friendly Societies Acts 1896-1974** and voluntary schools within the meaning of **the Education Act 1944 – 1980**.

##### Established for Charitable Purposes

If none of the above are applicable, and in the absence of any other information, the following will be considered:

Are the main objectives of the organisation:

- the relief of poverty; or
- the advancement of religion; or
- the advancement of education; or
- other purposes that is beneficial to the local community

### Wholly or Mainly Used for Charitable Purposes

Secondly we have to consider if the property concerned is used wholly or mainly for charitable purposes. The use must be charitable, i.e. in meeting the objectives of the Charity. "Wholly or mainly" covers either: use of over half the property all of the time; use of the property for over half of the time; or a combination of both amounting to more than 50%.

Relief can only be granted, therefore, if **either** more than 50% of the property is used for charitable purposes **or** the property is used for more than 50% of the time for charitable purposes **or** there is a combination of both amounting to more than 50%.

### Charity Shops

In addition **Section 64 of the Local Government Finance Act 1988** provides that **Charity Shops** are only entitled to 80% Mandatory Relief if they use the premises:

- wholly or mainly for the sale of goods **DONATED** to the Charity; and
- the net proceeds of the sale of goods are applied to the purpose of the Charity.

## **Community Amateur Sports Clubs (CASCs)**

### **Mandatory Relief for CASCs**

Registered CASCs can receive 80% mandatory rate relief. To qualify as a CASC, a sports club must be open to the whole community, be run as an amateur club, be a non profit making organisation and aim to provide facilities for, and encourage people to take part in, eligible sport. For further details please see <http://www.inlandrevenue.gov.uk/casc/index.htm> or call the Inland Revenue Sports Club Unit on 0131 777 4147.

### Appeals Against Refusal to Grant Relief

Please direct any appeal to the Executive Director, Selby District Council, Doncaster Road, Selby, North Yorkshire YO8 9FT

## **Discretionary Rate Relief Top Up**

Discretionary Rate Relief may be granted in addition to Mandatory Rate Relief, i.e. a "top up" of up to the remaining 20%. This may be granted under **Section 47** for occupied properties and **Section 48** for unoccupied properties. If you wish to apply for this relief please provide details of the main objectives of the organisation and any other purposes for which the property is used.



## Charitable Bodies

The points system for discretionary rate relief top up for charitable bodies is as follows:

Total % of funds invested in the local community	Percentage Awarded
90 - 100	20
50 - 89	10
0 - 49	0

A cap of **£10,000** applies per property.

## Community Amateur Sports Clubs

If there is any commercial activity the amount of the award may be limited by up to 50%.

A cap of **£4,000** applies per property.

### Appeal Against Refusal to Grant Discretionary Relief

Please direct any appeal to the Executive Director Selby District Council,  
Doncaster Road, Selby, North Yorkshire YO8 9FT

**If you require any further information, please contact a member of the Local Taxation Section on**

**(01757) 292161/292181 (6 lines)**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**ALL INFORMATION SUPPLIED WILL BE DEALT WITH IN THE STRICTEST CONFIDENCE**

## Explanatory Notes

### Rate Relief for Non Profit Making Organisations

Discretionary Rate Relief may be granted under **Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.**

#### Discretionary Relief for other Non Profit Making Organisations

##### Occupied Properties

Discretionary Relief of up to 80% may be granted for occupied properties under **Section 47** if the following criteria are met:

a) Where the property is not an **excepted** property (see below) and all or part is occupied by one or more institutions or organisations which are:

- Not established or conducted for profit, and
- Whose aims are charitable or otherwise philanthropic, religious or concerned with the promotion of social welfare, education, science, literature or the fine arts.

**OR**

b) Where the property is not an **excepted** property (see below) and is wholly or mainly used for:

- The purpose of recreation, and
- All or part of the property is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

##### Excepted Properties

An excepted property is one occupied by a Billing or Precepting Authority, e.g. Selby District Council, North Yorkshire County Council, the Police Authority, Parish Councils.

##### Unoccupied Properties

Discretionary Relief of up to 80% may also be granted for unoccupied properties under **Section 48** if it appears that when **next in use** the property will be used as detailed in a) and b) above.

### Points System

A Points System has been introduced to ensure that all applications have been treated fairly and in accordance with Council Policy. Please find below details of the points system.

<b>Restriction of Membership</b>	<b>Points ( 0 - 3 )</b>
Major Restrictions	0
Average Restrictions	1
Very Limited Restrictions	2
No restrictions	3

<b>Membership Charges</b>	<b>Points ( 1 - 5 )</b>
Above Average	1
Below Average	3
Average	5

<b>Concessions</b>	<b>Points ( 5 )</b>
Reduced rate fees/subscriptions for all or any of the following - elderly, disabled, unemployed and children	5

<b>Local Membership Level</b>	<b>Points ( 0 - 5 )</b>
Not over 25%	0
25% to 50%	1
50% to 75%	3
Over 75%	5

<b>Finances General</b> (Fund Balance as % of Yearly Expenditure) %	<b>Points ( 0 - 10 )</b>
Over 200	0
181 - 200	1
161 - 180	2
141 - 160	3
121 - 140	4
101 - 120	5
81 - 100	6
61 - 80	7
41 - 60	8
21 - 40	9
0 - 20	10

<b>Net Income from Gaming Machines</b> (Income as % of Yearly Expenditure) %	<b>Points ( 0 - 10 )</b>
Over 15	0
11 - 15	3
6 - 10	5
1 - 5	7
NIL	10

<b>Gross Income from Bar</b> £	<b>Points (-) 25 - 10</b>
Over 36,000	-25
30,001 - 36,000	-20
24,001 - 30,000	-15
22,801 - 24,000	-10
21,601 - 22,800	-9
20,401 - 21,600	-8

19,201 - 20,400	-7
18,001 - 19,200	-6
16,801 - 18,000	-5
15,601 - 16,800	-4
14,401 - 15,600	-3
13,201 - 14,400	-2
12,001 - 13,200	-1
10,801 - 12,000	0
9,601 - 10,800	1
8,401 - 9,600	2
7,201 - 8,400	3
6,001 - 7,200	4
4,801 - 6,000	5
3,601 - 4,800	6
2,401 - 3,600	7
1,201 - 2,400	8
1 - 1,200	9
NIL	10

The total points relate directly to the amount of relief as follows:

Range	% Relief	Range	% Relief
43 to 48	80	19 to 24	40
37 to 42	70	13 to 18	30
31 to 36	60	7 to 12	20
25 to 30	50	1 to 6	10

A cap of **£4,000** applies per property.

Appeal Against Refusal to Grant Discretionary Relief

Please direct any appeal to the Executive Director, Selby District Council,  
Doncaster Road, Selby, North Yorkshire YO8 9FT.

**If you require any further information, please contact a member of the  
Local Taxation Section on**

**(01757) 292161/292181 (6 lines)**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**ALL INFORMATION SUPPLIED WILL BE DEALT WITH IN THE  
STRICTEST CONFIDENCE**

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## Explanatory Notes

### Rural Rate Relief

There are currently two types of relief available for businesses in rural areas. These are **Mandatory Rural Rate Relief** and **Discretionary Rural Rate Relief** and an outline of the conditions that apply are listed below.

#### Mandatory Rural Rate Relief (Granted at 50%)

##### Village Rate Relief

- the property must be located in a **rural settlement** with a population of less than 3,000. A Rural Settlement List for Selby's area is available at the Customer Contact Centre (Access Selby) in Selby.
- the property concerned is the **sole** general store or **sole** post office in the settlement and the rateable value does not exceed **£8,500 or**
- the property concerned is the **sole** public house or **sole** petrol filling station in the settlement and the rateable value does not exceed **£12,500 , or**
- the property concerned is **any** food shop in the settlement and the rateable value does not exceed **£8,500**.

A food shop is defined as wholly or mainly selling food on a retail basis for human consumption. The supply of confectionery and of food in the course of catering is **excluded**. Catering is defined as the supply of food for consumption on the premises or of hot food that is eaten off the premises. Therefore such establishments as restaurants, cafes, tea-rooms and fast food shops are **excluded** – but not food shops that sell only small amounts of such items.

A general store is defined as one in which there is carried on a trade or business consisting wholly or mainly of the sale by retail of **both** food for human consumption (excluding confectionery) **and** general household goods.

#### **NB**

Relief can be granted to a post office, which is not a general store, and a separate general store in the same settlement. Where a post office also trades as a general store then a second general store in the settlement will not qualify for this relief.

## Discretionary Rural Rate Relief

This relief may be granted as a “**top up**” to **Mandatory Rural Rate Relief** or in its own right. The amount of any award is at the discretion of the Council and may be any amount up to 100% of the rates due.

The cost of any award of this relief falls in part on the Council Taxpayers of the District as a whole.

The **criteria** that must be met before an award can be considered are as follows:

- the **property** concerned must be located **in a rural settlement** with a population of less than 3,000;
- the **property** concerned has a **rateable value** of not more than **£16,500**
- the property concerned is used for **purposes** which are of **benefit to the local community** and that the cost to the Council Taxpayer is justified.

Please find below details of the points system for Discretionary Rural Rate Relief

	Percentage Applicable
Starting Point	50
Is there a similar facility or business within the settlement? If so	-50
OR	
Does the business primarily provide an important service to the local community and is it in the interests of local council tax payers to support it? If not,	-100
Employment of Local Residents	+5
Does the business provide a free delivery service to any of the local community?	+5
Proximity to nearest similar business. if 2 miles or more	+15
Poor availability of public transport (buses not available at regular intervals each day, i.e. only geared to school/work hours). (Where relevant the nature of the business)	+15
Opening Hours (if the business is open 7 days for long hours)	+5
Provision of additional services (unconnected to the nature of the business and provided to assist the local community)	+5

A cap of **£2,000** applies per property.



**If you require any further information, please contact a member of the  
Local Taxation Section on**

**(01757) 292181**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**All information supplied will be dealt with in the strictest confidence**

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## Explanatory Notes

### General Rate Relief Criteria

**Section 69 of the Localism Act 2011** has amended **Section 47 of the Local Government Finance Act 1988** so that any organisation can apply for discretionary rate relief.

Any ratepayer applying for discretionary rate relief who does not meet the criteria for relief under the specifically named categories mentioned in this policy, may apply for general rate relief. Relief will be considered on the individual merits of each case, having due regard to:

The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)

The ratepayer must not be an organisation that could receive relief as a non profit making organisation or as Community Amateur Sports Club.

The ratepayer must occupy the premises - no relief will be granted for unoccupied properties

If the ratepayer is a new business coming into the District

If the ratepayer creates new employment opportunities for a minimum period of twelve months for individuals:

- who reside in the Selby District and
- who have been unemployed\* for a period of six months (continuous)

The premises and the organisation must be of significant benefit to the residents of the District

If the ratepayer provides:

- Facilities to certain priority groups such as elderly, disabled, minority or disadvantaged groups
- Significant employment or employment opportunities to residents of the District
- Residents of the District with such services, opportunities or facilities that cannot be obtained locally or are not provided by another organisation

If the ratepayer complies with all legislative requirements and operates in an ethical, sustainable and environmentally friendly manner at all times

The impact and best interests of the Council Tax payers of the District

The financial status of the applicant

\* Unemployed refers to those in receipt of Job Seekers Allowance or Employment Support Allowance.

Applications in respect of a new liability may be submitted from the date the liability commences and for existing liability can be submitted at anytime throughout the year.

Each amount of rate relief awarded under this policy shall only apply for **twelve months**.

**If you require any further information, please contact a member of the Local Taxation Section on**

**(01757) 292181**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**All information supplied will be dealt with in the strictest confidence**

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## **NATIONAL NON-DOMESTIC RATES - HARDSHIP RELIEF**

### General Information

Section 49 of the Local Government Finance Act 1988 gives Selby District Council as a billing authority, discretion to reduce or remit payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so, and where it is reasonable for the Authority to do so having regard to the interest of its Council Tax Payers.

In making decisions on whether to grant relief, the Authority follows guidance issued by the Office of the Deputy Prime Minister (ODPM). The ODPM has said that whilst it is for each billing authority to decide on the facts of each case whether to exercise its powers under Section 49 – and to judge the extent of those powers – authorities may wish to bear the following guidance in mind:

1. Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief, each case should be considered on its own merits.
2. Reduction or remission of rates on grounds of hardship should be the exception rather than the rule.
3. The test of 'hardship' need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account.
4. The 'interests' of Council Tax Payers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village.
5. Where the granting of relief would have an adverse effect on the financial interest of Council Tax Payers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to them.

### How to apply for Hardship Relief

Please complete the attached application form. If you have any difficulties completing the form, please contact the Local Taxation Section on 01757 292181.

All applications for hardship relief are submitted to the Authorities appeals panel for consideration. When we receive your application form we will acknowledge receipt and let you know when a decision will be made. If we require any further information to progress your application we will contact you. Once the appeals panel has made a decision on whether or not to grant relief, we will write to you to let you know the decision and the reasons for that decision. Please note that the decision of the appeals panel is final.

Once completed, this form should be returned to:

Local Taxation Section  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

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# Selby District Council

## REPORT

Reference: E/13/3

Public – Item 7



**To:** The Executive  
**Date:** 6 June 2013  
**Status:** Key Decision  
**Report Published:** 29 May 2013  
**Author:** Julia Jennison – Policy Officer  
**Executive Member:** Councillor G. Ivey  
**Lead Officer:** Janette Barlow - Director

**Title: North Yorkshire Choice Based Lettings  
(Allocations Policy) Review**

**Summary:** Selby District Council, with other authorities in North Yorkshire (excluding Harrogate), introduced a joint choice based allocations policy, North Yorkshire Home Choice, in June 2011.

The scheme has been thoroughly reviewed with input from partner organisations, Joseph Rowntree Foundation, and two rounds of consultation, including consideration of recent changes to the law regarding both housing allocations and the way that housing benefit is paid to social housing tenants.

A revised scheme has been agreed by the North Yorkshire Choice Based Lettings Project Group.

### **Recommendation:**

- i. **To approve the revised HomeChoice Allocations scheme**

### **Reasons for recommendation**

The proposed changes to the joint Choice Based Lettings (CBL) policy have been agreed following a process of detailed negotiation between the partners, many of whom have differing priorities and local issues. A compromise solution has inevitably been agreed in respect of certain issues, but partners need to individually sign up to the revised policy in order to remain in the partnership.

## 1. Introduction and background

- 1.1 In 2011, Selby District Council adopted a new housing allocations policy and scheme called 'Home Choice'. This allocations scheme is shared between all the North Yorkshire Authorities (except Harrogate), City of York Council and all the main Registered Providers (or Housing Associations) operating in the area.
- 1.2 The draft scheme was approved by Executive on 7<sup>th</sup> March for the second round of consultation, which included a report to Policy Review on 16<sup>th</sup> April, and is now in final draft.

## 2. The Report

- 2.1 The scheme has now been reviewed by the partners in the light of the Localism Act 2011, the new Allocations Code of Guidance 2012, welfare reform, the implementation of the scheme over the past 12 months, and public consultation.
- 1.2 The North Yorkshire CBL Project Group met on 9<sup>th</sup> May to consider the responses and discuss further adjustments to the final revised policy.
- 2.3 There were changes made to the policy as a result of this process which are outlined below, but the opportunity was also taken to explain and adjust the scheme, including additional definitions to allow it to be more easily understood.
- 2.4 Additional clauses relate to –
  - a) Usually bids from existing tenants will be overlooked if they are in breach of their tenancy agreement, including owing rent or other debts. An exception can now be made where the tenant is under-occupying the property and is affected by a reduction in Housing Benefit because of this, and the landlord considers a move to a smaller property to be the best option.
  - b) The income/equity level above which an applicant would be ineligible to join the register has increased from £50,000 to £60,000 (which aligns with access to first time buyer products).
  - c) Armed forces currently have additional preference as a result of being considered to have a local connection anywhere they choose to apply. Legal opinion is that this would not be sufficient additional preference as required in the new Code of Guidance, so their applications will now also be backdated 6 months to allow additional preference through time to be granted in the tie-breaker.
- 2.5 A copy of the Final Draft can be found at Appendix A, subject to final editing.
- 2.6 Implementation is planned for August following final approvals, system changes in conjunction with the IT supplier, Abritas, and operational testing.
- 2.7 The revised policy will be available on the Homechoice webpage at [www.northyorkshirehomechoice.org.uk](http://www.northyorkshirehomechoice.org.uk)

### **3 Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

Housing allocations are governed by Part 6 of the Housing Act 1996, and statutory guidance which relates local authorities and registered providers.

#### **Financial Issues**

There will be a financial impact from these proposed changes in terms of the way the IT system is set up, and Abris has an understanding of our requirements already as a result of having been closely involved in the process of finalising the policy.

The Partnership does have funds set aside, and is looking to meet the cost of these adjustments within current resources.

Changes to policy will have training implications for key front line staff (Business Support Staff/Housing Options Advisers/Community Officers/Enforcement Officers) who as part of their roles will require an understanding of how CBL operates and may on occasion be required to help vulnerable people to access the system. Training will be carried out internally by each local authority, with the proposed implementation date of August allowing time for this to be carried out.

### **4. Conclusion**

- 4.1** The policy change proposals set out in this report have been worked up by officers on the North Yorkshire CBL Project Group. This includes all the Local Authorities in North Yorkshire (except Harrogate) as well as City of York Council. The partnership includes several key Registered Providers.
- 4.2** It is important to note that the changes being proposed have been agreed as an outcome of a process of detailed negotiation between partners, many of whom have differing priorities and local issues.

### **5. Background Documents**

Allocations Code of Guidance June 2012

Contact Officer: Julia Jennison,  
Selby District Council  
[jjennison@selby.gov.uk](mailto:jjennison@selby.gov.uk)

#### **Appendices:**

Appendix A - Final Draft North Yorkshire Common Allocation Policy, HomeChoice May 2013



**Appendix A  
Final Draft North Yorkshire Common Allocation Policy, HomeChoice  
May 2013**

**Summary Sheet**

<b>Policy Title</b>	North Yorkshire Common Allocation Policy, HomeChoice 2013
<b>Policy Number</b>	019
<b>Date Introduced/Revised</b>	2013
<b>Replaced Policy</b>	North Yorkshire Common Allocation Policy, HomeChoice 2011
<b>Responsible Directorate</b>	Access Selby
<b>Responsible Officer</b>	Business Manager – Access Selby
<b>Responsible Champion</b>	The Lead Member for Communities
<b>Review Date</b>	2016
<b>Related Policies and Strategies</b>	North Yorkshire Tenancy Strategy 2012 Selby District Council Tenancy Policy 2013

# North Yorkshire Choice Based Lettings Partnership

**DRAFT POLICY FOLLOWING REVIEW 9 MAY 2013**

# North Yorkshire Common Allocation Policy

*'To provide increased choice in housing to residents in North Yorkshire and help to create sustainable, mixed communities where people choose to live.'*



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## Glossary of Terms

### **Adapted properties**

Adapted properties are homes, which have been designed or significantly adapted to meet the needs of people with physical or sensory disabilities, for example major changes to bathing facilities and/or access into or within the property.

### **Adopters and Fosterers**

Adopters must be approved by Local Authority and who are accommodating, or likely to accommodate a looked after child or a child who was previously looked after by a local authority

Foster carers must be approved by Local Authority or prospective foster carers where initial assessment of their suitability is positive, and who are accommodating, or likely to accommodate a looked after child or a child who was previously looked after by a local authority. It also includes extended family who are approved as foster carers for their relative under the Fostering Regulations, 2011 or where residence order granted by court under (1989 Children ACT) and supported by Children's Social Care or Special Guardianship cases (2002 Adoption and children Act) and supported by Children's Social care.

It does not include private foster carers or non-agency adoption arrangements

### **Advocate**

A responsible person who has been given approval to 'act' on behalf of an applicant such as a support worker or a family member.

### **Applicant**

A person who applies to register on the choice based lettings scheme, including tenants of a local authority or a housing association.

### **Assisted bidding**

Where an appropriate person, with the consent of the applicant, submits bids on their behalf.

### **Associate landlord**

A landlord who allocates some of their properties through this policy (formal nominations via a local authority) but have their own allocations policy for their own lettings. See appendix 2 for full list

### **Automated bidding**

Where the computer system automatically submits a bid for an applicant.

### **Bands**

The system for setting out the different priorities of housing need.

### **Bidding**

The way in which registered applicants express an interest in an advertised vacancy. In this context bidding has nothing to do with money.

### **CBL - Choice Based Lettings**

A system for letting affordable housing, supported by the government and the Homes and Communities Agency, which allows housing applicants more choice by advertising vacancies and inviting applicants to express interest in being the tenant.

### **CBL Partnership Board**

A board made up of a representative from each of the original partner organisations listed on page 9, a representative from an independent housing association with properties across the partnership area and any new partner invited to join the board.

### **Common allocation policy**

A shared set of rules on how properties will be advertised and let providing consistency between all partner landlords.

### **Common Housing Register**

The single shared list of applicants eligible to use the Choice Based Lettings scheme. In order to bid for a property, the applicant must be on the Common Housing Register.

### **Direct offer**

Where a property is offered to an applicant, which will not require an applicant to bid.

### **Emergency Prohibition Order**

These are statutory notices served under the Housing Act 2004 where a local authority is satisfied a Category 1 hazard exists and that hazard involves an imminent risk of serious harm to the health and safety of the occupier/s.

**Essential Need (support)** – where a person is required (needs) to live close to a family member to provide / receive fundamental support regularly without which the person requiring support would need residential care or an enhanced package of support from social care which they could otherwise not receive.

### **Flexible Tenancies**

Under Localism Act 2011 a Local Authority can utilise flexible tenancies. These are council tenancies let on a fixed term agreement (ie not secure and not for life)

### **Good Tenant Scheme**

Incentive Scheme for tenants of partner landlord and participating landlords who meet the criteria specified in (Appendix 7)

### **Housing Need**

Applicants are assessed as having a housing need if the accommodation they currently occupy is unsuitable – as result of ill health, overcrowding, lacking facilities or the applicant is deemed to be in a reasonable preference group. Housing Need is banded as Emergency, Gold or Silver band.

**Housing Related Debt** Monies owed to a landlord, such as a local authority, housing association, arms length management company or temporary housing accommodation provided under homeless duties, hostels or supported housing projects, in respect of current or former tenancies. It can also include other debts such as re-chargeable repairs, court costs and support charges, prevention fund monies (eg bonds, rent in advance), Debts written off as part of bankruptcy will be disregarded.

DEBT means TRUE debt and does not include arrears where the housing provider is in receipt of regular HB payment or direct debit / standing order which clear the rent account. Housing related debt does not include Council Tax debts.

### **Local connection**

Connection to a particular area because of residency, employment, family or a main source of support. With the exception of Armed Forces Personnel who are given local connection. (Point 2.5)

### **Localism Act 2011**

Legislation which has amended powers and duties of a Local Authority regarding the allocation of properties.

### **Locality.**

Local Authority area in which the applicant currently lives

### **Local lettings initiative (LLI)**

A time limited policy, which is introduced to take account of local circumstances. Examples of this may be where a new housing development becomes available or where there is severe anti-social behaviour concentrated in a particular area. This means that these properties will be let outside of the policy. Each scheme will establish the criteria that will be used. These criteria will vary dependant upon the circumstances that has led to the LLI. Each new LLI must be signed off by the CBL Partnership Board and published by the relevant partner landlord.

### **Low cost home ownership**

Options enabling home seekers that are unable to afford to buy a property on the open market to get on the property ladder. Schemes include part rent and part buy or buying a percentage of the equity at a discounted price.

### **LSVT – Large Scale Voluntary Transfer**

Former council housing which has been transferred to a housing association or housing com



**MAPPA (Multi Agency Public Protection Arrangements)**

This is a multi agency approach to re-housing offenders based on risk assessment. The MAPPA process identifies the level of risk the offender poses to the public. Access to the Common Housing Register for applicants subject to MAPPA can only happen when a senior officer has given authorisation based on a risk assessment.

**Mutual exchange**

Where two or more tenants swap their homes. Each tenant agrees to move into the others home on an 'as seen' basis.

**Nomination agreement**

An agreement which sets out the way in which local authorities and housing associations work in partnership to help those in housing need. They usually state a percentage of properties that the housing association will make available to applicants nominated by the local authority.

**Participating landlord**

A landlord who allocates 100% of their properties through the North Yorkshire common allocations policy.

**Partner landlord**

A landlord who was an original signatory to the North Yorkshire common allocation policy and will let their vacancies in the North Yorkshire sub region through the choice based lettings scheme.

**Priority band date**

The date when the application changed bands, which maybe a later date than the date on which the application was originally made – this date may be used as a tie-breaker to decide who receives an offer of accommodation.

**Reasonable preference category**

The phrase used in the Housing Act 1996, Localism Act 2011 & Homelessness Act 2002 to describe those types of housing need that should be given priority in a local authority's allocations policy.

**Registration date**

The date a complete application, with all required supporting information, is received by one of the partner landlords – this date may be used as a tie- breaker to decide who receives an offer of accommodation.

**Resettlement programme**

A structured programme for rough sleepers and young people and people in mental health supported housing to develop independent living skills.

**Sensitive Let**

Where an individual property is advertised subject to additional checks. Appendix 17

**Sub-regional partnership**

A group of local authority areas working together; in this case the North Yorkshire area.

**Supported housing**

Specific accommodation schemes for particular groups of people, for example people with learning disabilities or mental health issues, whereby support is provided. Some schemes are short term (up to 2 years) with the aim of people moving on to live more independently.

**Support package**

Some applicants must have a support package in place, if they are to be eligible for the Common Housing Register. A support package enables a vulnerable tenant to live independently. The receiving landlord must be satisfied that the support package is sufficient to meet the applicant's needs and includes with it a strategy for non- engagement by the applicant.

**Tie-breaker**

The method used to decide between two or more applicants who have the same level of housing need.

## Section 1 – Introduction and background

### **1.1 The North Yorkshire sub-regional Choice Based Lettings Partnership**

This document sets out the new housing allocation policy for the North Yorkshire Choice Based Lettings (CBL) Partnership, known as North Yorkshire Home Choice. This policy updates the existing allocation policies introduced in July 2011.

CBL is based on the public advertising of available properties, with applicants being able to express an interest (bid) for properties for which they qualify.

The policy, updated by the partner landlords, continues to give applicants an active role in choosing their potential new home. The partners (hereafter ‘the partnership’) are:

- City of York Council
- Craven District Council
- Hambleton District Council
- Richmondshire District Council
- Ryedale District Council
- Scarborough Borough Council
- Selby District Council
- Broadacres Housing Association (Large Scale Voluntary Transfer Landlord for Hambleton)
- Yorkshire Coast Homes (Large Scale Voluntary Transfer Landlord for Scarborough)
- Yorkshire Housing Group (Large Scale Voluntary Transfer Landlord for Ryedale and Craven)

The contact details for all of these organisations are listed in Appendix 1.

Other housing associations operating in the partnership’s area, will be encouraged to advertise their vacant properties through the new lettings scheme in line with their current agreements. Should any Housing Association advertise all of their vacancies in accordance with the scheme, they will be viewed as a participating landlord<sup>1</sup>, associated Landlords for the purposes of operating this policy.

The partnership will work with these Housing Associations to improve and develop the policy so as to maximise the number of properties that are advertised to applicants in the future.

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<sup>1</sup> A list of participating landlords -see appendix 2

## **1.2 Our vision for the service**

*'To provide increased choice in housing to residents in North Yorkshire and help to create sustainable, mixed communities where people choose to live.'*

The partnership aims to ensure that new applicants, and existing tenants applying to transfer to a new home, are provided with a first class housing service, which gives them an active role in choosing a home which best suits their long-term housing needs and aspirations.

We will achieve this by working together to provide a comprehensive housing advice service, covering a whole range of housing options across North Yorkshire. Local authorities and housing providers will work in partnership to widen the housing choice that they are able to offer and to support all applicants, including those who are vulnerable, to choose where they want to live.

The partnership is committed to tackling homelessness across North Yorkshire. We believe this policy will have a positive impact in the creation of thriving, mixed, safe and sustainable communities across North Yorkshire, through a consistent, coordinated and joined-up approach to delivering a high quality lettings service.

## **1.3 Aims and objectives**

This policy is a Choice Based Lettings policy.

The shared aims and objectives of this policy are:

- to meet the legal requirements for the allocation of social housing as set out in the Housing Act (1996) and Homelessness Act (2002) and Localism Act (2011) ensuring that those with the greatest housing needs have those needs met more quickly;
- to empower applicants to make their own choices about where they want to live;
- to encourage and support, balanced and sustainable communities;
- to make the process simple, transparent, fair and easy to use;
- to provide information about the availability of homes to enable applicants to make realistic choices about their housing options;
- to prevent homelessness and reduce placement in temporary accommodation;
- to ensure accessibility for all those in housing need, particularly the more vulnerable; and
- to make effective use of the affordable housing stock, extending choice and mobility across local authority boundaries.

Section 2 sets out who is eligible to join the Common Housing Register.

## **1.4 Statement on choice**

The policy has been drawn up to offer a choice of housing options to the widest number of housing applicants, including those with specialist needs.

Applicants will be given the opportunity to express their choice of accommodation and in time this choice will be maximised to cover a wide range of housing options.

The policy meets the statutory requirements for the allocation of social housing by ensuring that reasonable preference is given to those with the most urgent housing needs, while at the same time balancing the needs of the community.

The partnership will advertise the vast majority of their vacant stock through the choice based letting scheme and advice and assistance will be given to applicants to allow them to make informed choices about the type of accommodation which best meets their housing needs and aspirations.

Applicants will also be able to access information on bidding patterns and supply and demand; this will enable applicants to make informed decisions about which accommodation they want to be offered. The information on the website will also include links to other useful websites.

## **1.5 Meeting our obligations**

This policy has been developed with regard to the codes of guidance issued to local housing authorities in England, in exercising the functions under 167(1A) and 167(2) of the Housing Act 1996.

The partnership will ensure that the policy is compatible with obligations imposed by other existing legislation, in addition to Part 6 of the Housing Act 1996 as detailed below; this list is not exhaustive.

- The Human Rights Act 1998
- The Freedom of Information Act 2000
- Children Act 1989
- Data Protection Act 1998
- Crime & Disorder Act 1998
- Homelessness Act 2002
- The Equality Act 2010

This policy also takes into consideration the following guidance:

- Equality and Human Rights Commission (Code of Practice on Racial Equality in Housing – September 2006)
- Allocation of accommodation: guidance for local authorities in England 2012

In addition, the partnership will ensure that the policy is compatible with local, sub-regional and regional housing and tenancy strategies, together with the North Yorkshire housing strategy.

## **1.6 Information sharing, confidentiality and data protection**

All information received relating to an applicant's housing application will be treated as confidential in accordance with the Data Protection Act 1998. Information will only be shared in accordance with each partner's Data Protection registration and the consent given by applicants as part of the application process. Information will not be given to third parties unless consent has been given by the applicant; however consent will not be required where there is a public safety interest or to prevent fraud. By submitting an application you are agreeing to information sharing with partner landlords, associated landlords and participating landlords.

## **1.7 Equality and fairness**

The partnership will ensure its policies and practices are non-discriminatory and will aim to promote equal opportunity by preventing and eliminating discrimination on the grounds of gender, colour, race, religion, nationality, ethnic origin, disability, age, HIV status, sexual orientation or marital status. The scheme will be accessible, responsive and sensitive to the diverse needs of individuals. The partnership will take measures to ensure that people with disabilities have equal access to housing opportunities with the population as a whole.

A sub group of the Partnership Board, the Equalities Monitoring Group (EMG) has been set up and will continue, to review the impact CBL will have on the above client groups and others. The EMG will oversee and develop the equality impact assessment for the scheme and will strive to ensure that all relevant equality legislation is considered by the scheme and the partnership Board.

Choice based lettings as an approach, strives to maximise information and support to applicants.

## Section 2 – Joining the Common Housing Register

### 2.1 *The North Yorkshire Common Housing Register*

The Common Housing Register (referred to as ‘the Register’ throughout this document) is a key part of the CBL scheme. The Register is a single list of all the applicants who have applied for and been accepted on to the CBL scheme. People who apply to join the Register will have the benefit of applying to all the partner and participating landlords. In order to bid, an applicant must be on the register.

### 2.2 *Who can apply?*

Anyone aged 16<sup>2</sup> or over, may apply to join the register, subject to the following restrictions:

- Applicants aged 16 and 17 years are only eligible to join the register if they meet the following conditions
  - they are Looked after children under section 20 Children’s Act 1989 or are Care Leavers with a relevant support package and Trustee and are ready for independent living as agreed with Social Services and confirmed by LA Housing department

OR

  - They must have an appropriate support package in the area they wish to live to enable them to sustain their residency.
  - And they must have an identified trustee who can hold any tenancy on their behalf until the age of 18. Trustees can be a person or an organisation, and will not have a financial liability.
- Applicants subject to some aspects of immigration control, who do not have recourse to public funds or who cannot prove they have recourse to public funds, or not habitually resident may be ineligible and may not join the register<sup>3</sup>

Applicants subject to high risk MAPPA arrangements may only be able to apply to join the register with the approval of a senior manager of the relevant local authority (see also 4.12).

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<sup>2</sup> Applications from 16 & 17 years olds who are not known to the relevant social services authority, will result in a referral to said authority if in housing need.

<sup>3</sup> In accordance with relevant legislation, Allocation of Accommodation Code of Guidance and case law See point 1.5)

## **2.3 Who qualifies to apply to the North Yorkshire Home Choice register?**

Certain applicants who apply may not be eligible to join the NYHC register and these include persons:

- With anti social behavior issues that has caused or is likely to cause serious nuisance to neighbours. Refer to Appendix 3
- Rent arrears. Refer to Appendix 3
- With no local connection to the partnership area, exceptions being HM Forces, those under the National Witness protection scheme via a senior manager and accepted homeless under part 7 of the Housing Act 1996
- Who own their own home and are not in housing need.
- Who have a combined household income and/or savings of £60,000 pa
- Who have deliberately worsened their housing circumstances with the intent of increasing priority
- Provided false information and/or deliberately withhold information
- Refusal of a suitable property. This includes a direct offer or those persons who have refused 3 suitable offers
- MAPPA without the approval of a senior manager

## **2.4 Applications not qualifying due to unacceptable behaviour including rent arrears.**

North Yorkshire Home Choice will disqualify the following applications because of unacceptable behaviour. Persons can be excluded from the register where (a) the behaviour of the person concerned or (b) behaviour of a member of his/her household, if s/he a tenant of the authority or a tenant of a Registered would have entitled the housing provider to a possession order under section 84 of the Housing Act 1985 (c.68) on any ground mentioned in part 1 of Schedule 2 to that Act (other than ground 8). This includes nuisance and rent arrears in all tenancies including the private sector. In the private sector a financial assessment may be necessary to establish if the property rent was deemed affordable and the applicant made every reasonable effort to pay. In the Armed Forces a dishonourable discharge may result in being ineligible to join the register.

The full policy for dealing with applicants who have a history of unacceptable behaviour is detailed in Appendix 3.



## **2.5 No local Connection.**

The partnership has agreed to restrict access to the register to those people who have a recognized connection to the partnership area. Applicants will need to meet one of the following criteria.

- currently live in the partnership area and have been resident for at least 6 out of 12 months; or
- have lived within the partnership area for at least 3 years out of the last 5 years; or
- are employed in the partnership area. Employment is defined as meaningful permanent full or part time. Not casual or seasonal.
- have an essential need to live close to another person, to provide or receive care or support, who currently lives in the partnership area, and who has been resident for the last 5 years, In this case the applicant can only bid to a Local Authority where the family member resides.
- is a close family member residing in the partnership area that has done so for the last 5 years. (mother, father, adult son, adult daughter):
- one of the partner local authorities has accepted a duty to house the applicant from another council under the terms of Housing Act 1996 part 7.
- People who need to move to a particular locality in the partnership area, where failure to meet that need would cause hardship (to themselves or others) and that will resolve this need. (Examples of hardship are given in Appendix 19). Applicants would be restricted to applying for accommodation in the Local Authority area where employment / training / family member resides.

Applicants who do not have a local connection may not be eligible for access to the housing register.

Residence in hospital, prison, residential schools, student accommodation - where it is not their principal home, approved premises under licence do not gain a local connection.

The only exceptions to this being households accepted by a senior manager under National Witness Protection Scheme, accepted homeless under Housing Act 1996 for whom a Local Authority has accepted a full duty to house (and there is no referral to another Local Authority) or a member of the armed forces, bereaved spouses or civil partners of those serving in the regular forces as defined in Appendix 15. For the purpose of the North Yorkshire Home Choice register an application will be accepted and assessed for housing need based on the accommodation occupied and their situation as if they lived within the partnership area.

## **2.6 Homeowners**

The partnership recognises that there is a shortage of available housing in the sub regional area and those people who already own their own home (either freehold, leasehold, under mortgage or shared ownership) with no recognized housing need (Bronze Band) or those who are able to resolve their own housing issues may not qualify to join the housing register.

NYHC recognises that some older people, aged 60 plus, cannot stay in their own home and need to move into specialist accommodation eg sheltered or extra care housing or their current home cannot be adapted to meet their needs they will be assessed as to whether they have sufficient resources to meet their housing needs elsewhere.

## **2.7 Financial resources**

Applicants with a combined annual household income and/or savings of £60,000 or above and those with significant capital or assets <sup>4</sup> will not normally qualify to join the housing register. Such people will be offered advice on alternative housing options.

NYHC recognises that some older people, aged 60 plus, cannot stay in their own home and need to move into specialist accommodation eg sheltered or extra care housing or their current home cannot be adapted to meet their needs they will be assessed as to whether they have sufficient resources to meet their housing needs elsewhere

## **2.8 Joint applications**

Joint applications can be accepted. All applicants must be eligible, aged 16 or over and intend to occupy the property together as their only or main home. The joint application will be assessed and placed in a priority band using the details of the household with the greatest housing need. Any person aged 16 or 17 needs a trustee and support package. Under s.160ZA(1)(b) Housing Act 1996 applicants will not be granted a joint tenancy to two, or more people if anyone of them is a person from abroad who is ineligible. However where two or more people apply and one applicant is eligible a tenancy may be granted to the person who is eligible

## **2.9 Multiple applications**

Multiple applications are not allowed. If an application is already registered, the applicant must decide which application they want to keep. The other application will be cancelled. This will also apply to people who are registered as a joint applicant on more than one application.

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<sup>4</sup> Excludes any lump sum received by a member of the Armed Forces as compensation for an injury or disability sustained on active duty.

## **2.10 Persons from abroad**

A person may not be allocated accommodation under part 6 if he or she is a person from abroad who is ineligible for an allocation under s.160ZA of the 1996 Act.

(i) a person subject to immigration control-such a person is not eligible for an allocation of accommodation unless he or she comes within a class prescribed in regulations made by the secretary of state (s.160ZA(2)) and

(ii) a person from abroad other than a person subject to immigration control-regulations may provide for other descriptions of person from abroad who, although not subject to immigration control, are to be treated as ineligible for an allocation of accommodation (s.160ZA(4))

## **2.11 Existing tenants and their households**

Existing social housing and housing association tenants (excluding those in temporary accommodation), can apply to move and will have their priority assessed in the same way as other applicants. Tenants will, however, will not normally be allowed to move if:

- they owe rent to their landlord or any other housing debts;
- they are currently in breach of other tenancy conditions and their landlord has started formal action in respect of these breaches;
- their property has been adapted to their needs; unless someone in the household no longer requires the adaptation or the property they are moving to also includes all the adaptations that they require;
- they are introductory / starter / demoted tenants
- they are within the first year of a new tenancy unless there is a key change in circumstances which is assessed, supported and approved by a senior manager.

Existing tenants are encouraged use Home swapper and Mutual Exchange.

The partners want to give an additional preference to existing longer standing tenants of the partner landlords that would enable them to move home if they want to. This is the 'Good Tenant' scheme which is explained in Appendix 7.

Some lettings of secure tenancies are exempt from the requirements of part 6 of the Housing Act 1996 and this allocations policy will not apply to:

- succession on the death of a tenant;
- assignment by way of exchange (a mutual exchange);
- assignment to a person who would be qualified to succeed if the tenant had died immediately before the assignment; or
- transfers of tenancy under the provisions of matrimonial and related domestic legislation.

All partners whether they issue assured tenancies may also have additional policies outside the provisions of this allocation policy, which allow people residing in the property to take over the tenancy where appropriate..

Applicants from temporary accommodation, hostels and supported housing will not normally be allowed to move if they have current arrears or are in breach of temporary accommodation / licence / tenancy conditions where court action / eviction is imminent.

## ***2.12 Applications from employees / members and their close relatives***

Applications can be accepted from employees, elected local authority members, housing association board members and their close relatives, provided they are eligible to apply. Applicants must disclose any such status or relationship at the time of applying.

## ***2.13 Fresh Applications***

Applicants who have previously been ineligible suspended or who have had an application cancelled from the register may make a fresh application if they consider they should now be treated as qualifying. It will be the responsibility of the applicant to show that his or her circumstances have changed (s.160A(11)) Housing Act 1996 or that the relevant period of exclusion has elapsed.

## ***2.13 How to apply***

Applicants can apply to join the Register by completing an on-line form. This can be done by accessing the website [www.northyorkshirehomechoice.org.uk](http://www.northyorkshirehomechoice.org.uk). Alternatively an application form is available from any of the partner organisations. Advice and support in completing the form can be provided, on request, particularly for those who would have difficulty in completing the form because of a disability or a low level of literacy.

The purpose of the application form is to correctly identify the priority band and establish whether the applicant has any needs that require additional support and help in applying for housing.

## ***2.14 Verifying information***

During the application process, applicants will be asked to provide supporting evidence to verify their identity and personal circumstances. This will include:

- 2 x copies of identification for the main applicant and joint applicant, one of which must include confirmation of the National Insurance Number and proof of address
- Where appropriate (persons from abroad) proof of work permits / documentation
- Proof of child benefit / residency of child and principle home of the child where appropriate

Additional information and documentation must be provided if requested

The application must be complete and applicants will be required to send copies of the above to the partner dealing with the application within 28 days.

This may be supplemented by the partner landlords:

- seeking references from former landlords or other persons;
- obtaining supporting information from other organisations; and
- carrying out a home visit.

A failure to respond to a request for information as part of the initial verification process within 28 days will generally lead to cancellation of the application. The applicant will be notified in writing. Further verification may be required during the application / allocation process. Applicants will be advised of shorter timescales to provide additional information / documentation at point of offer. It is the responsibility of the applicant to provide the information / documentation

### **2.15 Confirming registration**

Applicants will receive confirmation that their application has been registered together with:

- their registration date<sup>5</sup>
- the band they have been awarded;
- a priority band date if different from the registration date;
- confirmation of which type and size of properties they are eligible to bid for; and
- their username, unique reference number and password for the website

Applicants must check the accuracy of this information as it will be used to decide their priority for receiving an offer of housing.

### **2.16 Changes in circumstances**

It is the responsibility of the applicant or their advocate to notify the partnership of any change in circumstances that could affect their application. The application will be re-assessed on the basis of their changed circumstances and placed in the band that reflects their current housing need.

If an application is moved to a higher band as a result of changed circumstances then the priority band date will be the date that the change was notified. This will be relevant for assessing any tie-break (see 4.6 – 4.9)

If an application is moved down a band, the priority band date will be the date the applicant entered the higher band or, if they had previously been in the new band, the date they originally entered that band.

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<sup>5</sup> Date application received with **all** required supporting information.

If the band remains the same, the date of priority band will also remain the same.

An offer of a property may be withdrawn if it is evidenced that an applicant's circumstances have changed and would have resulted in a reduction of priority within the banding scheme. The applicant's new circumstances will be assessed and appropriate revised banding awarded. The applicant will be notified in writing.

### ***2.17 Keeping the Register up to date***

All applicants who have not bid for any properties within a 12 month period will be contacted and asked if they want to remain on the Register. A failure to respond within 28 days will result in the application being cancelled. Applicants in the Emergency and Gold bands will be reviewed on a more regular basis to ensure they are not having difficulties with the scheme and to check that they are bidding for suitable properties when advertised.

Partners have discretion to remove/reduce banding where applicants are not bidding on all suitable properties.

### ***2.18 Cancelling applications***

Applications will be cancelled in the following circumstances:

- A failure to provide verification information in the given time period
- A request has been made by the applicant (or their named advocate) to cancel the application
- No reply to the review letter in the given time period
- Applicant has been rehoused by one of the partners or completed mutual exchange
- Applicant has purchased a property / shared ownership property and is now a home owner
- Lost contact with applicant as they have moved address
- A sole applicant has died.
- Applicant has been denied entry to the scheme on the grounds of their serious unacceptable behaviour
- When it is clear and evidenced that an applicant has provided false information (the applicant must be notified of their right of appeal)
- An applicant has been found to have deliberately worsened their circumstances
- Verification: If it is identified that an applicant is no longer eligible to register with North Yorkshire Home Choice the application will be cancelled with immediate effect
- The applicant has declined three offers of suitable accommodation. If an accepted homeless (statutorily homeless under Housing Act 1996) refuses 1 offer of suitable accommodation the Local Authority will discharge the duty to house but the applicant can remain on the NYHC register and will be re-banded and can continue to bid for properties.
- Applicant no longer has a local connection

## **2.19 Giving false information / deliberately withholding information**

It is a criminal offence for anyone applying for housing from a housing authority to knowingly or recklessly give false information or knowingly withhold information which is relevant to their housing application (Section 171 of the Housing Act 1996).

Anyone found guilty of such an offence may be fined up to £5,000 and could lose the tenancy if they have been rehoused as a result of providing false information or deliberately withholding information.

Applicants who are found to have made fraudulent claims will have their application cancelled and will be ineligible to apply to join the register for a minimum period of 12 months. This decision will be subject to review and the applicant (or their named advocate) will be informed in writing of the decision and of their right to request a review of that decision in writing. Applicants can make a fresh application after this time period has expired. The new application will be assessed on current information. Banding date will be from the date of the new assessment. The partnership will consider taking action against a professional organisation that knowingly or recklessly provides false information or deliberately withholds information on behalf of an applicant they are representing.

## **2.20 Deliberate worsening of circumstances**

Whilst the policy is intended to make sure that those with urgent housing needs are housed more quickly, it does not want to reward applicants who deliberately worsen their housing circumstances in order to get into a higher band; each case will be assessed individually.

Any applicant who deliberately worsens their circumstances will have their application cancelled and will be ineligible to apply to join the register for a minimum of 12 months. Applicants can seek review as per section 2.21 Applicants can make a fresh application after this time period has expired. The new application will be assessed on current information. Banding date will be from the date of the new assessment.

## **2.21 Notifications about decisions and the right to a statutory review**

Applicants have the right to request a review against decisions made in the allocation process. These include;

- Those not eligible to join the register.
- Those who are not a qualifying person under Housing Act 1996 s.160A(7) including unacceptable behaviour
- A decision to cancel an application
- A decision to withdraw priority banding

- A decision in respect of any information which is being taken into account in considering whether to make an offer of accommodation.

(see appendix 3A for full details of review process)

## Section 3 – Assessing housing need

### 3.1 *Legal background*

In framing this policy and to ensure that those in greatest housing need are given preference for an allocation of accommodation, the partnership has considered the categories of people that must be given reasonable preference by local authorities, as set out in s167(2) of the Housing Act 1996, the Homelessness Act 2002 and the Localism Act 2011. These are:

#### **Reasonable preference**

- People who are homeless within the meaning of Part 7 of the 1996 Act
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.
- People who need to move on medical or welfare grounds, including grounds relating to a disability
- People who need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship (to themselves or to others).
- People who are owed a duty by any housing authority under section 190(2) 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s.192(3)

#### **Additional preference**

- Armed Forces as defined in Appendix 15 who have urgent housing needs. Additional preference is deemed to be that priority band date will be backdated by 6 months.
- Approved foster carers who need a larger home to accommodate a looked after child or a child who was previously looked after by a local authority.

The partnership will ensure that monitoring arrangements are in place in order to monitor lettings outcomes and will review the policy in order to ensure that it meets our key aims and our legal duties.



### 3.2 *Assessing housing need*

Applicants will be assessed and given a priority band in accordance with the following categories of housing need:

#### **Emergency band**

This band is intended to meet the needs of applicants in extreme circumstances only; it will only contain a small number of applicants at any one time and is subject to a time limit.

- Applicants unable to return to their home from hospital because their current home is permanently unsuitable<sup>6</sup>.
- Applicants unable to access key facilities in their home without **major** adaptation works<sup>7</sup>

**Note:** Only applicants with a connection to the partnership area will be considered for the Emergency Band. Applicants will only be considered for accommodation in their local authority area.

Any applicant in the Emergency band will have their case reviewed by the relevant partner organisation every four weeks, who will have discretion to re-band the applicant.

#### **Gold band**

- Care leavers at point of leaving care home or supported housing,<sup>8</sup> with an agreed support package relevant to offer, and are ready for independent living.
- Applicants who need to move on from an approved accommodation based supported housing programme and the agency supporting them has provided evidence that their programme of support is complete and that they are able to live independently, either with or without support. (Resettlement category) (see Appendix 13)
- Applicants presently under-occupying a home owned by a local authority or housing association that is situated within the partnership area. They are moving to a property with at least two fewer bedrooms.
- Applicants who are a statutory homeless household under part 7 of the 1996 Housing Act who is owed the 'full duty'. (Applicants can be subject to a direct offer or auto bid if, after a minimum of four weeks of registration in this band, they have not secured an offer of accommodation – see Appendix 4) . Applicants will only be able to bid for a property in the Local Authority area which has accepted the duty to

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<sup>6</sup> Written confirmation from the relevant Social Services Authority Chief Officer or nominated person will be required, setting out the reasons as to why the applicant can not return to their home.

<sup>7</sup> Joint assessment between the Social Services Authority and the LA / Partner Landlord will be required, signed off by the relevant officer.

<sup>8</sup> This is not applicable to Care Leavers in secure or assured non shorthold tenancies or other suitable accommodation.

house<sup>9</sup>. Applicants who are overcrowded and require two more bedrooms to relieve the overcrowding. ( Appendix 6 provides a definition of overcrowding)<sup>10</sup>

- Applicants who are at risk of homelessness and in priority need (Appendix 5 provides a definition of homelessness) Applicants can be subject to auto bid after a minimum of 4 weeks if not secured an offer of accommodation.
- Applicants with a serious and enduring illness whose health and/or well being is significantly compromised by their home or its environment, as assessed by the relevant trained Housing Officer. (Bids made on this basis must secure a direct health gain as a result of a move).
- Applicants who need to move to a specific locality so that proven hardship can be prevented. Applicants can only bid to a local authority area with close proximity/accessible to a family member or employment.

### **Silver band**

- Applicants who have a health or well being issue, which will be removed or improved by a move as assessed by the relevant, trained Housing Officer. (Bids made on this basis of priority must secure a health gain).
- Applicants who are homeless under part 7 of the 1996 Housing Act or are at risk of homelessness and meet potentially homeless criteria, but are not in priority need (see Appendix 4 and 5).
- Applicants who are overcrowded and require one more bedroom to relieve the overcrowding. (See Appendix 6).
- Applicants whose home permanently lacks basic amenities, not due to the failure of the applicant.
- Applicants who share bathroom and /or kitchen facilities with separate households of people who will not be moving with them.
- Applicants who are presently under-occupying a home owned by a local authority or housing association that is situated within the partnership area. They will move to a property with one less bedroom.
- Applicants who are intentionally homeless under Part 7 1996 Housing Act.
- Applicants placed in temporary accommodation under Housing Act 1996 and pending a decision.
- Applications from prospective foster carers or adopters who would require an extra bedroom to accommodate a foster or adoptive child.<sup>11</sup>

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<sup>9</sup> CBL Board decision July 2011

<sup>10</sup> Excludes applicants placed in temporary accommodation

<sup>11</sup> Legal documentation from relevant social service authority required. Applicants can only bid in the area the local authority operates. Tenancies may be subject to a flexible or fixed term.

## **Bronze band**

- All other applicants.

## **Additional information**

Applicants of No Fixed Abode must give a contact address and following appropriate housing options advice and verification will be banded according to current situation.

Applicants who are classified as Good Tenants (see appendix 7) will be given one band higher than their assessed housing need subject to a maximum of Gold band.

Applicants from HM Forces or reserve forces with urgent housing need will be given additional preference by backdating the priority band date 6 months. They will automatically be considered to have a local connection.

## **Tenancy Type**

In general a local authority will offer introductory tenancies/secure tenancies.

A registered social landlord will offer starter tenancies/assured tenancies under the localism Act 2011 a local authority can use flexible tenancies. Each partner will publish information on the type of tenancy offered.

## **Withdraw of banding**

Partner agencies have the right to withdraw (Emergency Band, Gold Band - Care Leaver, Resettlement, Good Tenant, At risk of homelessness, Proven Hardship) priority banding if applicants are not making every effort to bid for all suitable properties. Banding will then revert to assessed need at current accommodation.

## Section 4 – The choice based lettings scheme

### **4.1 Advertising properties on the choice based lettings scheme**

Choice Based Lettings works by allowing applicants to express interest in available properties, which are advertised each week. From those applicants expressing an interest (bidding), the successful applicant will be decided in line with this policy.

The partnership will advertise the majority of their vacant properties as part of the scheme, including properties that have been designed or adapted to meet the needs of disabled or older people.

Each of the partner landlords will have responsibility for preparing the property description and advertising their vacancies on the scheme. Adverts will be clearly labelled to show the property features, local neighbourhood information and the types of household that can bid for it. A photograph will usually be included with the advert (this will illustrate the type of property being offered but may not be the actual property). If there is more than one property of the same type in the same location, for example a new development, only one property will be advertised. The advert will show how many of the same properties are available.

Properties may be advertised during the previous tenant's four week notice period, and may be withdrawn from the scheme if the tenant changes their mind about moving.

Applicants will be informed at registration what types and size of property they will be able to bid for. There will sometimes be other restrictions in the advert, for example where a property is designated for people over a certain age or for people with a particular assessed need for that type of accommodation, a rural settlement designation or section 106, planning or legal condition or a sensitive let<sup>12</sup> where additional checks will be carried out. Bids from applicants will only count if they can match the requirements in the advert.

### **4.2 Adapted properties for people with disabilities**

Adapted properties are homes, which have been designed or significantly adapted to meet the needs of people with physical or sensory disabilities. Adapted homes will be advertised as part of the scheme to ensure that applicants assessed as needing this type of accommodation are given the widest possible choice. This is consistent with the duty to promote disability equality.

Adverts will make clear if the property is adapted and will encourage bids from people who need an adapted home. Applicants with disabilities who wish to bid for an un-adapted home are free to do so. However, the partner landlords reserve the right to overlook any successful bid if it is not practicable to adapt the property for the applicant or there is no funding to enable them to do so.

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<sup>12</sup> Sensitive let; where there has been considerable nuisance and/or considerable problems in a block or area and it is necessary to prevent further detrimental issues. A standard policy operates see appendix 17.

In selecting an applicant for an adapted property from the short-list of qualifying applicants, the full circumstances of each case will be considered when deciding who will be offered the property. In some circumstances priority for the offer may be given outside the tie-break order, if the vacancy is particularly suitable for the needs of an applicant.

### **4.3 Housing with support schemes, including extra care schemes**

Only general needs sheltered schemes will be advertised through North Yorkshire Home Choice. Properties that provide accommodation based support services will not be advertised as part of the scheme. Vacant properties will be directly matched to qualifying applicants who meet the eligibility criteria following a detailed assessment into their housing needs by their service providers.

### **4.4 The bidding cycle**

Available properties will be advertised weekly on the scheme's interactive website. A weekly property sheet, which provides details of the advertised properties, will be made available for collection from the partner organisations' reception points or to download from the website. In some cases applicants will personally receive a suitably edited 'hard copy' of the adverts, on grounds of vulnerability or isolation.

Applicants (or their advocates) wanting to bid can:

- use the website;
- use the automated telephone bidding line;
- send a text message;
- return a coupon by post; or
- Contact a partner organisation in person.

Applicants can bid for up to three properties per week. Depending on the method of bidding, applicants can find out their position on the list at the time they bid, together with the total number of bids already placed against the property. This will enable applicants to test their chances of being successful when placing bids against properties they are interested in.

### **4.5 Bidding from prison**

Applications can be accepted from people in prison, but would normally not be made live as the applicant is clearly unable to take up a tenancy. When the applicant is within four weeks of release, the application will be updated to take account of the anticipated housing circumstances post release and the applicant placed in the appropriate band. The registration date for the application will be the date placed in the band.

The expectation of the partner organisations is that Offender Managers or prison resettlement services will work with clients prior to and after their release to assist in addressing any barriers to registering. The presumption is that the use of the statutory homeless route will be avoided and that the Prison Service or Contractor will have in place a re-settlement plan prior to release, which will be jointly developed with Housing Options staff.

The details of prisoner release are covered by the 'York Offender Housing Protocol' and the 'North Yorkshire Offender Housing Protocol'.

Under certain circumstances, a tenant of one of the partner landlords, sentenced to more than 13 weeks imprisonment, can receive a 'Direct offer' on release from prison from the landlord who originally housed them. (Appendix 8 provides details of the offender initiative)

#### **4.6 Short-listing and selection – Tie breakers - 1 Housing need**

At the end of the advertising period, a short-list of eligible applicants who have bid will be produced.

Bids will be placed in band order. Applicants in Emergency band will be ranked first, followed by those in Gold, Silver and Bronze bands.

Bids received will first of all be prioritised according to priority band. This is the measure of an applicant's housing need; this scheme is therefore driven primarily by housing need.

There are four 'tie breakers' in total used to help determine priority between bids. They are; **housing need – assessed bedroom need - debt - time** in that order.

The 'tie-breakers' are only used as necessary, for example if only two applicants bid for a property, one in Gold, the other in Silver, then the offer goes to the (higher) Gold applicant. If both applicants are in Gold band then the process moves to the next 'tie-breaker'.

#### **4.7 Tie breaker 2 – Assessed Bedroom Need**

The principles of bidding allow applicants to generally bid for properties according to housing need. Criteria and exceptions are set out in Appendix 6 and 10. In certain circumstances affordability will also be taken into account.

#### **4.8 Tie breaker 3 – Debt**

Where bidders are 'equal' in terms of their need and occupation, previous financial conduct will be taken into account. The applicant with no housing related debt will be successful.

#### **4.9 Tie breaker 4 – Time**

If there is still more than one applicant 'tying' after band, occupation and debt have been considered then the offer will be made to the applicant with the earliest registration or priority band date<sup>13</sup>.

#### **4.10 Exceptions to the tie-breaker order**

There may be restrictions on who can be allocated a property. When this is the case, applicants will be advised in the property advert of the specific conditions. Conditions include;

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<sup>13</sup> Where the application relates to an applicant who has completed an accommodation based support programme, their time on the register will be backdated to the date they entered the support programme.

## **Section 106**

When a property has been secured using the provisions of Section 106 of the Town and Country Planning Act 1990 there is usually a legal obligation that the successful applicant must have a clear connection to the specific neighbourhood in which the property is situated. This connection may be defined in different ways and will be clearly stated on the advert.

### **Planning or legal condition**

There may be a planning or legal condition on the site which restricts who can live there and this will be clearly stated on the advert.

### **Local lettings initiatives (LLIs)**

Where a partner landlord has established a local lettings initiative.

### **Rural areas**

A partner landlord may restrict applications for rural properties (settlements of less than 3,000 population) to applicants with a connection to the parish<sup>14</sup> and this will be clearly stated on the advert. The first advert is a rural initiative, if there is no successful applicant from this initial advert the property will be advertised to the sub region as standard. Local connection for vacant properties not subject to a section 106 agreement will be based on criteria set out in 2.5 but specific to parish (eg an applicant must have lived in the parish for 6 out of 12 months or 3 out of 5 years)

### **Access for lower bands**

The two lower bands (Silver and Bronze) will be monitored to identify what percentage of allocations they are receiving. The partnership Board can consider setting a quota for these bands within its annual review process, should customers in these bands be achieving little success in securing housing.

### **Adapted properties**

In selecting an applicant for an adapted property from the short list of qualifying applicants, the full circumstances of each case will be considered when deciding who will be offered the property. In some circumstances, priority for the offer may be given outside the tie-break order, if the vacancy is particularly suitable for the needs of an applicant.

## **4.11 Overlooking bids**

In certain, clearly defined circumstances the top bidder for a property may not receive an offer, and their bid will be overlooked. There are clear monitoring and reporting requirements for this – Appendix 10 gives further details.

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<sup>14</sup> Those listed in The Housing (Right to Enfranchise)(Designated Protected Areas)(England) Order 2009

## 4.12 Direct offers

In general applicants will bid for properties but in exceptional circumstances a property will not be advertised but will be offered directly to an applicant<sup>15</sup>. Such circumstances include:

- Statutory homelessness cases (full duty) in accordance with this policy (See Appendix 4 homeless applicants).
- MAPPA cases where deemed necessary by a senior manager to manage risk to the public and/or enable a move on from a high support unit if not appropriate for resettlement.
- The offender initiative described in Appendix 8.
- Management transfers in accordance with Appendix 12.
- Causes of flood or fire to the partner landlord's own properties, resulting in the tenant needing to be re-housed.
- Where, under the partner landlord's policy, a person can succeed to the tenancy but the property is inappropriate.
- Applicants whose home is subject to demolition or refurbishment by one of the partner landlords.
- Applicants who have fully completed a programme of re-settlement, with a re-settlement project named, approved and identified by one of the partner landlords. Such applicants will be persons who would have been unlikely to sustain a tenancy unless they had been through a re-settlement process.
- Applicants owed a duty by the local authority under the Rent (Agricultural) Act 1976.
- Applicants under the National Witness Protection Scheme or those at imminent risk.
- Any other management case where the issue is of a specialist nature including assisting Social Services and housing management and/or emergency.

Direct offers will be appropriate and suitable to the applicants needs<sup>16</sup> and should be in the local authority area unless agreed by partner landlords. Partner Landlords and participating landlords with accommodation in the local authority area can be approached for a direct let. An applicant will only receive one direct offer of accommodation.

Direct offers will be reported in lettings feedback (see 4.16).

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<sup>15</sup> Direct offers will be approved by the relevant senior manager of each partner. Each partner landlord will provide details to the Partnership Board on a quarterly basis of all properties let under a direct offer including the reasons for the direct offer.

<sup>16</sup> In respect of management transfers this will be a like for like offer.



### **4.13 Viewing properties and receiving offers**

When an applicant has been short-listed, the relevant landlord will arrange an opportunity to view the property. In some circumstances, more than one applicant may be invited to view.

Further verification of circumstances will be undertaken to ensure the applicant is still eligible for the property prior to an offer being made. Applicants will be required to provide the information or documents within a specified time frame.

If applicants are successful for multiple properties on the same week they will be asked to express a preference prior to viewing. An applicant cannot accept 2 properties subject to viewing

Generally applicants will not be penalised if they refuse an offer of accommodation; however where more than 3 offers of suitable accommodation have been refused, the application will be cancelled and removed from the register for a minimum of 12 months. This decision will be subject to review and the applicant (or their named advocate) will be informed in writing of the decision and of their right to request a review of that decision in writing. Applicants can make a fresh application after this period of time has expired. The new application will be assessed on current information. Banding will be from the date of the new assessment.

In order to meet urgent housing need, accepted statutory homeless, potentially homeless, resettlement category are expected to bid for all suitable properties each week. The application will be reviewed after 28 days and failure to secure a property will result in one suitable direct offer being made or Auto bid added to their application. The property offer can be either in the local authority or private rented sector.

**Note:** Statutory homeless applicants who are owed the main homeless duty will be offered accommodation in accordance with sections 193(7) and 202 of the Housing Act 1996. The statutory duty owed will be discharged where a suitable offer is refused in these circumstances.

### **4.14 Time allowed for accepting an offer**

Applicants will be allowed 2 days after the viewing to make a decision about whether to accept. If there are extenuating circumstances longer may time be allowed. Individual circumstances will be taken into account and applicants with specific needs will be given more time, for example if an assessment for adaptation works is needed or someone with a disability needs more time to consider the move. Once an offer has been matched and accepted an applicant cannot make any further bids without withdrawing the current offer

### **4.15 Monitoring**

The partnership will monitor the scheme on an on going basis to ensure:

- the scheme is meeting its aims and objectives;
- the policy complies with the duty to give reasonable preference whilst also allowing other groups to access affordable housing;
- the scheme is providing equality of opportunity;

- applicants are satisfied with the scheme, and
- that partner organisations are not subject to disproportionate levels of net inward migration – See Appendix 11 monitoring mobility.

In addition:

- The partner organisations will routinely undertake specific monitoring of bid patterns, with a view to providing the best possible housing options service. Applicants in the Emergency and Gold bands, or who are inactive or consistently unsuccessful will receive targeted advice and support

Monitoring of the policy will be on going to develop and improve the scheme and will include formal regular review by the partnership.

#### **4.16 Publishing feedback on lettings**

Applicants will only be contacted if they are invited to view a property.

Lettings results will be published on the website and in the property sheet and will include the following information:

- The property type and neighbourhood.
- The total number of bids made for the property.
- The successful applicant's registration date and/or priority band date.
- Properties where a direct offer was made and the vacancy was not advertised.

Individuals can view the outcome of their personal bids on the website.

#### **4.17 Future development of the scheme**

The partnership is committed to continually reviewing its practices and procedures associated with this policy and the scheme, to ensure a consistent and joined up approach in the delivery of a first class lettings service for North Yorkshire. In doing so, the partnership will take account of best practice and feedback from applicants.

The partnership will strive to integrate the lettings process with access to emerging education, training and employment opportunities.

The partnership will strive to collect and publish data on general patterns of supply and demand to help applicants make informed decisions.

## **Section 5 – Other housing options**

The partnership is committed to offering other affordable housing solutions to those in housing need and to those who may have to wait a considerable time before being successful in receiving an offer of accommodation.

As social housing is in such short supply, the partnership will work with other housing providers to maximise the amount of vacancies advertised through the scheme.

### **5.1 Private landlords**

We will also encourage the advertisement of properties which are owned by responsible private landlords. The adverts will make clear that the partnership is not acting as an agent for private landlords; that the properties advertised will be offered as assured shorthold tenancies; and the basis on which successful bids will be considered if it differs from the way tenants for the partner landlords' are selected. Alternatively each local authority will provide advice on the private rented sector.

### **5.2 Housing associations**

Housing associations (apart from the partner housing association) will be encouraged to increase the number of vacant properties they advertise on the scheme. Housing association vacancies that are advertised for nomination will be clearly labeled to say which local authority is nominating the property. Some housing associations operating in the region will continue to maintain an independent waiting list. Please contact the local housing options/registration team for further information.

### **5.3 Low cost home ownership**

Properties for low cost sale will be advertised. Applicants will need to meet certain criteria.

### **5.4 Mutual exchanges**

Mutual exchanges can be advertised throughout the sub-region in order to give opportunities for tenants to move outside the north Yorkshire home choice scheme. Applicants for mutual exchanges may only exchange with their landlords permission.

Home swapper is used by some partner landlords [www.homeswapper.co.uk](http://www.homeswapper.co.uk)

### **5.5 Sheltered Housing Extra care**

Each local authority will provide information about sheltered housing with extra care and maintain relevant waiting lists for individual schemes. Contact the Housing Registrations Team in your Local Authority area.

## Appendix 1: Partner Landlord Contacts

### City of York Council

West Offices  
Station Rise  
YORK  
YO1 6GA  
Phone: 01904 551550  
E mail: [housing.registrations@york.gov.uk](mailto:housing.registrations@york.gov.uk)

### Scarborough Borough Council

Town Hall  
St Nicholas Street  
SCARBOROUGH  
YO11 2HG  
Phone: 01723 232323  
E mail: [housingoptions@scarborough.gov.uk](mailto:housingoptions@scarborough.gov.uk)

### Selby District Council

Civic Centre  
Doncaster Road  
SELBY  
YO8 9FT  
Phone: 01757 705101  
E mail: [lettingsteam@selby.gov.uk](mailto:lettingsteam@selby.gov.uk)

### Hambleton District Council

Civic Centre  
Stone Cross  
NORTHALLERTON  
DL6 2UU  
Phone: 0845 1211555  
E mail: [housing@hambleton.gov.uk](mailto:housing@hambleton.gov.uk)

### Craven District Council

1 Belle Vue Square,  
Broughton Road  
SKIPTON  
BD23 1FJ  
Phone: 01756 700600  
E mail: [housing@cravendc.gov.uk](mailto:housing@cravendc.gov.uk)

### Richmondshire District Council

Swale House  
Frenchgate  
RICHMOND  
DL10 4JE  
Tel 01748 829100  
Email: [Susie.eales@richmondshire.gov.uk](mailto:Susie.eales@richmondshire.gov.uk)

### Ryedale District Council

Ryedale House  
MALTON  
YO17 7HH  
Phone: 01653 600666  
E mail: [housing@ryedale.gov.uk](mailto:housing@ryedale.gov.uk) dc

### Yorkshire Coast Homes

Brook House  
4 Gladstone Road  
SCARBOROUGH  
Phone: 0845 065 56 56  
E mail: [info@ych.org.uk](mailto:info@ych.org.uk)

### Broadacres Housing Association

Broadacres House  
Mount View  
Standard Way  
NORTHALLERTON  
DL6 2YD  
Phone: 01609 676900  
E mail: [info@broadacres.org.uk](mailto:info@broadacres.org.uk)

### Yorkshire Housing

Dyson Chambers  
12-14 Briggate  
LEEDS  
LS1 6ER  
Phone 01653 600300 Malton  
01756 704500 Skipton  
01904 436373 York  
E mail enquiries@yorkshirehousing.co.uk

## Appendix 2: Participating and Associated Landlords

### **Participating Landlords**

Home Group  
Tees Valley/Fabrick Housing  
York Housing Association  
Endeavour Housing Association  
Muir  
Jephson

### **Associated Landlords**

Sanctuary Housing  
Manningham  
Chevin/Together  
Abbeyfield  
Lune Valley  
Tuke  
Accent Foundation  
Anchor  
Joseph Rowntree  
Leeds and Yorkshire  
Family Housing Association  
South Yorkshire  
Places for People  
Railway  
John Pease Cottages  
Hanover  
Connect  
Heap Parkinson  
John Knowles Trust  
Habinteg  
Housing 21  
Riverside

## Appendix 3: Disqualification Criteria (serious unacceptable behavior)

### 1. Introduction

- 1.1 The partnership recognises the Government's commitment to encouraging inclusion and social stability and will use this policy to encourage access for all applicants in housing need, including those that are socially disadvantaged. This will be achieved by ensuring that each application is treated on its individual merits and by making available mutually agreed programmes of support to vulnerable applicants in conjunction with other statutory and/or voluntary organisations.

### 2. Statutory and regulatory guidance

- 2.1 The Code of Guidance (Allocation of Accommodation June 2012) and Localism Act 2011 explains that Local Authorities may wish to adopt criteria which would disqualify individuals who satisfy reasonable preference criteria eg for antisocial behaviour. NYHC has retained the principles of the previous 'unacceptable behaviour test.' In summary, NYHC will disqualify an applicant or member of the household from the register if the applicant or a member of his/her household has been guilty of unacceptable behaviour that is serious enough to make him/her unsuitable to be a tenant at the time the application is being considered.

### 3. Assessing qualification

- 3.1 The partnership recognises that whilst it wishes to promote balanced and sustainable neighbourhoods, denying access to social housing might result in broader social exclusion for the households involved. The partnership recognises there is excessive demand on social housing and as such has certain categories of applicants that will not qualify for North Yorkshire Home Choice. Therefore, applicants will not automatically be disqualified if their circumstances 'fit' a defined category; each case will be judged on its own merits and efforts will be made to resolve any issues, which prevent applicants from joining the Register.

For the purpose of this document, disqualification means that an applicant has been denied access to the Common Housing Register and is unable to participate in the choice based lettings scheme on the grounds of their (or a member of their household's) unacceptable behaviour or personal/housing circumstances.

- 3.2 The partnership will consider an application to join the register where a history of unacceptable behaviour is proved, if the applicant is attempting to modify that behaviour with the help of a recognised support agency and that agency will continue the support if/when the applicant is housed.
- 3.3 The partnership will ensure that the process for assessing qualification is both fair and effective in the management of the housing stock. In reaching a decision on whether or not an applicant is disqualified on the grounds of unacceptable behaviour, all relevant information

will be taken into account, including whether the behaviour could have been due to a physical or learning disability or mental health problems.

- 3.4 Where an applicant's behaviour is not serious enough for them not to be disqualified for the register, it will still be considered in deciding the level of priority received within the priority band. For example, where there are low or moderate rent arrears the applicant would be overlooked for offers of accommodation where there are other competing applicants with the same level of need who do not owe any money.
- 3.5 This policy applies to existing tenants applying to transfer and to new applicants joining the Register.

#### **4. Examples of serious unacceptable behaviour**

- 4.1 For the purpose of this document, examples of the type of unacceptable behaviour that will be considered in deciding whether or not to allow an applicant access to the register include domestic violence, racial harassment, drug offences, serious noise nuisance, intimidation and any other acts of unacceptable behaviour or serious breaches in tenancy conditions, for example serious rent arrears, which would make the applicant unsuitable to be a tenant. Acts of antisocial behaviour that has or is likely to cause serious nuisance to neighbours. Use of a property for illegal or immoral purposes.
- 4.2 Applicants who have relevant unspent convictions for serious criminal offences, which may threaten the stability of a community will have their housing needs assessed and all factors will be taken into account before a decision is made regarding their eligibility to join the Register. The partnership will work collaboratively with the police, probation, prison service or any other relevant support agency in an effort to resolve an applicant's ineligibility and improve their chances of being integrated back into the community through a planned and managed approach.
- 4.3 Where an applicant (or a member of the household) has a history of antisocial behaviour or has breached their tenancy conditions, all relevant facts will be considered before a decision is made (as per section 2) regarding their eligibility to join the Register. Where antisocial behaviour has been committed by a person who was, but is no longer a member of the applicant's household, the behaviour will be disregarded provided the applicant is not guilty themselves of unacceptable behaviour. The partnership will collaborate with other agencies, such as social services and health services, to try to resolve an applicant's disqualification.
- 4.4 Where a Local Authority accepts a duty to house under 1996 Housing Act (Part 7) but an applicant is excluded from the register then the applicant should be offered an alternative housing option (eg private rented sector, alternative Housing Association, supported housing) or can show that they have engaged to resolve the ineligibility.
- 4.5 Significant rent arrears where the local authority would gain a possession order.

## **5. Grounds for lifting disqualification status**

5.1 The basic principle for lifting the ineligibility status will be evidenced material change in the applicant's circumstances. For example:

- Where an applicant has been guilty of unacceptable behaviour, the applicant has demonstrated a material change in their behaviour.
- The applicant has in place a recognised support package that addresses previous misconduct and will continue once housing has been offered under the scheme.
- The relevant conviction has become spent.
- Addressing arrears and debts. An affordability assessment may be required.

5.2 A fresh application will need to be made by the applicant where they have been previously ineligible and feel that their behaviour should no longer be held against them as a result of changed circumstances.

## **6. Notifying the applicant of the decision and the right to review**

6.1 All applicants will be notified if they are not eligible, the reasons why, the period of exclusion and their right to request a review of the decision. Applicants will also be notified of what actions they can take to remedy their ineligibility and a signposting/referral service to other support or independent advice agencies will be offered, if applicable.

All applicants have the right to have a review if not eligible for the register. Any request for a review must be made within 21 days of the notification of the decision.

The review will be carried out in the first instance by the partner organisation that received the original application. The person carrying out the review will be of senior rank to the person that made the original decision and will have had no previous involvement in the original decision the decision will be made within 21 days of receipt of the request.

Where an applicant exercises their further right of appeal after receiving the review decision, the appeal will be heard by an Application Review Panel.

Each of the ten partners who established the scheme shall provide a representative to the panel, who will consider whether any applicant can have their ineligibility for the register lifted. The panel could be facilitated by one nominated officer, acting for all the partners; a local authority could be represented by its housing association partner and vice versa.

The panel will have regard to the Code of Guidance, Allocation of accommodation for local authorities in England 2012 and will consider each case as to its individual merits. If the matter is a statutory one, the Panel will advise the relevant local authority, who will have to make a final decision taking the panel's view into account.



Human Rights legislation means there is a requirement for review processes to be independent. This can be satisfied by the withdrawal of any representative from the organisation that applied the decision under review.

The Application Review Panel can also consider non-statutory matters such as disputes on banding, worsening of circumstances, priority band etc, where these have not been resolved locally. Again, the panel will provide the relevant body with a recommendation.

## Appendix 3A Applications Review Panel Process

### **Right of Review**

Under the North Yorkshire Home choice Common Allocation Policy applicants have a right of review in respect of a decision regarding their application.

### ***Right of review (first review)***

Any applicant who disagrees with a decision regarding access to the register, banding or allocation of a property should contact the office holding their application to request a review. This will be carried out by the organisation that made the original decision. The person carrying out the review will be of senior rank to the person that made the decision and will have had no previous involvement in the original decision the decision will be made within 21 days of receipt of the request. Each partner agency will follow their internal procedures in respect of reviews.

An applicant will be informed in the first review decision letter about the review panel procedure and who to contact.

### **Request for a review panel (second review)**

If the applicant still disagrees with the decision after the first review they can request a review panel looks at the case. The request for a panel review should be made to the office holding their application. The organisation will then advise the North Yorkshire Home Choice Co-ordinator about the request for a review. The Co-ordinator will identify the panel. The review panel will look at the decisions made in relation to the North Yorkshire Home Choice Register and can consider access to the register and other non-statutory matters such as disputes on banding, worsening of circumstances, priority band etc.

The North Yorkshire Home Choice Co-ordinator will administer the request, arrange the review panel and monitor the outcomes and Board involvement on the review panels.

The applicant has 21 days to submit a request for a review panel from date of the decision of the first review.

### **Review Panel**

Members of the Review Panel will comprise of representatives from each of the founding 10 partner organisations. Such representatives should be appropriate specialist or senior officers.

A review panel should comprise of a minimum of 1 independent representative from a partner body who has had no direct dealing with the case

A review panel would usually undertake a paper hearing but can arrange to speak to, meet with or invite the applicant to attend a review panel. This is at the review panel's discretion.

The applicant will be notified of the review process by the partner dealing with the application and given 14 days to provide any additional information in relation to the case. In cases where this is not possible to provide all the supporting evidence the applicant should notify the partner dealing with their application to request an extension to this time limit.

The senior staff member who undertook the first review would prepare the relevant file for review panel's consideration.

The review panel will make a decision within 56 days of the date of the request but can be extended with the consent of the applicant. The review panel will make recommendations to the relevant partner agency and Local Authority. On receipt of the review panels decision the Partner will have 5 days to notify the applicant.

The North Yorkshire Home choice Co-ordinator will record and monitor all review cases.

Any further reviews regarding accessing the register should be via Judicial Review and should be lodged within 3 months of the review panel decision or if relevant via a submission to the Housing Ombudsman

## Appendix 4: Homeless applicants

A key objective of the partnership is to assist the local authorities in preventing and reducing homelessness by providing a range of housing options through north Yorkshire home choice.

Where an applicant presents as literally homeless or threatened with homelessness, robust advice and information will be provided and every effort will be made to resolve their housing situation.

If an applicant is assessed as being homeless **within 28 days** and they are eligible for assistance, in priority need, locally connected to the partnership area and not intentionally homeless, they will be found to be statutorily homeless and will be entitled to one reasonable offer of accommodation, which will be made in accordance with sections 193(7) and 202 of the Housing Act 1996, meaning that the offer will be made in writing and will be subject to the right of appeal. Applicants who are statutorily homeless will be placed in Gold band and will be expected to bid for all suitable properties within the locality that have been advertised.

Applicants who are statutorily homeless will be frequently reviewed to ensure they are bidding for suitable properties. If applicants have not been bidding, their officer will contact them within a suitable period of time to establish the reasons why and to address any need for further advice or assistance to enable them to participate effectively in the scheme. **The partnership reserves the right to make one direct offer<sup>17</sup> to a statutorily homeless household after a minimum of 28 days if they have not been successful in securing a property through the scheme and / or add auto bid to their application.** In accordance with the Localism Act 2011 the offer may be in social or private rented accommodation. The homeless duty will be discharged if an offer is made as a result of a successful bid on a suitable property or the decline of a suitable direct offer. The local authority has the option to utilise the automated bidding process if applicants are found not to be bidding.

Applicants who have a statutory homeless decision that they made themselves intentionally homeless or who have been assessed as non priority homeless will be entitled to reasonable preference; the same will apply to those who are no longer owed the main homeless duty as a result of turning down a reasonable offer of accommodation that was made in writing and subject to the right of appeal; applicants in these categories will be placed in Silver band.

**Potentially homeless:** If an applicant is assessed as meeting all the relevant criteria for being statutorily homeless, but **within a 90 day period**, the partner organisation in the locality will explore a number of options to prevent homelessness from occurring. Applicants in these circumstances will be placed in Gold band as a homeless prevention category and will be frequently reviewed to ensure they are bidding for all suitable properties. If the applicant has not been bidding, the officer will contact them to establish the reasons why and to address any need for further advice or assistance to enable them to participate effectively in the scheme. **The partnership reserves the right to withdraw this band if the applicant is not bidding for all suitable properties after 28 days where appropriate and/or utilise the automated bidding system.** The review will also highlight any changes in

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<sup>17</sup> To a landlord in the area of the local authority accepting homeless duty.

circumstances as a result of homeless prevention activity, which could alter their homelessness assessment and priority band. A homeless application could be completed at a later stage if the applicant's housing need is not resolved.

## **Appendix 5: Definition of at risk of homelessness**

### **Risk of homelessness**

The following are examples of when an applicant living in the partnership area is at risk of homelessness; evidence and engagement with the Housing Options/ Housing Advice services in their locality are required before an applicant can be seen as 'at risk'. Applicants who have negligently or deliberately placed themselves at risk of losing their home will be subject to the provisions in this policy for deliberate worsening of circumstances (2.19).

- They live in tied accommodation linked to their employment and that employment is coming to an end.
- They have received a valid, legal, written 'notice to quit' from their private landlord giving appropriate notice and the customer has engaged with their local Housing Options/Housing Advice Service. The Officer must be satisfied that the landlord intends to implement the notice.
- One party to a joint secure, introductory, assured or assured shorthold tenancy has given notice, ending that tenancy for the other parties and the landlord is not willing to transfer the tenancy to remaining parties or provide suitable alternative accommodation.
- The tenant of a property has died, remaining parties in the property have no right of succession, and there is no offer of suitable alternative accommodation or transfer of tenancy.
- The valid service of a Compulsory Purchase Order or Emergency Prohibition Order.
- The applicant's home is due to be demolished.
- The applicant has lost their home due to their landlord having the property re-possessed.
- Termination of an Agricultural Tenancy under the terms and administrative processes of the Agricultural Tenancies Act 1976.
- The applicant has been asked to leave by family or friends with whom they live.

All potentially homeless cases awarded gold or silver band should be managed to case work level in accordance with DCLG criteria (prevention statistics)

## Appendix 6: Defining overcrowding and housing at height

The following assumptions are made on overcrowding<sup>18</sup>:

The bedroom standard allocates a separate bedroom to each;

- Married or cohabiting couple
- Adult aged 21 years or more
- Pair of adolescents aged 10-20 years of the same sex
- Pair of children aged under 10 years regardless of sex

A room intended as a bedroom but used for another purpose will still be classified as a bedroom

Discretion can be exercised by staff to adjust the number of bedrooms required if: -

- The bedrooms in the property are particularly large or small
- A child requires their own bedroom due to disability.
- An applicant needs a bedroom for a carer or to facilitate specialist medical treatment.
- An applicant needs a bedroom for a fostered/adopted child.

In cases of joint custody of a child or children, recent case law states that only in exceptional circumstances, such as where children have special needs, will it be reasonable for children who already have an existing home with one parent to be provided with another home to live with the other parent.

In cases where any child has a home elsewhere but chooses to live with another adult (eg sibling) this will be discounted when considering overcrowding

If an applicant with children wishes to apply for a property with the living accommodation at first floor or above, this is acceptable and is seen as a legitimate applicant choice.

Further guidance on overcrowding can be found under the Housing Act 1985 (part 10) section 325 and 326

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<sup>18</sup> Overcrowding: As directed by the Allocation of Accommodation: guidance for housing authorities in England

## **Appendix 7: The Good Tenant Scheme**

This is an incentive scheme for secure and assured tenants of the partner landlords and participating landlords listed in appendix 2 living in the North Yorkshire Home Choice partnership area who are accepted on to the Housing Register and who have not, in the past three years, breached their tenancy conditions (including having a clear rent account for that period). Such tenants can apply to be “Good Tenant Standard” applicants. Good Tenant Standard applicants will be placed one band above the allocated band subject to a maximum of gold band status.

To qualify for this standard the applicant must have lived in the same property for a minimum of 3 years, the applicants’ home must be in a good state of repair & decoration and suitable for re-letting without additional work (over and above the relevant safety checks). Tenants must agree to allow their landlord to show other applicants around the property prior to them moving out.

Applicants do not have to have a housing need to be granted good tenant status

## **Appendix 8: The offender initiative**

A tenant of one of the partner landlords, sent to prison for a duration longer than 13 weeks can receive a 'direct offer' on release from prison, provided they meet the criteria below.

- That the tenancy was given up promptly on their imprisonment.
- There were no rent arrears or damage to the property.
- There was no anti-social behavior related to the conduct of their tenancy.
- That the individual satisfies the acceptable behavior test on their release.



## Appendix 9: Eligible property types

The table shows the size of properties that applicants are eligible for based on their household composition.

Some flats and bungalows are classed as sheltered accommodation. This type of accommodation is generally intended for people who are aged 60 or over and/or need support to help them maintain their independence. Applicants will be assessed as to whether they need this type of accommodation.

The following table shows the household composition and property eligibility.

	<b>Bedsit / Studio</b>	<b>1 bedroom flat / maisonette / house</b>	<b>1 bedroom bungalow</b>	<b>2 bedroom flat / maisonette / house</b>	<b>2 bedroom bungalow</b>	<b>3 bedroom flat / maisonette / house</b>	<b>4 bedroom house</b>	<b>5+ bedroom house</b>
One adult.	✓	✓	✓					
Two adults*		✓	✓					
Three adults				✓	✓			
One / Two adults with one child.				✓	✓			
One / Two adults with 2 children, both the same sex and both aged fewer than 10.				✓	✓			
One / Two adults with 2 children of different sexes, one aged 10 years Or over.						✓		
One / Two adults with 3 children						✓		
One / Two adults with 4 children						✓	✓	
One / Two adults with 5+ children							✓	✓

Where partners have different housing stock profiles they may individually determine size criteria which will be shown on the advert. Generally this means that applicants will match the

size criteria but in certain areas or for certain properties they will be allowed to bid for larger property. A financial assessment may also be required to confirm affordability.

\*Joint tenancies between two adults not recognised as a couple for example a brother and sister would be eligible for a 2 bedroom property.

## Appendix 10: Overlooking a successful bid

There will be circumstances where allocations staff will need to, or will have discretion to, overlook a successful bidder. Allocations staff will be provided with procedural guidance on this.

### 1. The **mandatory grounds** for overlooking a bid are:

#### 1.1 **Debt**

This includes housing related debts

- Debts to other social landlords, temporary accommodation, hostel or supported housing (excluding council tax) usually for arrears of rent or rechargeable repairs. It is debt in respect of former, not current tenancies.

A successful bid must be overlooked if the applicant has housing related debt. An exception to this can only be made if:

- the applicant has a re-payment agreement in place and that agreement has been maintained successfully for thirteen weeks prior to the successful bid being made, and
- the re-payment agreement is current

The guiding principle therefore is that applicants with debt must have a current re-payment agreement that has been sustained for at least 13 weeks, every time they bid.

Where debt is owed to a private landlord the applicant must evidence a willingness to repay.

In all cases a financial assessment may be required to confirm affordability.

#### 1.2 **MAPPA**

Such applicants can be overlooked if the property is not suitable on advice of North Yorkshire Police Public Protection Unit or North Yorkshire Probation Services and should then be dealt with by a direct offer as per 4.12. Should such an applicant have made a successful bid and the IT system has not filtered out such bids, then staff can overlook the offer.

#### 1.3 **Health and safety or illegality**

A successful bid that creates a risk to life, serious health and safety risk, or creates a situation that is illegal such as statutory overcrowding.

#### 1.4. **Charitable Status**

Some housing associations have charitable status which place restrictions on who can be housed. A successful bid will be overlooked if the applicant does not meet the charitable criteria of the housing association

#### 1.5. **Essential Need**

Where a person has an essential need to live close to another person who currently lives in the partnership area, the property must in the local authority area where the family member lives

#### 1. **Support**

Where there is no relevant support package in place if required.

#### 1.7 **Restrictions**

Where there are restrictions in place as outlined in the policy. For example where a band has been awarded to prevent hardship grounds for employment and the property is not close to the place of employment.

#### 1. **Application**

Where the applicant is found to be no longer eligible.

2. The **discretionary grounds** for overlooking a bid will include:

#### 2.1 **Existing tenants of social landlords**

Existing tenants will normally be overlooked if they are in breach of their tenancy conditions (and would generally include owing rent or any other debts to their landlord) or their property has been specifically adapted as outlined in Section 2.9

For example an exception could be made to rent arrears if the tenant is under-occupying the property and is affected by a reduction in Housing Benefit because of their under occupation and the landlord considers a move to a smaller property to be the best option.

Also those in temporary accommodation, hostels and supported housing will not normally be allowed to move if they have current arrears. Contact with relevant manager should be made where arrears are low level.

#### 2.2 **Disability**

Where a household with disabilities; are potentially being let a property which can not reasonably be adapted for them. It may not be reasonable to adapt properties where a major structural alteration is required such as:

- an extension;
- a through floor lift; or
- door widening.

The need for minor adaptations such as stair lifts, adjustments to baths or showers, grab rail etc should generally not exclude the successful applicant from receiving the offer, however staff will exercise their discretion if funding is not available for these adaptations.

### **2.3 Adapted properties**

Where the successful bidder has secured an adapted property without having any need for that adaptation. Staff can re-advertise for one further cycle in this instance.

### **2.4 Terms of the advert**

Where the successful bid does not comply with the terms of the advert.

Partners must record any instance when a successful bidder has been overlooked, and report regularly to the partnership Board.

If there is no bidder that meets the terms of the advert the property can be re-advertised.

### **2.5 Affordability**

Where, following an assessment, it is determined that the applicant will not be able to afford to sustain the tenancy.

### **2.6 Adopters/foster carers**

If not a suitable location for social services

In exceptional circumstances a senior manager can override both mandatory and discretionary grounds to allocate a property / rehouse an applicant.

## **Appendix 11: Monitoring mobility**

Applicants connected to the partnership area are permitted to bid for properties in all seven local authority areas; no other level of local connection is taken into account (other than that outlined below).

This permits social and economic mobility improves choice and is integral to a sub regional scheme.

Mobility is framed here with some checks and balances:

- The Partnership Board will monitor the impact of mobility, linked to baseline data on the level of letting cross boundary in other sub regional schemes and the current level of cross boundary letting in North Yorkshire.
- Section 106 agreements and Rural Settlement and other conditions as outlined in 4.10.
- The discretion to transparently establish Local Lettings Initiatives.

The Partnership Board reserves the right to limit or restrict cross boundary mobility should a particular local authority area exceed a certain level of net inward migration. The Board will consider the impact of any net inward migration that exceeds the net level in 2009/10 by more than 5 percentage points, imposing a temporary restriction if it sees fit.

## Appendix 12: Management Transfer

### Management transfer (emergency move)

A management transfer can be agreed for persons in imminent danger and is subject to the discretion of the designated or senior manager within each partner organisation.

A management transfer will be considered for a tenant of the partner landlords if there is evidence to show that they are experiencing harassment of a serious, targeted and persistent nature (as defined in the table below) which the tenant could not reasonably have prevented or avoided through their own actions and where there are no other appropriate ways of resolving the problem without resulting in a serious risk of harm.

serious	<ul style="list-style-type: none"><li>• violence used; or</li><li>• threats of violence which is evidenced and likely to be enacted; or</li><li>• extensive property damage, making the property uninhabitable; or</li><li>• harassment based on race, sexuality or disability.</li></ul>
<b>and</b> targeted	<ul style="list-style-type: none"><li>• specifically aimed at the individual or household; or</li><li>• related exclusively to the property; or</li><li>• not experienced by others in the immediate neighbourhood.</li></ul>
<b>and</b> persistent	<ul style="list-style-type: none"><li>• a series of repeated and recent incidents over a defined period of time and / or a likelihood of repetition assessed by police / other agency.</li></ul>

The aim of a management transfer will be to move the household to a place of safety. If the request is accepted the applicant will be made one direct offer. The offer can be for any area within the current partner landlords stock.

The offer will usually be to a “like for like” property. Any further housing needs (usually overcrowding) will be addressed through the allocation policy and prioritisation in accordance with 3.2. If the tenant is already registered for a transfer on the basis of other housing needs they will retain their existing registration/priority band date.

## Appendix 13: Resettlement

### Definition

The resettlement criteria is defined as: *Where the applicants have completed an intensive/ approved resettlement programme (as determined by the nominated officer). This will usually be for 12 months, but in any case be for a minimum of 6 months.*

Re-settlement Projects in the partnership area are identified in the staff guidance notes and may on occasions change due to decommissioning / change of contracts.

Re-settlement activity is seen by this scheme as a distinct area of activity from accommodation based supported housing. Applicant who can evidence a **completed** programme of accommodation based supported housing attract a Gold Band status under this scheme as noted above.

The minimum standard required before a programme of re-settlement can be considered complete will include evidence of support around the following areas:

- Health and related issues
- Money Management
- Engagement , training and social inclusion
- Practical Skills,
- Personal Skills,
- Tenancies Work
- Making Safe

### Ongoing Support

If the applicant does not need long term support but would benefit from some support, in particular when they first move into independent accommodation they should be referred to the appropriate organisation and this should be noted in the request for resettlement criteria.

### Joint Applications

In the case of joint applications both applicants will need to meet the resettlement criteria.

List of participating projects available from Housing Options these may change over time due to contractual/procurement changes.



## Appendix 14: Young People Support and Trustees

### Minimum Required Standard for Support Packages and Trusteeships (Young People 16 and 17 years old)

The housing support package must have been set up as a condition of access to the register, with the applicant attending regular support sessions prior commencement of tenancy and be provided until applicants 18<sup>th</sup> birthday or minimum 6 months whichever is longer. Support can be continued after this if necessary. Support must be available in the Local Authority area in which they live or where they are moving to.

#### Relevant Trustees:

Minors – including 16 and 17-year-olds - cannot legally be bound by contracts or hold a legal estate in land. The exception to this rule is that minors can be bound by a “contract for necessities” and a minor can be legally bound to pay rent. Therefore a minor can hold an *equitable* tenancy providing a trustee must be appointed to hold the legal estate. The Trustee is merely holding a legal estate on trust until the minor reaches 18 and is legally permitted to hold an estate in land.

All new applicants under 18 can only be offered an Equitable Tenancy provisional on a suitable Trustee and support package.

Trustees do not have a financial responsibility. Each locality is free to exercise discretion on the organisations or individuals able to exercise this function, provided the Trustee is

- A responsible adult
- An organisation, that organisation has as part of its remit, the provision of support to young people providing that organisation is not also the landlord of the property concerned
- A named individual within an organisation, that organisation has as part of its remit, the provision of support to young people providing that organisation is not also the landlord of the property concerned

Wherever possible a Trustee who is a responsible adult should:

- Be a friend or relative
- Have a stable 5 year housing history
- Have no debts to LA (Council Tax or rent) / Housing Association
- Be able to attend the tenancy sign up
- Will hold the legal estate on trust. This will expire on their 18<sup>th</sup> birthday.

An individual accepted as a Trustee must attend the sign-up stage of tenancies, along with the landlord and support worker and, obviously, the Tenant. An agency who is accepted as an individual should attend the sign-up stage of tenancies wherever possible, along with the landlord and support worker and, obviously, the Tenant. If the Trustee is unable to sign they should complete the necessary paper work immediately following the sign up.

There is no obligation on the Trustee to attend any future events relating to the tenancy

The Trustee and tenant would be jointly served with any court proceedings and paperwork and invited to attend court, but they are not required to appear at court.

The trust would automatically end on a young persons 18<sup>th</sup> birthday, when the young person would sign for an appropriate tenancy, in accordance with the landlord's policy.

In case of Equitable tenants where both under 18: an individual Trustee is required for each equitable tenant until each tenant becomes 18.

## Appendix 15 Armed Forces

### ARMED FORCES: DEFINED AS;

- a) is serving in the regular forces<sup>19</sup> or who has served in the regular armed forces including those existing members of the regular armed forces who are suffering from a serious injury, illness or disability as a result of their service who may need to move out of their existing accommodation to suitably adapted social housing before they complete their service or who were serving in the regular forces at any time in the five years preceding their application for an allocation of social housing
- b) serving or has served in the reserve forces<sup>20</sup> who are suffering from a serious injury, illness, or disability which is wholly or partly attributable to their service
- c) bereaved spouses or civil partners of those serving in the regular forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service
- d) For this purpose “the regular forces” and “the reserve forces” have the meanings given by section 374 of the Armed Forces Act 2006(2).”

The definitions a and b above extend to applications from former service personnel, where the application is made within 5 years following discharge.

It is recognised that bereaved spouses (as in c above) and civil partners of service personnel who are required to leave service families accommodation following the death of their spouse or partners are likely to experience similar issues to service families on discharge from the forces. The Regulations are intended therefore to protect bereaved spouses and civil partners **from the time they are required to leave service families accommodation until they are able to obtain alternative settled accommodation.**

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<sup>19</sup> “the regular forces” means the Royal Navy, the Royal Marines, the regular army or the Royal Air Force

<sup>20</sup> “the reserve forces” means the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve or the Royal Auxiliary Air Force,

## **Statutory Instrument 2012 No. 2989 The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012**

Made

November 29<sup>th</sup> 2012

*Coming into force in accordance with regulation 1*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 166A(7) of the Housing Act 1996(1).

In accordance with section 172(2)(2) of the Housing Act 1996 a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

### **Citation and commencement**

1. These Regulations may be cited as the Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012 and come into force on the day after the day on which they are made.

### **Amendment of section 166A(3) of the Housing Act 1996**

2. Section 166A(3)(3) of the Housing Act 1996 (Allocation in accordance with allocation scheme: England) is amended as follows—

(a)in the sentence following the end of paragraph (e) (beginning with “The scheme may also be framed”) for “people within this subsection” substitute “people within one or more of paragraphs (a) to (e)”;

(b)at the end of that sentence, insert—

“The scheme must be framed so as to give additional preference to a person with urgent housing needs who falls within one or more of paragraphs (a) to (e) and who – (i)is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service,

(ii)formerly served in the regular forces,

(iii)has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person’s spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service, or

(iv)is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service.

For this purpose “the regular forces” and “the reserve forces” have the meanings given by section 374 of the Armed Forces Act 2006(4).”.

## Appendix 16 Medical

Health and Wellbeing awards are to assist those with health issues to move to a property that more appropriately caters for their needs, any Health and Wellbeing award MUST secure a health gain.

The following simple rules apply when a CBL officer assess if an application should be given a Health and Wellbeing award:

- No priority can be awarded if moving home will not secure a health gain, if a customer has a terminal illness and their accommodation suits their health needs they will receive no health award.
- The Emergency Band is for narrow range of extremely severe health needs where the applicants housing is an issue for them.
- There will be no award of Gold band unless the applicants condition is severe and enduring (permanent) and the condition must be compromised by the home or its environment.
- Applicants who are already housed in an adapted property will not normally be banded on Health and Wellbeing grounds unless it is impractical to further adapt the property to meet their needs.
- Applicants who are given a health award based on them needing an adapted property can bid on un adapted properties without loss of priority provided that:
  - The property can be reasonably adapted for them
  - The funds are available for those adaptations (any assessment of this needs to be mindful of cross boundary movement).
  - Little or no prospect of the applicant's current home being adapted for themMeeting these criteria would constitute a health gain.
  
- Applicants with disabilities are only restricted in the properties they can be considered for, where the property in question cannot be reasonably adapted for them. A successful bid on a property that can not be reasonably adapted or will not attain a health gain can be skipped in favour of the next applicant on the shorth list.

A minor adaptation will usually be seen as a preferable alternative to rehousing. A health and wellbeing award will not normally be given if the issues of the applicant can be successfully addressed in their current accommodation by minor adaptation. A minor adaptation could be successful installation of a stair lift, grab rails to external doors and bathing areas.

There are three categorisations of Health or Well Being need (plus support needs)

Priority Band	Circumstances/Definition	Comments
<b>Emergency</b>	<p>1. Applicant unable to return to their home from hospital because their current home is permanently un-suitable, this must be a long term issue.</p> <p>2. Applicants un-able to access key facilities in their home without major adaptation works.</p>	<p>We expect this to be confirmed in writing by a Social Services Authority Senior officer. If s/he provides this, the customer is fast tracked to the emergency band.</p> <p>A joint assessment by the local authority or RSL concerned with Social Services is required. The trigger question in the Health section of the application form is "Is it possible for all members of the household to access a bedroom and a toilet?"</p> <p>We expect that the possibility of informal adaptation will be considered in terms of 'creating' a bedroom and a bathroom where required</p> <p>Things that will be considered are:</p> <ul style="list-style-type: none"> <li>• Is the nature of the condition short term only?</li> <li>• Is there a downstairs WC and downstairs bedroom or space adaptable as a bedroom?</li> <li>• Can reasonable external access to the property be made?</li> <li>• Is it likely that the applicant's home can be made suitable with a minor adaptation? If so, how to signpost applicant to help?</li> <li>• What can be achieved in terms of adaptation or provision of additional services to the home and what these might cost?</li> </ul>



<b>Silver Band</b>	1. Applicants who have a health or well being issue, which will be removed or improved by a move as assessed by the relevant, trained CBL Officer.	Again, “does re-housing achieve a health gain?” is the key consideration.  Things that will be considered are: <ul style="list-style-type: none"> <li>• Can the applicant secure an improvement to their health or well being through re-housing?</li> <li>• If so, what form of housing (and where) will secure such an improvement</li> <li>• Could the health issue be eased or relieved by minor adaptation?</li> </ul>
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### Accommodation Panels

Some partners have specific partnership/working arrangements with corss agency bodies who typically consider the needs of groups with special needs such as:

- People with mental health needs
- People with learning disabilities
- People with physical disabilities

These arrangements may involve the agency nominating an applicant to the register. It may be that applicants such as these have a high health or well being need, the nominating body will have to provide substantial evidence outlining the level of need within the terms of the lettings policy, Emergency, Gold or Silver and why.

The receiving partner will have on a case by case basis the opportunity to intiате dialogue with the panel and be privy to all documentation surrounding the case if they feel the need appears to be over or under estimated.



## Appendix 17 Sensitive Lets

It is necessary on occasions for housing managers to allocate a property outside of the NYHC policy to facilitate the management and community cohesion of a specific property / area.

Sensitive lets relate to a property where for example;

- The previous tenant has caused significant neighbor nuisance for a variety of reasons and where it has taken considerable time to resolve the problems.
- Where there has been significant drug related nuisance or
- Where there has been significant noise nuisance within a block of flats or the immediate neighbourhood

Targeted allocation of a property could reduce such issues by ensuring the next tenant will be unlikely to cause a similar nuisance.

Where a senior officer feels that an individual property should be let outside the normal allocations policy, the property will be advertised as a Sensitive lets and the advertisement clearly annotated that the applicants will be subject to further checks.

## **Appendix 18 Senior Management Decisions**

Any decisions using management discretion should be recorded on a standard pro-forma and retained in the customer file.

Senior management decisions include direct offers, sensitive lets, mandatory and discretionary reasons for overlooking a bid.

Senior management decisions are reportable and each partner landlord will provide details to the partnership board on a quarterly basis.

## Appendix 19 Hardship Grounds

### People who Need to Move on Hardship Grounds

If an applicant indicates they need to move to a particular location within the sub region to take up an offer of employment, education or training, or to be near family or friends to give or receive support, the CBL officer will ask the applicant to provide written confirmation of their housing need.

**Note:** applicants in this category will only be given a priority if it is unreasonable to expect them to commute from their existing home e.g. there is no reliable bus route or train service and they are experiencing unreasonable financial hardship travelling to work.

Evidence of employment, education or training opportunity is required and financial information.

Applicants who need to move to another location to give or receive support must provide written confirmation of the address of family members they need to live near , their needs via another professional organisation e.g. health professional, social services. A medical assessment may be required to determine the type of property that would best suit the applicant's needs. If the assessment concludes that priority should be awarded, then appropriate banding will be awarded under the Allocations Policy.

Examples of circumstances that may result in the award of Gold Band are:

1. The applicant has an identified need for sheltered accommodation and there is no such provision in the area in which they live. Applicant would require residential care or a higher level of care package unless they are re housed.
2. The applicant needs to receive essential daily care from a relative and without re housing they would require residential care or a higher level of care package.
3. The household includes a person who needs to access specialist medical treatment on a permanent or indefinite basis and they are either unable to do so, or it is unreasonable to expect them to do so from the area in which they currently live.
4. The household includes a person who is unemployed and they have been offered permanent employment in an area where they are unable to reasonably travel to.
5. The household provides essential daily care to someone in another part of the region and they cannot deliver that care effectively from their current location and without residential care or a higher level of care package.
6. The household includes a member with a disability or learning difficulty who needs to access specialist education or training facilities and cannot do so from their present home.

Applicants would be restricted to applying for accommodation in the Local Authority area where employment / training / family member resides.

# Selby District Council

## REPORT

Reference: E/13/4

Public – Item 8



**To:** The Executive  
**Date:** 6 June 2013  
**Status:** Key Decision  
**Report Published:** 29 May 2013  
**Author:** Julia Jennison – Policy Officer  
**Executive Member:** Councillor Gillian Ivey  
**Lead Officer:** Keith Dawson – Director of Community Services

**Title:** Selby Affordable Housing Supplementary Planning Document

**Summary:** An Affordable Housing Supplementary Planning Document (AHSPD) will support policy implementation by informing negotiations on schemes to deliver a proportion of affordable housing on all market housing sites following the adoption of the Core Strategy.

**Recommendation:**

- i) **To note work to date on the production of an AHSPD and approve the draft document for consultation in June-August**

**Reasons for recommendation**

- i) To progress the statutory procedures for approval of the AHSPD in order to assist in the implementation of the Council's policies in the Core Strategy for delivery of affordable housing to meet identified need in the District. This will ensure the SPD is in place to allow the Core Strategy to be fully implemented upon adoption which is envisaged for October 2013.

## 1. Introduction and background

- 1.1 The Affordable Housing Supplementary Planning Document (AHSPD) will set out the Council's approach to delivering affordable housing in accordance with the NPPF and the Selby District Core Strategy.

- 1.2 There is a Draft Affordable Housing SPD 2010 which was subject to public consultation in 2011 but not finalised pending the outcome of the Core Strategy work. The Draft AHSPD 2010 requires reviewing and updating in the light of changes in national policy (the cancellation of Planning Policy Statement 3 (PPS3) and the publication of the NPPF in 2012) and changes to Core Strategy and must be based on the latest robust evidence.
- 1.3 The AHSPD will be developed in accordance with the Core Strategy Policy CP5 (Affordable Housing) and Policy CP6 (Rural Exceptions). It aims to assist a range of stakeholders on the Council's approach, standards and mechanisms required to deliver affordable housing which meets local needs.
- 1.4 It will support delivery of affordable housing and planning policy implementation by informing negotiations with developers and provide:
- clarity on Selby District Council's (SDC) approach for stakeholders (e.g. public, applicants, developers, Registered Provider (RP)s, landowners and valuers)
  - clear guidance to ensure a consistent approach to enquiries and negotiations
  - guidance on the definition of quality; affordable; 'balanced housing market', and 'clear benefits to the community'.
- 1.5 The report outlines the key policy issues and provides a draft document (Planning guidance to assist policy implementation) for Councillors' approval in order to progress the SPD to the necessary public consultation stage. A draft of the SPD is attached at Appendix A, which is proposed for consultation.

## **2. The Report**

### **Summary of Scope of AHSPD**

- 2.1 The emerging Core Strategy, Policy CP5 will apply to all new developments. For developments of 10 dwellings or more the Council will negotiate for on-site provision of affordable housing up to a target of 40% of the total new dwellings on-site as an integral part of market schemes. In line with national and local policy, the affordable housing should be provided on-site, and as such the SPD provides guidance on such topics as siting and design and model s106 agreements as well as detailing the information required as part of a planning application, and advice on the scope of any financial appraisal, if less than the target of 40% affordable housing contribution is proposed by applicants on viability grounds.
- 2.2 Off-site provision is only acceptable in exceptional circumstances, and the AHSPD clarifies the Council's approach.

- 2.3 For sites of fewer than 10 dwellings 'commuted sums' will be sought equivalent to up to 10% affordable units. The SPD therefore provides for example guidance on model s106 agreements and the methods used to calculate the commuted sums figure.
- 2.4 Policy CP6 provides support to Rural Exceptions Sites for both 100% affordable housing for locally identified needs as well as the potential support for cross subsidised market/affordable schemes in line with the National Planning Policy Framework (NPPF). The AHSPD provides advice on 100% affordable rural exceptions sites and provides some guidance on the Council's approach to cross-subsidised rural exception schemes in the interim period whilst further policy detail is considered regarding this new aspect in the next local plan documents.

### **Process to progress the AHSPD**

- 2.5 A scoping note was prepared in January 2013 to inform a tender process, the outcome of which was that Ove Arup & Partners (Arup) were appointed to lead this piece of work. SDC's legal team will be working with them once a draft document is approved, to develop standard Section 106 Agreements alongside.
- 2.6 Arup met with a small officer working group in March and April to discuss the current Draft AHSPD 2010, and debate possible amendments and additions to it. A further internal working group was established including Councillor Ivey and Councillor Musgrave, which has met twice to further consider and develop the draft.

### **Key issues**

- 2.7 The revised draft AHSPD has been updated to take account of the National Planning Policy Framework 2012 and emerging Selby Core Strategy, but a number of topics require further detailed consideration and will be highlighted in the consultation.

The following key issues and questions are contained within the draft document.

- 2.8 Section 7 of the draft policy provides guidance on the type, size and tenure of affordable housing to be negotiated as part of the Section 106 Agreement. The type and size of housing will be based on the latest evidence of need in the district, with the tenure split of 30-50% intermediate tenure to 50-70% social rent as evidenced in the Strategic Housing Market Assessment (SHMA) 2009. Where they are charged, any service charges should be considered in the context of overall affordability.

**Question 1: Are there any other factors/evidence that should be considered in relation to the type, size and tenure of affordable housing provided in Selby District?**

- 2.9 Design and layout requirements are that the affordable housing should be indistinguishable from the market housing on a site, and the scheme should meet the design requirements set out in the Core Strategy or any future policy. However, Registered Providers are also required to meet the latest Homes and Communities Agency Design and Quality Standards. The Core Strategy also notes that the Council is keen to encourage all new housing development to attain Lifetime Homes Standards, Code for Sustainable Homes and support the key principles of the Building for Life scheme. The government is keen to simplify the process in the future, but in the meantime –

**Question 2: Are there any other factors/evidence that should be considered in relation to the design and layout of affordable housing in Selby District?**

- 2.10 In order to create mixed and balanced communities, the affordable housing should be dispersed through the site, generally in small groups of units. The affordable units should be indistinguishable from market units on the site. On occasions however, some may need to be grouped together eg for flatted schemes.

**Question 3: Are there any other factors/evidence that should be considered in relation to the distribution of affordable housing within an overall development?**

- 2.11 In line with national policy, the Core Strategy sets out a preference for the affordable housing to be provided on site as completed units on schemes of 10 units or more. It is good practice for the Local Authority to set out Transfer Prices for the affordable units to ensure that Registered Provider partners are not bidding against each other. Transfer Prices are collated from Registered Providers working in the district, but may be presented either as a range or as an average.

**Question 4: Transfer prices have been provided by a number of Registered Providers and differ depending on providers. The transfer prices will be set out as an average per house type for social and for intermediate tenure. Do you agree with this approach? Please state your reasons.**

- 2.12 On certain sites development viability may be affected by a range or combination of factors which could not have been identified prior to purchase (e.g. genuine abnormal costs), and a reduction in the level of affordable housing provided may be considered. The applicant will need to identify these issues and submit a financial appraisal to the Council which will be referred to an expert advisor. Where development viability is proven to be affected, negotiation may take place around the numbers, type, size or tenure mix.

**Question 5: Do you agree with this approach?**



2.13 With reference to the glossary

**Question 6: Are there any other definitions that should be included in the glossary?**

2.14 In order to calculate the Transfer price of an affordable unit to a Registered Provider (ie the actual amount that the RP will pay to a developer), a market value of the units will need to be agreed. Appendix 1 of the SPD sets out that for schemes of 10 units of over, either

- an average of 3 separate estate agent valuations or
- average value of past sales for equivalent dwelling types proposed as affordable housing. Values should originate from average sales within the last 12 months within the same settlement as the application site, and should be provided for each individual dwelling type proposed.

**Question 7: Do you agree with the parameters we have included in relation to calculating affordable value?**

2.15 The Council works with RP partners to set Transfer prices for the affordable housing provided for a range of property types, and this reduces the possibility of RPs bidding against one another. These are linked to property prices in an area.

**Question 8: The information set out in Table A3.1 is based on three Registered Provider responses to questions regarding the calculation of Transfer Prices, which offered separate values for affordable rent and shared ownership, Other local authorities have demonstrated that these figures could be averaged to offer a single value for each, and this is the approach the Council will take. Do you agree with this approach?**

2.16 The proposed mechanism for calculating fixed commuted sums on smaller sites is set out in Appendix 1 at 'Proposed Options for calculating Commuted sums' section 1.

**Question 9a: Do you have any further comments on our approach to calculating commuted sums for smaller sites (1—9 dwellings)**

**Question 9b: Do you agree that commuted sums for small sites should be required for single dwellings, or for schemes of two dwellings or more?**

**Question 9c: Do you consider that 'cost to applicant' should be disparate from the size and type of units to be developed?**

**Question 9d: Do you consider that the mechanism for determining the maximum fixed commuted sum should be published alongside the fixed commuted sums?**

- 2.17 The document goes on to set out the commuted sum calculations on schemes of 10 units or more. This includes allowance for the added value of the site to be taken into account where off site provision is agreed (as the scheme would deliver fewer or no affordable units, and give the opportunity to deliver additional market units).

**Question 10: Do you have any comments on the proposed approach to calculating commuted sums on schemes of 10 units or more?**

- 2.18 Appendix 4 sets out the information required within the Financial Appraisal submitted as part of the planning application, where 40% affordable housing is not offered on site.

**Question 11: Do you agree with the proposed level of information that should be provided to inform a viability assessment? Is there any additional information that you think should be provided?**

- 2.19 Appendix 5 sets out definitions for 'Balanced Housing Market' and 'Clear Benefit to the Community'. These definitions would be used to consider whether it is appropriate for affordable housing to be provided off site.

**Question 12: Do you think there are any other factors/circumstances that should be taken into account when the Council is assessing whether a proposal might be considered to deliver a balanced housing market of clear benefits to the community? If so, how could they be evidenced?**

- 2.20 Appendix 6 sets out the information required to accompany a planning application.

**Question 13: Should the Affordable Housing Plan include any further requirements?**

- 2.21 Following approval of this draft AHSPD at Executive, consultation is planned to run from late June to early August, including a report to Policy Review on 16<sup>th</sup> July, and awareness raising to partners including developers and Registered Providers.
- 2.22 Following analysis of the responses, it is proposed to bring a report back to Executive in October; the same meeting will consider the Core Strategy.

## Timescale

2.23 The time line for the AHSPD is scheduled below.

Date	Event	Action
18 February 2013	Inception meeting	Agreement reached on work required and final timetable
6 June	Executive	Draft recommended to Council to be approved for consultation
25 June	Annual Council	Draft approved
Late June – early August		Consultation
16 July	Policy Review	As part of consultation
3 October	Executive	To consider a summary of responses received and officers recommendations
October	Council	To consider Executive recommendations and adopt SPD

### 3. Legal/Financial Controls and other Policy matters

#### 3.1 Legal Issues

The report has been prepared to set out the Council's approach to negotiations for affordable housing.

#### 3.2 Financial Issues

All costs associated with the production of the Affordable Housing SPD can be met from current budgets.

Once the SPD is adopted, it will be transparent to developers the formula used to ensure there is a balance between viability and the need to support affordable housing provision throughout the district, upfront expression on the Council's expectations will be set out, enabling the planning process to be streamlined. The cost of the viability assessments lies with developer/applicant.

The SPD also proposes the collection of commuted sums in lieu of on-site contributions on smaller sites (and potentially in cases of

commuted sums on larger developments) and that these monies could be used for the provision of more affordable housing across the District. Consideration will need to be made of the mechanisms for this to be effected in a way which meets the requirements of each S106, and allows the Council to meet its own aims and objectives for the district.

#### **4. Conclusion**

The AHSPD will form the basis for successful negotiation to maximise affordable housing provision within the scope of the Council's policy set out in the Core Strategy.

#### **5. Background Documents**

Draft Affordable Housing SPD 2010  
Selby District Submission Draft Core Strategy

#### **Contact Details**

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#### **Appendices:**

Appendix A – Affordable Housing Supplementary Planning Document 2013 for Consultation

**Selby District Council  
Affordable Housing Supplementary Planning Document 2013  
for Consultation**

**Draft Selby Affordable Housing SPD, 2013**

**Section 1: Introduction**

The Council believes that everyone should have the opportunity of a decent home which they can afford in a community in which they want to work or live. Selby District Council is committed to providing high quality affordable housing for people who cannot access or afford market housing in the District.

Housing affordability is one of the biggest challenges facing the District. House prices are higher than national and regional averages, and almost tripled over the period 1996 to 2011<sup>1</sup> from £66,362 in 1996 to £182,442 in 2011.

Affordability ratios (house price to earnings) are also significantly higher than the 'Affordable Definition' of 3.5 (an affordable mortgage being three and a half times annual income)<sup>2</sup> particularly in the northern part of the District. In 2011 the affordability ratio for Selby District was 6.02<sup>3</sup>. This means that house prices are 6 times the annual income for Selby District.

The latest Strategic Housing Market Assessment (2009) highlights the extent of the need for affordable housing in the District. However, not only do we need more affordable housing, it needs to be the right kind of housing in the right locations.

**Section 2: Purpose and Status of this Supplementary Planning Document**

Supplementary Planning Documents (SPD's) were introduced by the Planning and Compulsory Purchase Act 2004, amended by the Localism Act 2011.

The purpose of this SPD is to set out the Council's approach to delivering affordable housing in accordance with the Local Plan and national policy. It includes the range of approaches, standards and mechanisms required to deliver affordable housing which meets local needs and contributes towards attaining mixed sustainable communities and a balanced housing market.

It provides a clear and consistent approach to assist development management officers, the Planning Committee, landowners, developers, applicants, Registered Providers, Parish and Town Council and members of the public in understanding the requirements for the provision of affordable housing on all residential developments sites in the District.

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<sup>1</sup> DCLG Live Table 585 Housing market: mean house prices based on Land Registry data, by district, from 1996 - 2011

<sup>2</sup> DCLG (2007) Strategic Housing Market Assessment- Practice Guidance (Version 2)

<sup>3</sup> DCLG Live Table 576 Ratio of lower quartile house price to lower quartile earnings by district, from 1997 - 2011

Following the guidance contained in this SPD and discussing proposals with the Council will ensure that affordable housing requirements are taken into account at site acquisition and scheme design stages and that applications are validated expediently, and the need to request additional information, which may delay progress, is minimised.

As set out in Policy LP1 of the Selby District Core Strategy, when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework (NPPF). It will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible.

A key element of this proactive approach is the provision of this SPD to guide applicants. In addition it is expected that applicants ensure that sufficient information is provided with applications and as such the Council requires that relevant planning applications are accompanied by an 'Affordable Housing Plan' containing appropriate information and this SPD provides a guide to the content of such a plan.

Planning applications that accord with the policies in the Local Plan and implementation guidance included in this SPD will be approved without delay, unless material considerations indicate otherwise.

### **Section 3: National Planning Policy**

The National Planning Policy Framework (NPPF) was issued in March 2012. This provides the national planning policy guidance for the preparation of Local Plans and provision of affordable housing. The affordable housing policies contained within the Selby Core Strategy (CP5 and CP6) align with the NPPF guidance on affordable housing.

The NPPF Glossary definition of SPDs states that '*they can be used to provide further guidance for development on specific sites, or on particular issues, such as design*'. The NPPF also states that SPDs are capable of being a material consideration in planning decisions, but are not part of the development plan.

Paragraph 204 sets out the National Policy on planning obligations. This paragraph is relevant as planning obligations are a mechanism for delivering affordable housing. Paragraph 204 states that '*planning obligations should only be sought where they meet all of the following tests:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development*'.

The affordable housing policies included in the Selby Core Strategy are consistent with guidance set out in the National Planning Policy Framework.

## **Section 4: Affordable Housing**

### **Affordable Housing Definition**

The Council's definition of affordable housing is set out in the Core Strategy (para 5.80), and is in accordance with the definition in national guidance. The current national guidance definition is contained within National Planning Policy Framework and provided in the Glossary of the NPPF, the Core Strategy and this SPD as follows:

'Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable Rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes.'

### **Rural Exception Sites Definition**

A Rural Exception Site is a site where planning permission will only be granted for small scale rural affordable housing, as an exception to normal planning policy. Rural Exception Sites must be in scale and keeping with the settlement they are within or adjoining, and its setting. The NPPF (and the Council's) definition of Rural Exception Sites is:

'Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural Exception Sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding (NPPF, Glossary).'

Core Strategy Policy CP6 provides the criteria that must be met for a site to be considered a Rural Exception Site. Local need has to be evidenced by the results of a

local (parish) housing needs survey, and the proposed scheme must demonstrate that it meets the evidenced local needs, as well as being in line with the Selby evidence base (set out in Section 6: Evidence).

The Rural Housing Enabler is a resource available to Selby District Council, to work with landowners, local communities and Registered Providers to enable rural affordable housing schemes. Landowners that wish to develop their land as a rural exception site should seek the advice of the Rural Housing Enabler.

Specific allocations of rural exception sites within and adjoining Development Limits in Secondary Villages and Designated Service Villages will be considered through the forthcoming site and policies local plan.

The Selby District Council policy on allowing a small number of market units on rural exception sites is set out in Policy CP6 of the Core Strategy (see section 5 below). Further detailed policies and proposals will be considered as part of the sites and policies plan. In the interim, the Council's approach on mixed market / affordable housing rural exception sites is set out in Section 7 of this SPD (in line with the NPPF and Core Strategy).

## **Section 5: Local Planning Context**

### **Selby District Core Strategy**

#### Overview

The Council is awaiting the Inspector's Report following the completion of the Examination in Public of the Core Strategy. The Inspector's Report is expected in June/July 2013. The Core Strategy includes two policies on affordable housing provision.

#### Affordable Housing Policy

The two main aims of the Core Strategy affordable housing policy are:

- To establish the overall target for the provision of affordable housing in the District in accordance with national guidance on the definition and provision of affordable housing; and
- To set the broad framework within which developer contributions towards meeting affordable housing need will be sought in association with normal market housing.

The Affordable Housing Policy in the Core Strategy sets a requirement for up to 40% affordable housing on housing schemes of 10 units or above. The exact wording is set out below:



### Policy CP5 Affordable Housing

A. The Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery.

B. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more.

Commuted sums will not normally be accepted on these sites unless there are clear benefits to the community/or delivering a balanced housing market by re-locating all or part of the affordable housing contribution.

C. On sites below the threshold, a commuted sum will be sought to provide affordable housing within the District. The target contribution will be equivalent to the provision of up to 10% affordable units.

D. The tenure split and the type of housing being sought will be based on the Council's latest evidence on local need.

E. An appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing. In the case of larger schemes, the affordable housing provision will be reviewed prior to the commencement of each phase.

The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development. Further guidance will be provided through an Affordable Housing SPD.

The requirement for an affordable housing contribution also applies to refurbishment and conversions where additional units are added to the housing stock. For example, if a house was converted to provide 3 flats, contributions would apply to the additional 2 units. However, it does not apply to new agricultural workers dwellings.

### Rural Housing Exceptions Sites

The Core Strategy also includes a policy on Rural Housing Exceptions Sites. This enables small sites to be developed specifically for affordable housing in small rural communities. The policy is set out below:

### Policy CP6 Rural Housing Exceptions Sites

In the Designated Service Villages and the Secondary Villages, planning permission will be granted for small scale 'rural affordable housing' as an exception to normal planning policy provided all of the following criteria are met:

i) The site is within or adjoining Development Limits in the case of Secondary Villages, and adjoining development limits in the case of Designated Service Villages;

ii) A local need has been identified by a local housing needs survey, the nature of which is met by the proposed development; and

iii) The development is sympathetic to the form and character and landscape setting of the village and in accordance with normal development management criteria.

An appropriate agreement will be secured, at the time of the granting of planning permission to secure the long-term future of the affordable housing in perpetuity.

Small numbers of market homes may be allowed on Rural Exception sites at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding in accordance with the NPPF. Future Local Plan documents will consider introducing a detailed policy and / or specific allocations for such sites.

### Future Local Plan Documents

The sites and policies local plan will consider further detailed policies and the allocation of Rural Exceptions Sites in line with the Core Strategy and definition set out in NPPF. Any rural exception allocations would be in Designated Service Villages or Secondary Villages as per Core Strategy Policy CP6. Any allocations will consider the national requirements set out in the NPPF.

### **Section 6: Evidence**

The latest housing evidence base can be found on the Selby District Council website. The Strategic Housing Market Assessment and any other relevant evidence base documents should be consulted for information on the latest housing need.

### **Section 7: Detailed Affordable Housing Requirements: Type, Size and Tenure**

This section provides applicants with guidance on the provision of affordable housing. Applicants are recommended to view the Selby District Council website to access the most up to date contribution guidance and appendices to this SPD, as the financial information and other data is subject to change.

### **Site Size and Suitability**

In accordance with the Core Strategy, Policy CP5, the Council will seek to negotiate up to a maximum of 40% affordable housing on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3ha) or more.

For example for a planning application of 150 new dwellings, the Council will negotiate on-site affordable housing of a maximum of 60 affordable units.

On sites below the threshold of 10 dwellings (or sites of less than 0.3ha) a commuted sum will be sought to provide affordable housing within the District. The contribution sought will be equivalent to the provision of up to 10% affordable units. For example, a 9 unit scheme would pay the cost of 0.9 of an affordable unit.

A commuted sum will be sought for planning applications for between one and nine residential units. For details on the how it is proposed to calculate the commuted sum for schemes between one unit and nine units, please see Appendix 1.

### **Type, Size and Tenure**

The exact type, size and tenure of affordable housing should be based on an assessment of need in the District. This should be based on the Council's latest evidence, which may include information from the most up to date Strategic Housing Market Assessment (SHMA), current information from the Selby District / North Yorkshire Housing Register, and evidence of existing affordable housing provision in the locality, including the Census 2011.

The starting point for negotiation on the type, size and tenure of affordable housing will be based on the current evidence base (SHMA 2009), until superseded by agreed new evidence. The current evidence base indicates the following approach:

- A tenure split of 30 – 50% intermediate tenure (shared ownership, discounted sale and fixed equity products and intermediate rented options) and 50 – 70% social rent; and
- A focus on 2-3 bed family housing to meet a range of need in flexible housing solutions in the longer term.

On developments where the affordable housing provision is subject to a service charge, most likely relating to shared communal areas, the charge should not be so great as to make occupancy unaffordable. The preferred approach by Registered Providers is to have limited shared areas within new developments, therefore resulting in no requirement for service charges to be payable. The Council will consider the levels of service charges in the context of prices, rents and overall affordability in relation to the findings of the latest SHMA.

**Question 1: Are there any other factors / evidence that should be considered in relation to the type, size and tenure of affordable housing provided in Selby District?**

### **Design and Layout**

The Council expects affordable housing to be built to the same high standard of design and amenity as market housing. Affordable housing units within new residential developments should be of a similar size and quality to the open market housing and should be visually indistinguishable.

Any proposed affordable units are required to meet the latest Homes and Community Agency Design and Quality Standards (as this is a requirement for Registered Providers).

Applicants should meet the design requirements set out in the Core Strategy (Policies CP12, CP13 and CP16), and any other future Selby District Council Development Management policies and guidance relating to design. Applicants should work with Registered Providers early to ensure that design standards meet their requirements.

Core Strategy Policy CP16 states that *'developments schemes should seek to reflect the principles of nationally recognised design benchmarks to ensure that the best quality of design is achieved'*. The Core Strategy notes the Council is keen to encourage all new housing developments to attain Lifetime Homes standards and meet the Code for Sustainable Homes as well as supporting the key principles of the Building for Life scheme.

**Question 2: Are there any other factors / evidence that should be considered in relation to the design and layout of affordable housing provided in Selby District?**

### **Distribution of Affordable Housing**

In order to create mixed and balanced communities, affordable housing should be dispersed through the application site, which depending on the scale of the scheme, may mean in small groups of units. There may be circumstances where Registered Providers (RPs) have management reasons for seeking a proportion of the affordable housing to be sited together e.g. flatted schemes, but this should not prevent the remainder of the provision being distributed across the development.

**Question 3: Are there any other factors / evidence that should be considered in relation to the distribution of affordable housing within an overall development scheme?**

### **Registered Providers**

In order to ensure the long term retention and management, perpetuity and availability of the Affordable Housing the Council's preferred model is that applicants work in partnership with Registered Providers.

The Council recommends that applicants put forward proposals with a partner Registered Provider in order that they can be involved in the negotiation at the earliest possible stage and preferably be party to the Section 106 Agreement which will be required (see below).

A list of Registered Providers (RP) currently operating in the Selby District is provided Appendix 2 and on the Selby District Council website, in order to assist applicants. The list is not restricted and applicants may work with a Registered Provider that is not included in Appendix 2 if they wish, but this should be agreed in advance with Selby District Council. However, the affordable units must be able to be allocated through the Council's allocation scheme (North Yorkshire HomeChoice, or future arrangement).

The Council's preferred approach as set out in Core Strategy Policy CP5 is that the applicant builds and transfers the completed units to an RP at the transfer price (see section 8) for that particular dwelling. In some circumstances the applicant may transfer serviced land to the RP to enable the building of each affordable unit. The key to any solution is that the Council is satisfied that the scheme will be delivered and retained in perpetuity.

## **Local Connection**

The Core Strategy does not require a local connection except on Rural Exception Sites, but Selby District Council is part of North Yorkshire sub-regional Choice Based Lettings Partnership. This sets an agreed North Yorkshire wide approach for partner Councils and Registered Providers to selecting new tenants for their properties. ADD LINK

Rural Exception Sites by their nature will require a local (parish) connection for applicants in the first instance, prior to the property being allocated on a cascade eg with adjacent parishes in Selby district next, and the wider district and North Yorkshire partnership area last. Details will be set out in the individual Section 106 Legal Agreement (see below).

## **Section 106 Legal Agreement**

Any affordable housing contribution will be secured through a planning condition and planning obligation under Section 106 of the Town and Country Planning Act 1990. Selby District Council Standard S106 Agreements for sites of 10 units and above and sites under 10 units have been included in Appendix 3 of the SPD. A draft Section 106 Agreement, based on this model must be submitted with the planning application.

## **Small Number of Market Dwellings on Rural Exception Sites**

In line with the National Planning Policy Framework and Selby Core Strategy Policy CP6, the Council may also consider rural exception sites that have a cross-subsidy from a small number of open market sales on the same site.

In considering such schemes the applicant would need to demonstrate to the Council's satisfaction that the open market element is essential to the delivery of the affordable housing development or would allow a wider identified need to be met as part of a mixed development. This would need to be confirmed through dialogue with the Council's Rural Housing Enabler, with consideration of whether the scheme would meet local needs demonstrated through a local (parish) needs survey. The forthcoming sites and policies local plan will consider the allocation of Rural Exception Sites and the need for further detailed policy.

## **Section 8: Transfer Prices**

The NPPF and Core Strategy Policy CP 5 sets out a clear preference for affordable housing to be provided as completed units on site, for schemes of 10 dwellings (or 0.3ha) or more.

Selby District Council work closely with Registered Providers to set transfer prices by property type, size and tenure. The transfer prices will be updated annually and can be found on the Selby District Council website at:

*[include link – when available]*

The transfer prices at the date of publication of this SPD (2013) are included in Appendix 1.

**Question 4: Transfer prices have been provided by a number of Registered Providers and differ depending on providers. The transfer prices will be set out as an average per house type for social and for intermediate tenure. Do you agree with this approach? Please state your reasons.**

### **Section 9: Development Viability**

The Council expects that applicants have considered the overall cost of development, including the required planning obligations and any abnormal costs, prior to negotiating the purchase of land or the acquisition or sale of an option.

On certain sites, development viability may be affected by a range or combination of factors not identified prior to purchase, such as high abnormal costs and/or competing or existing land values. Where it can be demonstrated that schemes would incur high abnormal costs, or where development viability is affected by other factors, a reduction in the level of affordable housing may be considered.

Abnormal costs can broadly be described as site conditions which a competent purchaser, having undertaken the necessary investigation, could not have reasonably foreseen prior to the acquisition of a site.

Where development viability is considered to be affected, the applicant should identify these issues and associated costs and submit a financial appraisal to the Council at the earliest opportunity, and at the latest as part of any submitted planning application. The Appraisal should cover all of the costs and expected receipts arising from the development to provide a net residual valuation.

The Council will refer the submitted appraisal to the viability expert advisor and will require an open and co-operative approach between the applicant, the Council and the Valuer. The cost of this will be reimbursed by the applicant. Further guidance on Financial Appraisals is set out in Appendix 4 of this SPD.

Where the Council accept development viability is proven to be affected to a critical point by the provision of affordable housing or a commuted sum, a negotiated reduction may be agreed either to the overall numbers or changes to the type, size and tenure mix, or the commuted sum.

## **Question 5: Do you agree with this approach?**

### **Section 10: Commuted Sums**

#### Residential schemes of less than 10 dwellings

The Core Strategy Affordable Housing Policy CP5 requires all developments to contribute in some way towards meeting housing need, wherever the viability of the development allows.

For schemes providing less than 10 dwellings Core Strategy Policy CP5 requires a commuted sum. The target contribution is equivalent of up to 10% affordable units. The commuted sum calculation for schemes of less than 10 dwellings is included in Appendix 1 of this SPD and the mechanism for payment will be secured through the Section 106 Agreement based on the Standard S106 Agreements in Appendix 3.

#### Residential schemes of 10 dwellings or more

For schemes providing 10 or more dwellings, Core Strategy Policy CP5 clearly states that Selby District Council's preference is for those units to be provided on site, in line with national policy. The relocation of all or some of the affordable housing provision, or commuted sums will not normally be accepted.

The Council will only accept a case for the affordable housing to be provided off-site in exceptional circumstances and if an applicant can demonstrate that the provision of a commuted sum rather than on-site provision will result in clear benefits to the community/or delivering a balanced housing market.

Core Strategy Policy CP5 makes provision for applicants to provide a commuted sum only in exceptional circumstances. Applicants must make a case to the Council regarding the provision of a commuted sum of some or all off-site provision or a commuted sum, as a better alternative to on site provision. A key factor will be that off-site provision is not merely an alternative, but provides a better solution, a clear benefit or betterment than provision of on-site built units would deliver.

Selby District Council plan to update their Strategic Housing Market Assessment (SHMA) in 2013/2014. The new SHMA will seek to provide a detailed definition of what constitutes a balanced housing market. In the interim; for the purposes of implementing Core Strategy Policy CP5 and to provide applicants with guidance, Appendix 5 sets out some examples of the factors which might be considered to deliver clear benefits to the community and support the delivery of a balanced housing market. However, existing evidence in the 2009 SHMA considers the whole District to be a single housing market area and as such the contribution of schemes anywhere in the District will help meet the District wide affordable housing requirements and will deliver a balanced housing market. The Council does not accept that there are settlement based or sub-area based local housing markets which need balancing within themselves or against each other. The requirement for affordable housing is District wide and provision to meet that need is appropriate District-wide.

A financial contribution will only be acceptable in-lieu of on-site provision if both the applicant and the Council agree that this is the preferred approach e.g. where the management of the affordable housing on site cannot be effectively secured. The commuted sum calculation can be found in Appendix 1 of this SPD and the mechanism for payment will be secured through the section 106 agreement.

### Pooling of Commuted Sums

Contributions received in lieu of affordable housing on site will be held in a fund and used to meet the provision of affordable housing in the District.

### **Section 11: Planning Procedures**

An example of the Selby District Council S106 Standard S106 Agreements for Affordable Housing provision for schemes of 10 dwellings or more and schemes of less than 10 dwellings can be found in Appendix 3.

Applicants are advised to reflect the Council's affordable housing requirements at the earliest opportunity within the site development process. This should be prior to the land acquisition stage and prior to the submission of a planning application. All relevant planning applications must be accompanied by an Affordable Housing Plan, which sets out the affordable housing proposals and any financial viability appraisal information if necessary. The Council will not validate a planning application where there is a requirement to provide an element of affordable housing, unless the application is supported by an Affordable Housing Plan (AHP). The definition of the AHP is included in the Glossary and Appendix 6 provides more information on the expected content of the AHP.

All applications which include affordable housing will only be validated if they are also accompanied by a draft of the Section 106 Agreement (see Appendix 3) and for sites delivering 10 dwellings or more, a financial appraisal if the target affordable housing requirement cannot be achieved (see Appendix 4).



## **Glossary**

**Supplementary Planning Documents:** Documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary Planning Documents are capable of being a material consideration in planning decisions but are not part of the development plan.

**Rural Exception Sites:** Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current or former residents or those who have an existing family or employment connection. Small numbers of market homes may be allowed as part of a scheme at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

**Local Housing Needs Survey:** a local (parish) housing needs survey will need to accompany a planning application for a Rural Exception Site. The survey will need to set out the identified local needs and how the proposed development will meet these identified needs. This will normally be carried out in partnership with the Rural Housing Enabler and relevant Parish Council.

**Affordable Housing Plan:** An Affordable Housing Plan will need to accompany any planning application that requires the provision of affordable housing. It may simply set out that the Applicant is providing 40% affordable housing and provide details of the mix and tenure provided, as well as the nominated Registered Provider. The Council's preferred approach is for applicants to provide the target level of affordable housing on site. However if the applicant has discussed their case with the Council and believe they have a case for considering providing affordable housing below the target level of 40% or either partial off-site, off-site or through a commuted sum, then the justification (based on the criteria set out in Appendix 6) should be set out in this Plan.

**Affordable Housing:** The Council use the national policy definition. Currently this is provided in NPPF (2012) as follows: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable Rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable

Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.’

**Question 6: Are there any other definitions that should be included in the glossary?**

## **Appendix 1**

### **Market Value, Transfer Prices and Commuted Sums**

The NPPF and Core Strategy Policy CP5, set out a clear preference for the delivery of affordable housing on site. CP5 states that ‘commuted sums will not normally be accepted on these sites unless there are clear benefits to the community / or delivering a balanced housing market by relocating all or part of the affordable housing contribution’.

Only in those exceptional circumstances, where clear benefits to the community/ or delivering a balanced housing market can be demonstrated, will a commuted sum in lieu of on-site affordable housing be considered.

The following sets out the methodology which would be used to calculate the commuted sums in those exceptional circumstances.

#### **a) Determining the Market Value Methodology**

Transfer Prices and Commuted Sum provisions require a market value to be determined, except for schemes of 1-9 units where the SPD sets out a fixed sum. It will be the responsibility of the applicant to provide a market value which the Council will be required to validate.

#### **Market Value for schemes of 10 dwellings or more**

For schemes of 10 dwellings or over, applicants will be required to demonstrate the market value of the types of housing equivalent to the types proposed as affordable housing.

Valuation for schemes of 10 or more dwellings may be achieved by:

- Three separate estate agent valuations; or
- Average value of past sales for equivalent dwelling types proposed as affordable housing. Values should originate from average sales within the last 12 months within the same settlement as the application site, and should be provided for each individual dwelling type proposed.

*[To allow for the Council to validate market values presented by applicants, it may be prudent to benchmark the values offered against the Land Registry quarterly average house prices by housing type. This data is available for each postcode sector within the Selby District and would require a yearly update to be carried out.]*

**Question 7: Do you agree with the parameters we have included in relation to calculating market value?**

## **b) Establishing Transfer prices – Methodology**

The Council works with Registered Providers to set transfer prices for a range of property types. Transfer prices are the amount of money that an RP pays to the developer to buy the affordable unit which will be built. Transfer prices vary by property type and size and also relate to the final tenure type to be provided. Transfer prices offered by Registered Providers are founded on an individual, Selby District basis; however they are linked to house prices and incomes in a given area.

### *Properties for rent*

RP's provide information on prices that could be paid based on the project rental income and borrowing limits.

### *Intermediate properties*

A District average of 50% of market values calculated based on an affordable mortgage being 3.5 times an annual salary.

**Table A3.1: Transfer Prices**

<b>Unit Type</b>	<b>Size Sq M</b>	<b>Price to Applicant – Affordable Rent</b>	<b>Price to develop – Shared Ownership</b>
1 bed flat	50	£23,000/ £40,000	£36,000 / £40,500/ £44,539 <sup>4</sup>
2 bed flat	65	£33,000/ £52,000	£46,000 / £50,800/ £44, 539
2 bed house	75	£56,000 / £56,400/ £56,250	£53,000 / £52,800/ £65,978 <sup>5</sup>
3 bed house	85	£73,000 / £68,500/ £63,750	£65,000 / £62,200/ £65,978
4 bed house	100	£82,000 / £76,900/ £75,000	£74,000 / £72,000/ £65,978

*[Note: table in figure based on three RSL responses]*

For all schemes, these values provide an indicative benchmark for transfer prices. Registered Providers have the flexibility to offer slight increases in transfer prices on a scheme by scheme basis.

**Question 8: The information set out in Table A3.1 is based on three Registered Providers responses to questions regarding the calculation of Transfer Prices, which offered separate values for affordable rent and shared ownership. Other local authorities have demonstrated that these figures could be averaged to offer a single value for each, and this is the approach the Council will take. Do you agree with this approach?**

<sup>4</sup> 1 Bed and 2 Bed Flats Shared Ownership prices to developer are based on 50% of Market Value of the 2013 Zoopla Z-Index for flats

<sup>5</sup> 2 Bed House and 3 Bed House Shared Ownership prices to developer are based on 50% of Market Value of 2013 Zoopla Z-Index for detached houses

## **Proposed Options for Calculating Commuted Sums**

A number of options for calculating Commuted Sums have been developed, based on the size of the proposed scheme. These are set out as follows:

- 1) Approach for Small Sites (for schemes of 2 to 9 dwellings);
- 2) Approach for Larger Site (for schemes of 10 dwellings or more). This requires the implementation of a mechanism to make on-site provision more attractive than providing a commuted sum by capturing the market gain achieved.

### **1) Approach for Small Sites (Schemes of 1 to 9 units) Commuted Sum Calculation**

Fixed commuted sums will be required for small sites of 1 to 9 units.

The commuted sum required is based on transfer prices and a market value specific to 2013. The values used are detailed below in Table A3.2. Applications for a single dwelling will be required to contribute only a nominal commuted sum. The calculation of a contribution of 10% affordable housing on a single dwelling results in a potential maximum payment of £9,225, but the Council propose a reduced sum of 5,000. This is because the Council, whilst seeking to ensure the provision of affordable housing also wish to reduce any additional burdens on individual developments of just one dwelling in order to support such developments which address the needs of different groups in the community such as but not limited to, people wishing to build their own homes.

The following table represents the total fixed commuted sums payable to Selby District Council for each scheme size from 1-9 dwellings.

Table A3.2: Maximum Commuted Sum for Schemes below 10 units

<b>Scheme Size</b>	<b>Required contribution</b>	<b>Cost to applicant for scheme</b>
1 unit	nominal	£5,000
2 units	0.2	£18,450
3 units	0.3	£27,675
4 units	0.4	£36,900
5 units	0.5	£46,125
6 units	0.6	£55,350
7 units	0.7	£64,575
8 units	0.8	£73,800
9 units	0.9	£83,025

*The values used are based on 2013- specific transfer prices of £70,750<sup>6</sup> and market value of £163,000<sup>7</sup>. The following calculation has been used for schemes of 2-9 dwellings (A-B) x10% proportion of total dwellings  
A is the market value of a dwelling (or sq m)  
B is the transfer value of a dwelling (or sq m) to RP*

<sup>6</sup> Based on Zed-Index for Selby. The Zed- Index is the average property value in a given area based on current Zoopla Estimates.

<sup>7</sup> Based on two Selby District Registered Social Landlord responses for an average affordable rent 3 bedroom dwelling

**Question 9a: Do you have any further comments on our approach to commuted sums for smaller sites (1 to 9 dwellings)?**

**Question 9b: Do you agree that commuted sums for small sites should be required for single dwellings, or for schemes of two dwellings or more?**

**Question 9c: Do you consider that ‘cost to applicant’ should be disparate from the size and type of units to be developed?**

**Question 9d: Do you consider that the mechanism for determining the maximum fixed-commuted sum should be published alongside the fixed commuted sums?**

## **2) Approach to Larger Sites (10 dwellings or more) Commuted Sum Calculation**

For schemes of 10 dwellings or more, where the Applicant has demonstrated to the Council that there are clear community benefits to provide some units on site and some as a commuted sum, the following calculation will be used.

The following calculation captures the market gain achieved from the provision of fewer affordable dwellings on any given site.

### **Part 1: Calculate On-site/ Commuted Sum contribution as percentage**

Proposed on-site provision  $\div$  100 = X

Proposed off-site provision  $\div$  100 = Y

Note: X + Y = 0.4

### **Part 2: Calculate On- Site/ Commuted Sum contribution as actual number of Total Dwellings**

(C  $\times$  D) = R

(X  $\times$  D) = S

(Y  $\times$  D) = O

### **Part 3: Calculate market housing gain**

D – S = U

U – (D – R) = Additional Market Dwellings on-site

(C  $\times$  Additional Market Dwellings on-site) = Additional Commuted Sum

Additional Commuted Sum + O = F

### **Part 4: Calculate Affordable Housing Commuted Sum Contribution**

(A – B)  $\times$  (F)

A is the market value of a dwelling

B is the transfer value of the dwelling

C is the total affordable housing percentage ( Policy CP5: 40%)

D is the total number of dwellings

X is the proposed on-site contribution (as percentage of total dwellings)

Y is the proposed commuted contribution (as percentage of total dwellings)

R is the required number of affordable houses (of total dwellings)

S is the actual number of dwellings from proposed on-site contribution

O is the actual number of dwellings from proposed commuted sum contribution

U is the total number of market houses on site

F is the final commuted provision

*Example 3, where the calculation is based on:*

- Market value of a dwelling is £163, 000<sup>8</sup>

<sup>8</sup> Based on Zed-Index for Selby. The Zed- Index is the average property value in a given are based on current Zoopla Estimates.

- Transfer value of a dwelling is £70,750<sup>9</sup>
- The Council's requirement for affordable housing is 40% or 0.4.
- The planning application includes 150 new residential units.
- The proposed on-site contribution is 0
- The proposed commuted sum contribution is 60 dwellings.

**Part 1: Calculate On-site/ Commuted Sum contribution as percentage of Total Dwellings**

$$0 \div 100 = 0$$

$$40 \div 100 = 0.4$$

**Part 2 : Calculate On- Site/ Commuted Sum contribution as actual number of Total Dwellings**

$$(0.4 \times 150) = 60$$

$$(0 \times 150) = 0$$

$$(0.40 \times 150) = 60$$

**Part 3: Calculate market housing gain from off-site provision proposal**

$$150 - 0 = 150$$

$$150 - (150 - 60) = 60$$

$$(0.4 \times 60) = 24$$

$$60 + 24 = 84$$

**Part 4: Calculate Affordable Housing Commuted Sum Contribution**

$$(163,000 - 70,750) \times (84) = £7,749,000$$

The commuted sum calculation will result in the following maximum payments in relation to affordable housing. The table below is based on a transfer price of £70,750 and a Market Value of £163,000. It does not factor in a range of housing units and has been used to provide an indication of the required level of commuted sums and to explain the calculation

**Table A3.3: Maximum Commuted Sums for schemes of 10 units or above, using market gain capture approach**

Scheme Size	Number of Units Required – as part of Commuted Sum Calculation	Cost to developer (Market Gain Capture)
50 units	28	£2,583,000
100 units	56	£5,166,000
200 units	112	£10,332,000
400 units	224	£20,664,000
1000 units	560	£51,660,000

**Question 10: Do you have any comments on the proposed approach to calculating commuted sum on schemes of 10 units or more?**

<sup>9</sup> Based on two Selby District Registered Social Landlord responses for an average affordable rent 3 bedroom dwelling

**Appendix 2 – List Registered Providers currently operating in the Selby District**

<p><b>Broadacres Housing Association</b> Broadacres House Mount View Standard Way Northallerton DL6 2YD</p>	<p><b>Jephson Housing Association</b> Jephson House Lowfields Business Park Old Point Way Elland HX5 9DE</p>
<p><b>Home</b> Knight House 2 Sandbeck Court Wetherby LS22 7BA</p>	<p><b>Chevin Housing Group</b> Harrison St Wakefield WF1 1PS</p>
<p><b>Yorkshire Housing</b> 6 Innovation Close Heslington York YO10 5ZF</p>	<p><b>Hanover</b> (Elderly persons accommodation) The Wave 1 View Croft Road ShIPLEY BD17 7DU</p>
<p><b>York Housing Association</b> 2 Alpha Court, Monks Cross Drive, Huntington, York, Y032 9WN</p>	<p><b>The Guinness Partnership Ltd</b> Guinness Northern Counties 1 Tudor Court Tue Greenway Thorntree Middlesborough TS3 9PZ</p>
<p><b>South Yorkshire Housing Association</b> 43-47 Wellington Street Sheffield S1 4HF</p>	<p><b>Connect Housing</b> 205 Roundhay Road Harehills Leeds LS8 4HS</p>

**Appendix 3**

**Standard S106 Agreements for Section 106 Agreements**

*[To be developed with SDC Legal Team]*

*To be added for consultation*



## **Appendix 4 - Financial Appraisals**

To justify the provision of less than the target for affordable housing, the Council requires a Financial Appraisal to be submitted with the planning application. The information contained in the Appraisal will only be made available to the Planning Officer and the viability expert advisor. It will not be placed on the public file nor made available to any third party.

The information to be supplied should include the value of the completed development proposed by this application, and all costs incurred or expected to be incurred in order to achieve this value. The information should ideally include the following as a minimum guide, but may also cover other items specific to the proposed development.

### Value

- Gross internal area of units excluding garages and conservatories. Habitable roof-space should be listed separately. For industrial buildings, supply gross internal area; for any shops or offices, net internal area.
- The value used per unit of area. Alternatively, valuations of the completed buildings.
- The cost of sales or lettings, broken down into marketing/estate agents' fees and legal fees.
- Affordable housing should be shown at the value to be paid by a Housing Association/Registered Provider as published on the Selby District Council website (and shown in Appendix 3 of this SPD).
- The physical state and use of the site, which are authorised and require no consent to continue.

It may be useful to show more than one scenario.

### Costs

- Build costs. Give the gross external area multiplied by the unit cost per square metre or square foot. State whether this is a tendered sum or an estimate.
- Preliminaries allowed for. State what is included.
- External works where applicable. Broken down, e.g. X ms of road @ £Y per m. Include boundary treatment, landscaping, demolition and site preparation costs as appropriate.
- Standard Planning Costs – Planning and Building Regulation fees, commuted sums.
- Professional fees – Architects, QS, CDM supervisor etc.

- Contingency allowance.
- Cost of finance. Indicate the period and interest rate.
- Community Benefits. If the scheme includes any exceptional benefits such as the restoration of a listed building or the provision of public open space above what is required, please state the cost of providing this.
- Abnormal costs if any, found since acquisition of site. What are these (e.g. contaminated land remediation) and when you became aware that there were potentially abnormal costs and what the costs are anticipated to be?
- Developers Profit – the amount or percentage included.
- Acquisition price as appropriate

Any other relevant items should be clearly defined and costed.

**Question 11: Do you agree with the proposed level of information that should be provided to inform a viability assessment? Is there any additional information that you think should be provided?**

### **Appendix 5: Exceptional Off-site provision**

This Appendix provides a broad review of the criteria which the Council would take into account when considering whether there is justification for all or part off-site provision of affordable housing or a commuted sum calculation. As set out in Core Strategy Policy CP5, Selby District Council's clear preference is for the delivery of affordable housing on site in accordance with the NPPF. It states that 'commuted sums will not normally be accepted on these sites [ten dwellings or more] unless there are clear benefits to the community / or delivering a balanced housing market by relocating all or part of the affordable housing contribution'.

#### Defining a Balanced Housing Market and Clear Benefit to the Community

##### a) Justification of a proposal delivering a Balanced Housing Market

Selby District Council plan to update their Strategic Housing Market Assessment (SHMA) in 2013/ 2014. The new SHMA will seek to provide a detailed definition of what constitutes a balanced housing market.

However, existing evidence in the 2009 SHMA considers the whole District performs as a single housing market area and as such the contribution of schemes anywhere in the District will help meet the District-wide affordable housing requirement and will deliver a balanced housing market. The Council does not accept that there are either settlement based or sub area based local housing markets which need balancing within themselves or against each other. The requirement for affordable housing is District wide and provision to meet that need is appropriate District wide.

In the interim; for the purposes of implementing Core Strategy Policy CP5 the Strategic Housing Market Assessment (SHMA) confirms that the Selby District constitutes a single housing market area. It is therefore not possible to set criteria to assess if a commuted sum would result in a balanced housing market, as the District can only be assessed as a whole.

Therefore based on current evidence, the Council cannot foresee that the exceptional circumstances when off-site provision can be demonstrated based on the balanced housing market test within Policy CP5. As such the only potential justification for off-site provision or commuted sum would be for an applicant to demonstrate a clear benefit to the community, as set out below.

#### b) Justification of a proposal delivering a clear benefit to the community

As set out in the main part of this SPD (see section 10) a key factor will be that off-site provision is not merely an alternative but provides a better solution, clear benefits or betterment compared to the provision of on-site built would deliver.

For the purposes of implementing Core Strategy Policy CP5 and to provide Applicants with guidance on the situations when partial off-site, off-site or commuted sum contributions might be considered, the Council would consider the following factors might form part of the assessment of any case put forward in terms of possible indicators of whether an off-site solution might deliver a clear benefit to the community.

This is not a checklist against which proposals will be tested – i.e. just because it falls within one of the categories below it does not automatically qualify for being an acceptable alternative to on-site provision. The alternative must provide an improved offer in comparison to on-site provision; and:

- The proposal would support the Core Strategy development strategy, aims, objectives and policies, which seek to focus development in Selby Town, then LSC and then DSVs.
- The proposal results in the provision of affordable units in a location that is considered to have good access local services, facilities and access to public transport.
- If the proposal results in empty homes being brought back into use for affordable rent on an identified site.
- The proposed development would allow affordable housing to be delivered on an identified site, which would otherwise not be delivered by other means.
- The delivery of affordable units is within the same timescale as the provision of market units on site, defined in the S106 agreement.
- If a mechanism for delivery / delivery partner is identified to provide the affordable housing.

**Question 12: Do you think there are any other factors / circumstances that should be taken into account when the Council is assessing whether a proposal might be considered to deliver a balanced housing market or clear benefits to the community? If so how could they be evidenced?**

## **Appendix 6**

### **Information to accompany a planning application**

The Council require all planning applications for schemes of 10 dwellings or more to be submitted with an Affordable Housing Plan.

This should cover at least the following:

1. The proportion of dwellings provided to be affordable (target of 40% on schemes of 10 units or more).
2. The proportion of affordable dwellings to be provided as affordable rent and intermediate housing (outline and full planning application).
3. Layout plans showing the affordable dwellings by type and tenure (for full or reserved matter planning applications).
4. Details of the Registered Provider who will be partnering on the site (if known).
5. Timing/trigger arrangement for the transfer of the affordable dwellings to the identified Registered Provider.
6. Details of open market valuations of the affordable dwellings.
7. Draft section 106 agreement (using our Standard S106 Agreements ).
9. A financial appraisal if the 40% target is not achieved.
10. Off-site or commuted sum details if the applicant has agreed with the Council that this is acceptable, with the justification meeting the criteria set out in Appendix 6.

For schemes of between 1 and 9 units, it is not considered necessary to provide a separate Affordable Housing Plan due to the more narrowly focussed scope for affordable housing on smaller sites. Instead, where a commuted sum is payable, the Design and Access Statement Plan should include a statement to confirm the applicant's approach to the payment of the commuted sum.

**Question 13: Should the Affordable Housing Plan include any further requirements?**

# Selby District Council

## REPORT

Reference: E/13/5

Public – Item 9



**To:** The Executive  
**Date:** 6 June 2013  
**Status:** Non-Key Decision  
**Report Published:** 29 May 2013  
**Author:** Rose Norris  
**Executive Member:** Cllr Chris Metcalfe  
**Lead Director:** Rose Norris

**Title:** 43 Kirkgate, Tadcaster

### Summary:

As part of the work on 'Tackling the Tough Stuff' a project board was set up in March 2012 to take forward the work to unlock the potential of Tadcaster. The project board has identified the now empty former council office at 43 Kirkgate as having the potential to provide a combination of retail space and affordable housing and seeks agreement from the Executive that the council applies for planning permission for the change of use of the building.

### Recommendations:

- i. To agree that the council applies for planning permission for the change of use of the building;
- ii. To agree that the costs of £3,540 associated with the planning application are funded through the Programme for Growth.

### Reasons for recommendation

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. Since then, retail, the provision of housing and improving the environment of our town centres have all been identified as major work streams in the council's Programme for Growth.

## **1. Introduction and background**

- 1.1** 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** The objectives of the Tadcaster Tough Stuff project are to improve the image, vitality and viability of the town through improved land use in the town, more focused street scene services and a reinvigorated culture offer. The project is working towards achieving these objectives through three separate, but linked, work streams: land use; street scene and the environment; and leisure and culture.

## **2. The Report**

- 2.1** The Tadcaster Tough Stuff project land use work stream has been reviewing residential, retail and other premises, as well as vacant lots, owned by the council, other public sector bodies, community groups and other owners to plan how assets in the town can be brought into use, bringing maximum benefit to the town and from the council's perspective, increasing the return on our assets for the benefit of the whole district.
- 2.2** The building at 43 Kirkgate, owned by the council but surplus to operational requirements, and in a state of dilapidation, has been identified as having potential for re-development, where a combination of retail space plus three flats could be accommodated. In the council's Programme for Growth a key priority is the establishment of a charitable housing trust to provide affordable homes across the district. The 43 Kirkgate renovation could form an early part of the work of the new trust. In the event of the change of use application being successful, a business case would need to be developed bringing together the full renovation costs and the projected rental income.
- 2.3** The Tadcaster Tough Stuff Project Board is keen that swift progress is made on bringing this building back into use for the benefit of the community, in order to increase much needed footfall, provide affordable housing in the town centre and to improve the 'look and feel' of the environment of the town. The proposal has the support of the Tadcaster and Villages CEF as it would help deliver on a number of objectives in the Tadcaster and Villages Community Development Plan 2012-2015.
- 2.4** The report is therefore seeking agreement from the Executive that the council applies for planning permission for the change of use of the building. At this stage approval is not being sought for funding to undertake the renovation works – a subsequent business case will be

developed with recommendations on how this could be achieved and funded and how the dwellings could be managed into the future.

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

There are no specific legal issues to consider.

#### **3.2 Financial Issues**

The indicative cost of the planning preparation work, including attending planning committee, will be £2,000 while the fee for the planning application is £1,540. It is proposed that the costs associated with the planning application are funded through the Programme for Growth.

### **4. Conclusion**

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. Since then, retail, the provision of housing and improving the environment of our town centres have all been identified as major work streams in the council's Programme for Growth. Should the change of use permission be granted, the potential development at 43 Kirkgate would improve the town's retail offer, increase footfall, provide affordable homes in the heart of the town centre and help improve the 'look and feel' of the environment of the town.

### **5. Background Documents**

None

### **Contact Details**

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# Selby District Council

## REPORT

Reference: E/13/6

Public – Item 10



**To:** The Executive  
**Date:** 6 June 2013  
**Status:** Non Key Decision  
**Report Published:** 29 May 2013  
**Author:** Justin Price-Jones, Lead Officer, Legal  
**Executive Member:** Councillor M Crane  
**Lead Officer:** Keith Dawson, Director of Community Services

**Title:** Section 237 Powers

### Summary:

The Council's programme for growth supports investment and development in the district. This report sets out powers available under Section 237 of the Town and Country Planning Act 1990 to facilitate the development of important sites.

### Recommendations:

- i. That Executive notes the potential for use of S237 powers to facilitate development
- ii. That Executive resolves to use this power to facilitate development in appropriate circumstances

### Reasons for recommendation

To facilitate the development of important sites.

#### 1. Introduction and background

- 1.1 The Government has issued a call for action on growth and identifies the planning system as having a key role to play in ensuring that development to support economic growth can start as easily as possible.
- 1.2 The Council is pressing ahead with its local development plan, and is preparing a Programme for Growth to drive and support growth. There



is a clear ambition for Selby to be open for growth and investment, and planning will be central to achieving this ambition.

- 1.3 Some potential developments are under the control of a number of different interests, and outstanding land interests can delay or prevent development. In some circumstances the local planning authority can use existing powers to help resolve outstanding land interests and facilitate development.

## **2. The Report**

- 2.1 Since the early 19<sup>th</sup> century, it has been acknowledged that land ownership and interests could not be allowed to stand in the way of essential or publicly desirable development.
- 2.2 Accordingly, compulsory purchase powers have been made available to competent public authorities in order to assemble the land needed or extinguish the rights and restrictions preventing developments such as sewers, roads or railways.
- 2.3 The introduction of the town and country planning regime in the post-war period further extended the use of compulsory powers for planning purposes to public development schemes.
- 2.4 Planning schemes for the development of important sites promoted by local authorities are most often carried out by (and at the expense of) private developers. Powers of compulsory acquisition, if required, may be applied by the local authority to bring in outstanding land interests in order to enable the development scheme to be implemented.
- 2.5 Outstanding land interests are usually bought in, in the first instance, by the developer who negotiates with the relevant owner on a voluntary basis, with resort to the compulsory powers of the local authority only if negotiations fail or are not entertained by the land owner. The compensation payable by the local authority for the land acquired is usually covered by an indemnity from the developer.
- 2.6 Importantly, additional powers exist to supplement the power of compulsory acquisition of land ownership.
- 2.7 One such supplemental power is provided by section 237 of the Town and Country Planning Act 1990 (“Section 237”) which operates in relation to the rights of third parties over the development site, as distinct from the acquisition of land ownership.
- 2.8 Provided the land is validly appropriated for planning purposes, then under Section 237 the erection, construction or carrying out or maintenance of any building or work on the land (by the Council or a person deriving title from the Council) is authorised if it is done in

accordance with planning permission, notwithstanding that it interferes with certain private rights (e.g. such as private rights of way).

- 2.9 As a consequence of amendments introduced by the Planning Act 2008 (Schedule 9, para 4(1)) the power to override easements and other rights now also applies where the use of the land which has been appropriated would otherwise involve interference with a third party right, such as a restrictive covenant.
- 2.10 The effect of triggering Section 237 is that private rights are effectively overridden and converted into a claim for compensation. This has two advantages. Firstly, the level of compensation for interference with rights (or breach of restrictive covenants) is assessed on the basis of the loss in value of the claimant's land as a consequence of the interference (or breach of covenant) rather than a claim for equitable damages. Secondly, a claimant cannot secure an injunction and their only remedy is a claim for compensation.
- 2.11 As Section 237 is such a potentially important power in facilitating development, it is essential that it is correctly triggered by a proper appropriation or acquisition of the land for planning purposes. Indeed it is so powerful, a resolution to use this power may, by itself, focus negotiations between adjacent property owners.
- 2.12 Despite the fact that the overarching principle is that the public good is put before the needs of private individuals, some people may be aggrieved. Accordingly, if S237 is to be utilised it is crucial to proceed with caution and to make sure that all the proper procedures are fully satisfied.

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

Contained in the report

#### **3.2 Financial Issues**

None at this stage; if the Power is enacted the Council would seek indemnity from developers for any costs incurred.

### **4. Conclusion**

Section 237 is an existing power available to local planning authorities. A resolution to use this power in appropriate circumstances may help to focus negotiations between conflicting land interests.

### **5. Background Documents**

None

**Contact Details**

Keith Dawson – Director of Community Services  
Justin Price-Jones – Lead Officer - Legal

**Appendices:**

None