

CABINET

MINUTES OF MEETING HELD ON WEDNESDAY 30 JULY 2014

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CABINET

MINUTES OF MEETING HELD ON WEDNESDAY 30 JULY 2014

Present:

Councillor G Baxter MBE Leader (in the Chair)

Councillor N Barker

" N Foster

" M Gordon

" Mrs E A Hill

Councillor P R Kerry

" Mrs L Robinson

" P Williams

191 Apologies for Absence

There were no apologies for absence from this meeting as all Members were present.

192 Declarations of Interest

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

Councillors N Barkers and Mrs E A Hill declared another interest which was not significant in reports EAH/16/14/LS – Dronfield Regeneration – New Build Options and EAH/15/14/LS – Purchase of Older Persons Bungalows in Tupton as they were both Council appointed representatives on the Rykneld Homes Board.

Councillor M Gordon declared another interest which was not significant in report number GBXR/15/14/SL – Funding to Voluntary Community Organisations Presentation of Outcomes for 2013/14 as he was a member of the Derbyshire Law Centre.

Councillors N Barker and Mrs E A Hill also declared another interest which was not significant in the exempt reports EAH/17/14/LS – Rykneld Homes Future Development Proposals, Including update on Non Traditional Housing Stock Condition Survey and EAH/18/14/LS – Concrete Balconies to NEDDC Flats as they were both Council appointed representatives on the Rykneld Homes Board.

Councillors N Barker and Mrs EA Hill both also declared another interest which was significant in the exempt report EAH/19/14/LS – Sycamore Avenue, Council Owned Properties as they were both Council appointed representatives on the Rykneld Homes Board. Councillors N Barker and Mrs E A Hill both left the meeting and did not participate in the discussion or voting on this matter.

193 Minutes of Last Meetings

RESOLVED – That the Minutes of the meetings of Cabinet held on 11 June 2014 and 2 July 2014 be approved as correct records and signed by the Leader.

194 Change of Order of the Agenda

The Chair with the consent of the meeting agreed to bring forward consideration of Report No GBXR/15/14/SL Funding to Voluntary and Community Organisations Presentation of Outcomes for 2013/14.

195 Funding to Voluntary and Community Organisations Presentation of Outcomes for 2013/14

Cabinet received a presentation from two officers from the Derbyshire Law Centre on its work over the previous 12 months and the services it provided to the communities of North East Derbyshire and also considered Report No GBXR/15/14/SL of Councillor G Baxter MBE. The purpose of the report was to provide background information to the above presentation by the Derbyshire Law Centre. The following five organisations would be invited to attend future meetings of Cabinet/Council to present information relating to the new commissioning cycle:

Derbyshire Unemployed Workers Centre/TRUST – Cabinet 27th August 2014

NED Citizens Advice Bureau – Council 1st September 2014

Links CVS – Cabinet 24th September 2014

Rural Action Derbyshire – Council 27th October 2014

Cabinet was advised that the series of presentations would be supplemented by an annual report in Autumn 2014 compiled by the Partnership Team on the range of projects based on the Shaping the Future approach. This was intended to increase Members knowledge of the partnership approach to the latest challenges faced by the communities within the District.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report. There were no alternative options considered and rejected.

RESOLVED – That Cabinet notes the presentation received from the Derbyshire Law Centre as part of the series of presentations from voluntary sector organisations.

Reasons for Decision:-

The series of presentations will assist the Councils work in maximising efficiencies and outcomes through the commissioning of voluntary sector organisations to help achieve its Corporate Priorities.

(Strategic Partnership Co-ordinator/Partnership Development Officer)

196 Flexible Working

Cabinet considered Report No NB/08/14/AG of Councillor N Barker. The purpose of the report was to seek approval of the changes to the Council's Flexible Working Policy in accordance with the amendments introduced by the Flexible Working Regulations which took effect from 30 June 2014. Members were advised that from 30 June 2014 Regulations had extended the right to request flexible working to all employees. Employers now had a duty to consider all requests in a reasonable manner, employers still had the flexibility to refuse requests on business grounds.

In practice this meant that the right to request flexible working now extended to all employees after 28 weeks service rather than just those with children or with certain caring responsibilities. A copy of the Flexible Working Policy is attached to these Minutes as **Appendix A**.

The options for considerations were detailed at paragraph 1.1 to 5.3 of the report, there were no alternative options considered and rejected.

RESOLVED – That Cabinet approves the revised Flexible Working Policy attached as Appendix A to these Minutes.

Reasons for Decision:-

The revised Policy was based on legislative changes in respect of flexible working, the Council need to amend its Policy according.

(Assistant Director HR and Payroll/Senior Human Resources Advisor)

197 Proposal to Purchase “On Course” Pool IT System

Cabinet considered Report No GBXR/14/14/LH of Councillor G Baxter MBE. The purpose of the report was to request approval to purchase the “On Course” ICT System, the capital costs to be met from the Invest to Save Reserve, the ongoing licence costs to be met from existing revenue budget provision. The integrated Swim School Management software OnCourse was a web-based application which enabled easy administration of all facets of swimming course management. The system consisted of three parts:

- Base Module
- Home Portal
- Portable Device

The system had a number of benefits these were detailed at paragraph 2.4 of the report.

The proposals were part of the Councils leisure services subsidy reduction plan and the wider corporate Transformation and Growth Strategy which was designed to meet the changes in the way local authorities were funded currently. The options for Cabinets consideration were detailed at paragraphs 1.1 to 9 of the report. There were no alternative options considered and rejected.

RESOLVED – That Cabinet:

- (1) Approves the procurement of the “On Course” IT System at a capital cost of £10,000 for the hardware and software, the funding of the purchase to be met from the Invest to Save Reserve.
- (2) Approves the following General Fund revenue expenditure and income budget arising from the decision at resolution (1) above:
 - Annual Licence Fee £3,000

- Savings in Reception and Administration employee costs of £5,000 per annum
- Increase in swimming lesson income of £7,000 per annum

Reasons for Decisions:-

- (1) The decisions form part of the Councils Leisure Services Subsidy Reduction Plan and the wider corporate Transformation and Growth Strategy designed to meet the changes and challenges to the way in which local authorities are funded.
- (2) It enables the Council to maximise income potential in all areas with an overarching target to become self sustaining.

(Executive Director Transformation/Assistant Director Leisure)

198 Annual Report 2013/14

Cabinet considered Report No GBXR/16/14/BP of Councillor G Baxter MBE. The purpose of the report was to present the Councils Annual Report 2013/14. The Annual Report consolidated the quarterly monitoring and reporting framework process to provide a summary of the Councils services performance. It also set out the related expenditure and detailed the extent to which the Council had achieved its priorities in the year reported on.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report. Members were advised that since the abolition of the Audit Commission there was no longer a statutory framework or requirement for Local Authorities to produce an Annual Report relating to performance of its services through a set of performance indicators.

RESOLVED – That Cabinet approves the District Councils Annual Report 2013/14 and authorises its publication.

Reasons for Decision:-

The Annual Report is produced as part of the Councils Policy Framework and provides a range of information that demonstrates the achievements made during the year against the Corporate Plan. It also sets out expenditure against service areas including details of income and revenue streams.

(Assistant Director Customer Service and Improvement/Improvement Manager)

199 Derbyshire Economic Strategy Statement

Cabinet considered Report No GBXR/17/14/BH of Councillor G Baxter MBE. The purpose of the report was to seek endorsement of Derbyshire County Councils Economic Strategy Statement. Cabinet was advised that the Derbyshire Economic Partnership had been working with partners since November 2013 to prepare the Derbyshire Economic Strategy Statement. The Statement served a number of purposes:

- It provides a framework for all economic partners across the public, private and third sectors to work collectively.
- Establishes a baseline on which the need and opportunities for investment are evidenced.
- Delivers growth through attracting investment and funding
- Presents a dynamic narrative of Derbyshire to support wider discussions and decisions.

The Derbyshire Economic Development Strategy Statement will assist the District Council in its delivery of its growth priorities and will also strengthen the Councils approach to the Sheffield City Region and D2N2 Local Economic Partnerships when funding opportunities become available.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 2.1 of the report. There were no alternative options considered and rejected.

RESOLVED – That Cabinet endorses the Derbyshire County Council Economic Strategy Statement.

Reasons for Decision:-

The endorsement of the Derbyshire County Council Economic Strategy Statement will strengthen the District Councils approach to both the Sheffield City Region and D2N2 Local Economic Partnerships when funding opportunities become available.

(Assistant Director – Economic Growth/
Senior Economic Development Projects Officer)

200 Compliments, Comments and Complaints Policy

Cabinet considered Report No GBXR/18/14/AB of Councillor G Baxter MBE. The purpose of the report was to recommend a policy to be implemented by both Bolsover and North East Derbyshire District Councils in respect of the management of compliments, comments and complaints. Both Councils recognise the importance of feedback from customers on how this would contribute to the continuing improvement of the authorities. Cabinet was advised that the adoption of the revised policy would rescind the existing complaints procedure and vexatious policy operated at North East Derbyshire District Council. Members were advised that the policy would enable continued compliance with the Local Government Act 1974 and the Guidance issued by the Local Government Ombudsman and the Housing Ombudsman. It would also enable the Council to meet its statutory obligations under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report. In preparing the policy consideration had been given to how best the actions required could be achieved from within existing resources.

RESOLVED – That Cabinet

- (1) Notes the need for the harmonisation of the Compliments, Comments and Complaints Policy between the Strategic Alliance partners.

- (2) Approves the adoption of the Compliments, Comments and Complaints Policy attached as **Appendix B** to these Minutes.

Reasons for Decisions:-

The Policy meets the needs of external compliance requirements, its adoption was necessary as soon as practicable.

(Assistant Director Customer Service and Improvement)

201 Joint Empty Properties Officer for North East Derbyshire District Council and Bolsover District Council

Cabinet considered Report No EAH/MG/13/14/RS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- Advise Members of a proposal for the appointment of a Joint Empty Properties Officer at North East Derbyshire and Bolsover District Councils
- To advise Members of proposals for the line management, location and overall costs of the post of a Joint Empty Property Officer at both North East Derbyshire and Bolsover District Councils.

The prime function of the Joint Empty Properties Officers post would be to:

- Identify, develop and implement measures designed to bring empty properties back into use to help with housing needs of the District's residents
- Support the development and delivery of an Empty Homes Strategy for both Councils which would contribute to the Growth Strategies and increase the number of housing units available.
- Monitor the Council's empty properties data and ensure that New Homes Bonus finance was maximised for both Councils.

Members were advised the appointment of a Joint Empty Property Officer would enable both Councils to drive forward a robust Empty Properties Strategy resulting in additional housing units, additional New Homes Bonus and greater community sustainability. This could contribute to the delivery of each Council's Growth Strategy. It was proposed that the post be within the Housing Strategy and Enabling Team with shared time between the two Councils. The line management of the post would be provided by North East Derbyshire District Councils Private Rented Sector and Housing Options Team Manager, with overall management responsibility being provided jointly by the Housing Strategy Enabling Managers within each Council. The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report. The alternative options considered were detailed at paragraph 4.1 to 4.5 of the report.

RESOLVED – That Cabinet:

- (1) Notes that the Chief Executive will use his delegated power to approve the establishment of a Joint Empty Properties Officer within North East Derbyshire District Council's staffing structure.

- (2) Notes that the recruitment for the Joint Empty Properties Officer post will be undertaken firstly through internal recruitment and then externally if the required technical and specialist skills are not available internally.
- (3) Notes that the Joint Empty Properties Officer post will be included within North East Derbyshire District Councils staffing establishment under the line management of the Private Rented Sector and Housing Options Manager within the Housing Strategy and Enabling Team, but with a presence at both North East Derbyshire and Bolsover District Councils.
- (4) Notes that the work programme for the Joint Empty Properties Post will be developed jointly by both Bolsover and North East Derbyshire District Councils Housing Strategy and Enabling Managers in consultation with Environmental Health and other key partners.
- (5) Approves the overall cost of the Joint Empty Properties Officer post of £35,000 (with a salary of £25,000 per annum, plus on costs), subject to job evaluation and that the costs of the post will be split equally between Bolsover and North East Derbyshire District Councils.

Reasons for Decisions:-

The appointment of a Joint Empty Properties Officer at both Bolsover and North East Derbyshire District Councils will enable both Councils to drive forward a robust Empty Properties Strategy leading to additional housing units, additional New Homes Bonus and greater community sustainability which will contribute to each Councils Growth Strategy.

(Chief Executive/Assistant Director Economic Growth/
Housing Strategy and Enabling Manager)

202 NEDDC Local Authority Mortgage Scheme

Cabinet considered Report No EAH/MG/PRK/14/14/RS of Councillors Mrs E A Hill/ P R Kerry, supported by Councillor M Gordon. The purpose of the report was to:

- To outline details of the proposed development of a Local Authority Mortgage Scheme (LAMS) for North East Derbyshire.
- To seek approval to develop a non-cash based LAMS for North East Derbyshire.

The Local Authority Mortgage Scheme was launched in March 2011 by Capita Asset Services to assist first time buyers who could afford mortgage repayments but not the 20 to 25% deposit required by mortgage lenders. Local Authority Mortgages are administered by Capita Asset Services who provide the procurement framework for financial institutions to be selected from and who support the Local Authority throughout the life cycle of its Local Authority Mortgage Scheme. The benefit of adopting a LAMS is that it would increase the number of first time buyers locally, it is also more affordable than the National Help to Buy Scheme, as a lower rate of interest would be applicable for the buyer.

The Council had the option to consider either:

- Non Cash Back Scheme
- Cash Backed Scheme

In order to determine the matter further the Council had to consider the following criteria:

- The total indemnity
- Maximum loan size
- Post codes within the District to be included in the Scheme

Cabinet was recommended to adopt a Non Cash Local Authority Mortgage Scheme which would increase the number of people locally who were able to purchase their first home at a lower rate of interest than the Help to Buy Scheme. The Scheme proposed would contribute to the Councils Growth Strategy by increasing the number of first time buyers, additionally the benefits would include:

- Boost to the local economy
- Increase in affordable housing available
- Decreases pressure on the Councils Housing Waiting List
- Potential cash return

The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report. The alternative options considered and rejected were detailed at paragraph 4.3 of the report.

RESOLVED – That Cabinet:

- (1) Approves the development of a non cash Local Authority Mortgage Scheme.
- (2) Approves that the Local Authority Mortgage Scheme approved at resolution (1) above be set at an indemnity level of approximately £500,000 (or lower if the mortgage lender identified agrees).
- (3) Approves that the maximum loan size under the Local Authority Mortgage Scheme approved at resolution (1) be set at £175,000.
- (4) Approves that the Local Authority Mortgage Scheme approved at resolution (1) above will cover the whole of the District to reflect the need for affordable housing.

Reasons for Decisions:-

The decisions:-

- (1) Enable the approval of a non cash Local Authority Mortgage Scheme which will increase the number of people locally who will be able to purchase their first home at a lower rate of interest than available under the Help to Buy Scheme.

- (2) Contribute to the Councils Growth Strategy by increasing the number of first time property buyers in the District.

(Assistant Director Economic Growth/Executive Director Operations/Housing and Enabling Manager)

203 Purchase of Older Persons Bungalows in Tupton

Cabinet considered Report No EAH/MG/15/14/LS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- To seek Cabinet approval for Rykneld Homes Limited to enter into negotiation with Woodall Homes for the purchase of three 2 bedroom older persons bungalows in Tupton.
- To note that the estimated cost of the purchase of the bungalows will be in the region of £210,000.

Cabinet was advised that Rykneld Homes Limited had been approached by Woodall Homes to discuss the purchase of housing units including three older persons bungalows in Tupton. It was proposed that Rykneld Homes negotiate with Woodall Homes to purchase the properties on the Councils behalf in order to supplement the Councils current housing stock and for Rykneld Homes Limited to manage these properties under the current management agreement. The options for Cabinets consideration were detailed at paragraphs 1.1 to 9.1 of the report, there were no alternative options considered and rejected.

RESOLVED – That Cabinet:

- (1) Approves that Rykneld Homes Limited enter into negotiations to purchase three 2 bedroom bungalows in Tupton from Woodall Homes at an estimated cost of £210,000.
- (2) Requests that a further report on the proposed purchase of the three 2 bedroom bungalows in Tupton from Woodall Homes detailing the outcome of the negotiation be submitted to a future meeting of Cabinet.

Reasons for Decisions:-

The decisions

- (1) Support the Councils Growth Agenda.
- (2) Helps to deliver additional housing needs identified for older persons in the District.
- (3) Encourages working with local housing developers which support partnership working, local employment and increased future housing development options.

(Managing Director, Rykneld Homes Limited)

204 Dronfield Regeneration – New Build Options

Cabinet considered Report No EAH/MG/16/14/LS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- To obtain Cabinet approval for Rykneld Homes Limited to prepare detailed proposals for the regeneration of sites in Dronfield to deliver new build housing working with QSH Ltd.
- To obtain Cabinet approval to commence negotiations with Dronfield Town Council to transfer the vacant land at Holmley Lane, the “Alma Site” to Rykneld Homes Limited.

Cabinet was advised that opportunities to regenerate the Manor Farm site (owned by the District Council) jointly with the Alma Site in Dronfield, (owned by Dronfield Town Council) had been identified by Rykneld Homes Limited and the Council. An initial evaluation indicated that the Manor Farm site would be expensive to develop on its own due to its location, restricted access and higher than average build costs due to its location and requirements to blend it in with surrounding traditional buildings. Approval of the recommendations would enable a study of the financial viability of the project for the District Council, Dronfield Town Council and Rykneld Homes Limited to be undertaken. The proposals would support the Growth Agenda of the District Council and have the potential to deliver approximately 65 units of housing in a part of the District with a high demand for housing.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 9.1 of the report. The alternative options considered and rejected were detailed at paragraphs 5.1 and 5.2 of the report.

RESOLVED – That Cabinet:

- (1) Approves that Rykneld Homes Limited commission QSH Limited to undertake feasibility studies and financial appraisals to provide options and proposals for the delivery of new build housing in Dronfield.
- (2) Approves that Rykneld Homes Limited negotiate with Dronfield Town Council to transfer land to facilitate the progress of the delivery of a new build housing scheme in Dronfield as economies of scale are required to ensure the success of the project.
- (3) Requests that details of options and proposals for the delivery of a new build housing scheme in Dronfield be submitted to Cabinet for its consideration and approval at a future meeting.

Reasons for Decisions:-

The decisions:

- (1) Support the Councils Growth Agenda and have the potential to deliver approximately 65 housing units in a part of the District with high demand for housing.
- (2) Enable the use of two schemes for the delivery of a feasible and financially viable project for the District Council, Rykneld Homes Limited and Dronfield Town Council.
- (3) Provide an opportunity to increase further the supply of housing and future development options without increasing the Councils borrowing.

(Managing Director, Rykneld Homes Limited)

205 Disposals and Acquisitions Policy

Cabinet considered Report No PW/07/14/GG of Councillor P Williams. The purpose of the report was to:

- Seek approval to introduce a Joint Disposal and Acquisitions Policy in respect of the Councils land and property transactions.
- Ensure that the joint Disposals and Acquisitions Policy procedures in respect of disposals and acquisitions be used by Council officers and to inform developers and members of the public.

Cabinet was advised that the draft Policy had been prepared in accordance with Government advice, it detailed both Bolsover and North East Derbyshire District Council's processes for the disposal of Council land and property. For the purpose of the Policy, the disposal of land meant any freehold disposal by sale or exchange of Council owned land or buildings and any disposal by granting of a lease for a period of greater than 7 years. Leases of 7 years or less were not covered by the Disposals and Acquisitions Policy. A copy of the Disposal and Acquisitions Policy is attached as **Appendix C** to these Minutes.

The options for Cabinets consideration were detailed at paragraphs 1.1 to 5.3 of the report, the alternative options considered and rejected were detailed throughout the report.

RESOLVED – That Cabinet approves the Disposal and Acquisitions Policy attached as Appendix C to these Minutes and agrees its implementation.

Reasons for Decision:-

The introduction of the Disposals and Acquisitions Policy was required to comply with guidance from Government and to ensure that the Council has a consistent and transparent approach to all its land property and transactions.

(Executive Director Operations/Building and Contracts Manager)

206 Urgent Business (Public Session)

There was no urgent business to be considered in the public session of this meeting of Cabinet.

207 Exclusion of Public

RESOLVED - That the public be excluded from the meeting during the discussion of the following items of business to avoid the disclosure to them of exempt information as defined in Paragraph 1, Part I of Schedule 12A to the Local Government Act 1972 (as amended by the Local Government (Access to Information)(Variation) Order 2006). [The category of exempt information is stated after each Minute].

208 Rykneld Homes Future Development Proposals including Update on Non Traditional Stock Survey

Cabinet considered Report No EAH/MG/17/14/LS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- Seek approval of Rykneld Homes Limited's strategic direction as detailed in the report.
- Request that Rykneld Homes Limited undertake feasibility and financial appraisal studies on all potential development schemes and report back to Cabinet with detailed proposals.
- Approve that Rykneld Homes Limited undertake a review of current rent levels to ensure fairness and equity across all the Councils Housing stock in the District.

Cabinet was advised that the Rykneld Homes Board and its Senior Management Team had reviewed recently its current and potential future strategic direction with the primary purpose of ensuring that its strategy supported the Councils Growth Agenda and was aligned with the Economic Development and Housing Strategy. The options for Cabinets consideration were detailed at paragraphs 1.1 to 8.1 of the report. The alternative options considered and rejected were detailed at paragraph 5.1 to 5.2 of the report.

RESOLVED – That Cabinet:

- (1) Approves the Strategic direction of Rykneld Homes Limited as outlined in the report submitted.
- (2) Approves that Rykneld Homes Limited undertakes feasibility and financial appraisal studies on all potential development schemes and reports back to Cabinet on detailed proposals.
- (3) Approves that Rykneld Homes Limited undertakes a review of current housing rent levels in the District to ensure that there is fairness and equity across all the Councils housing stock.

Reasons for Decisions:-

The decisions:

- (1) Underpin the delivery of the District Councils Strategic Growth and Economic priorities.
- (2) Underpin the delivery of Rykneld Homes Limited Business Plan objectives of:
 - 2.1.1 Supporting people to live independently and sustain tenancies
 - 2.1.2 Look after the environment
 - 2.1.3 Increase housing choice
 - 2.1.4 Support the delivery of a high performing organisation

(Managing Direct Rykneld Homes Limited)
(Paragraphs 1 and 3)

209 Concrete Balconies to NEDDC Flats

Cabinet considered Report No EAH/MG/18/14/LS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- Request approval of procurement to be undertaken by the District Councils Engineering section in conjunction with Rykneld Homes Limited of a detailed structural survey of the Council's flats where they have concrete balconies/walkways as part of the construction.
- Request that Cabinet acknowledges that funding for any works identified during the survey detailed above had not been allowed for within the existing Decent Homes backlog funding/Capital Programmes.
- Request that Cabinet acknowledge that should the structural survey findings identify significant defects within the concrete balconies/walkways at Council flats that work would be needed to secure the buildings.
- Request that Cabinet be requested to receive a further report detailing the structural survey findings at a future meeting.

The options for Cabinets consideration were detailed at paragraph 2. to 6.3.1 of the report, the alternative options considered and rejected were detailed at paragraphs 5.1 and 5.2 of the report.

RESOLVED – That Cabinet:

- (1) Acknowledges the information provided on concrete balconies at Council owned flats and the relevant case information regarding the collapse of a similar construction concrete walkway at Council flats in Blackpool.
- (2) Approves the procurement of a detailed specialist survey to be undertaken by the District Councils Engineering Team in conjunction with Rykneld Homes Limited.

- (3) Requests that a further report be submitted to Cabinet following the receipt of the survey of Council flats, detailing its findings and recommendations.

Reasons for Decisions:-

The decisions will enable information to be obtained on the extent of any problems (if any) with the concrete balconies at Council owned flats and then to develop clear and prioritised plans for the future of this stock linked to the ongoing review of the Councils non traditional housing stock.

(Managing Director Rykneld Homes Limited)
(Paragraphs 1 and 3)

210 Sycamore Avenue, Council Owned Properties

The Managing Director of Rykneld Homes left the meeting immediately prior to Cabinets consideration of this report.

Cabinet considered Report No EAH/MG/19/14/LS of Councillor Mrs E A Hill supported by Councillor M Gordon. The purpose of the report was to:

- Seek approval for the transfer of land under general consent from the District Council to Rykneld Homes Limited in respect of land occupied currently at 6 & 8 Sycamore Avenue, Dronfield.
- To obtain approval for Rykneld Homes Limited to develop 2 additional two bedroom family homes using the existing contractual, financial and regeneration arrangements approved previously for the development of new housing at Sycamore Avenue and Marsh Avenue, Dronfield.

Cabinet was advised of proposals to deliver 2 bedroom, 4 person units of housing need as identified within the Strategic Housing Market Assessment undertaken in 2013. The units proposed would be managed by Rykneld Homes Limited as a Registered Provider using the policies and processes agreed under previous schemes of this type. The proposal would be funded from within existing Prudential Borrowing arrangements agreed previously for the existing contracts at Dronfield and Grassmoor. The units proposed would be added to the existing design and build contract between Rykneld Homes Limited and Galiford Try.

The options for Cabinets consideration were detailed at paragraph 1.1 to 7.1 of the report. The alternative options considered and rejected were detailed at paragraph 4.1 of the report.

RESOLVED – That Cabinet approves the transfer of the land occupied currently by properties at 6 and 8 Sycamore Avenue, Dronfield to Rykneld Homes Limited in accordance with the Local Government Act 1988, Section 25 General Consent provisions.

Reasons for Decision:-

The decisions:

- (1) Support the Councils Growth Agenda and utilises the existing contractual finance and regeneration arrangements to deliver additional housing.
- (2) Facilitate the removal of two non traditional housing units from the Councils stock and their replacement with family homes which will help to meet housing needs in the District.

(Managing Director, Rykneld Homes Limited)
(Paragraphs 1 and 3)

Councillors N Barkers and Mrs E A Hill left the meeting during the consideration of this report and did not participate in the discussion or voting on this matter.

211 Medium Term Financial Plan

Cabinet considered Report No PRK/22/14/BM of Councillor P R Kerry. The purpose of the report was to:

- Note proposals for a 12 month fixed term post to supplement resources in the Post room/ Caretaking functions during the move from Saltergate to Mill Lane when it will be necessary to support Council operations across two premises.
- Agree that the Tea Trolley service cease to operate on the transfer of the Council's operational office functions from Saltergate to Mill Lane, Wingerworth.
- Update Cabinet regarding the position in respect of the legal process together with the remedial work required on elements of the refurbishment work undertaken at Dronfield Sports Centre.
- Seek approval for a virement of £25,000 from the approved Capital Programme in relation to Sharley Park Refurbishment scheme into a boiler replacement programme in respect of Eckington Pool.
- Accept back the lease of a property at Heath Road Holmewood from Action Housing and to return the property to the Council's general housing stock to be managed by Rykneld Homes Limited.
- Seek approval to undertake adaptations on a Council property to accommodate the housing needs of an ex-serviceman.

The report provided detailed information for Cabinets consideration in respect of the following:

- Asset Rationalisation Programme/Post Room/Caretaking Duties
- Tea Trolley Service
- Dronfield Sports Centre
- Leisure Centres (Sharley Park and Eckington Sports Centres)

- Council House at Heath Road Holmewood
- Council House Adaptation, Dronfield

The options for Cabinets consideration were detailed at paragraphs 1.1 to 7.1 of the report, the alternative options considered and rejected were detailed throughout the report.

RESOLVED – That Cabinet:

- (1) Requests that the Chief Executive use his delegated powers in order to establish a 12 month fixed term post to supplement resources in the Post room/ Caretaking functions during the move from Saltergate to Mill Lane when it will be necessary to support Council operations across two premises.
- (2) Approves a budget to cover the cost of the Caretaking/Post Room post proposal of £21,500, which will be financed from the Invest-to-Save Reserve supporting the Asset Rationalisation programme.
- (3) Approves that the Tea Trolley service be disestablished as part of the Councils relocation to Mill Lane and that the two part time employees concerned be given the opportunity for redeployment into a similar role in providing drinks for meetings and general support at the new Council offices.
- (4) Notes the update on the legal action being undertaken in respect of Dronfield Sports Centre.
- (5) In respect of the Dronfield Sports Centre, grants delegated authority to the Chief Executive following consultation with the Leader of the Council to agree the award of the contract, or contracts for the remedial work, or any additional work necessary, and to accept a variation order or revised tender in order to secure the completion of the work at the site at the earliest opportunity on the grounds of protecting income levels and services to the community.
- (6) Agrees the transfer of £25,000 from within the Approved Capital Programme to enable the Eckington Pool boiler replacement to be undertaken at the same time as the Sharley Park Leisure Centre Boiler replacement.
- (7) Accepts the return of the lease in respect of Heath Road, Holmewood from Action Housing at a cost of £12,000 to be funded from Capital Receipts and that the property be refurbished at an estimated maximum cost of £25,000, to be financed from the Housing Revenue Account Development Reserve.
- (8) Notes that the property at Heath Road, Holmewood referred to at resolution (7) above will be returned to the Council's general housing stock and be managed by Rykneld Homes Limited on behalf of the Council
- (9) Approves that subject to the Council being unable to secure external funding, grants approval be authorised for the undertaking of adaptation work at a Council property in Dronfield to meet the accommodation needs of an ex-services tenant.

- (10) Approves that the capital cost estimated at £40,000 for the adaptation work authorised at resolution (9) above will be financed from the Housing Revenue Account Development Reserve should external funding not be forthcoming.

Reason for Decisions:-

The decisions enable progress to be made on a number of issues relating to the provision of Council services.

(Chief Executive/Executive Director Operations)
(Paragraphs 1, 3 and 4)

212 Urgent Business (Private Session)

There was no urgent business to be considered in the private session at this meeting of the Cabinet.

CAB MINS (0730) 2014/CLS
AGIN 3 (CAB0827) CAB MINS/CLS

This document outlines the new statutory provisions in respect of flexible working. These should be considered in conjunction with the Council's other policies which fall broadly into the categories of flexible working and work/life balance. These include the Flexitime Scheme, the Jobshare Policy and Carers Leave.

The statutory rights to request flexible working are now available to all employees.

1 Eligibility for Flexible Working

This is a statutory right which exists in addition to policies specific to NEDDC.

An employee must meet the following criteria to be eligible to make a request under this right:

- Be an employee of NEDDC and not be an agency worker
- Have a minimum of 26 weeks' continuous Local Government service at the date the application is made
- Not have made another application to work flexibly under the right during the past 12 months

2 Under what circumstances can an application be made?

An application can be made in a variety of circumstances, for example, it may enable the employee to spend more time with their family, or simply to achieve a better work/life balance. (See also the Council's Jobshare Policy and Flexitime Scheme)

3 When should the application be made?

Employees should consider when they would like the new working pattern to begin. The process can take up to 14 weeks to complete, and sometimes longer where a problem arises.

Employees who wish to return from maternity leave on changed hours may wish to mention this as early as possible, but no later than 28 days prior to their intended return to work date, to enable the request to be properly considered in time for arrangements to be put in place on the employee's return.

4 How often can an application be made?

No more than one application a year can be made under the right. Each year runs from the date when the application was made.

5 What kind of changes can be applied for?

There is scope to apply for a wide variety of different types of working pattern. Eligible employees can request to:

- Change the hours they work;
- Change the times when they are required to work; or
- Work from home (whether for all or part of the week).

A request may be as simple as asking to start half an hour later than usual to allow the employee to drop their child off at school. Or it may be a bigger change to their hours in order to fit their work around childcare requirements.

An application for flexible working can be for any working pattern other than the normal working pattern in an organisation. However all applications will be subject to service requirements (see below).

6 What information should an application contain?

The written application must state the date when the employee would like the new working pattern to start. The proposed date should allow time for the application to be considered and implemented. They must also state if and when any previous application was made.

The employee must also indicate how the proposed working pattern can be made to work, and how the impact on the service/organisation can be minimised.

7 Can an employee go back to their previous hours if their circumstances change?

Any request that is made and accepted under the statutory right will be a permanent change to the employee's contractual terms and conditions (unless otherwise agreed). The employee has no automatic right to revert back

to the previous working pattern. However if the employee is only looking for an informal change for a short period, for instance to cope with a bereavement or to pursue a short course of study, consideration will be given to permitting a return to the employee's original terms and conditions after a specified period.

8 What happens after the application is submitted?

- The Service Manager, in consultation with a representative from Human Resources, must hold a meeting to consider the request within 28 days after the date the application is received. This meeting will provide an opportunity for both parties to discuss the desired work pattern in depth and consider how it might be accommodated. Both the Service Manager and employee should be prepared to be flexible. If the original suggestion for an alternative working pattern cannot be accommodated, the meeting also provides an opportunity to see if an alternative working arrangement may be appropriate. It may also be in the interests of both parties to agree that the new working pattern will take place on a trial period in order to see how it would work.
- The employee can be accompanied by a companion, ie a Trade Union representative or colleague, at the meeting.
- If the companion is unable to attend the meeting, the employee should rearrange the meeting for a date within seven days of the originally proposed time, ensuring the new time is convenient to all parties – or they might wish to consider an alternative companion.
- The Service Manager, in consultation with the Human Resources representative, must write to the employee informing them of the decision within 14 days of the meeting. If the request is accepted, the notification should include a description of the new working pattern and indicate the date it will commence. If the request is rejected, the notification must state the business grounds for refusing the application, with sufficient explanation. It should also provide details of the employee's right to appeal.

9 What are the grounds for refusing a request for flexible working?

A request under this statutory right can only be refused on business grounds, as follows:

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes.

10 What is the procedure for appealing against a decision?

- An employee must make their appeal in writing within 14 days of the date they receive written notice that their request has been rejected. The appeal should set out the grounds for making the appeal.
- The appeal will be heard by the Assistant Director.
- An appeal meeting will be arranged to take place within 14 days of receiving notice of the appeal.
- The employee can be accompanied.
- The employee will be informed of the outcome of the appeal in writing within 5 days of the date of the meeting.
- If the appeal is upheld, the written decision must include a description of the new working pattern and indicate the start date.

11 Extension of time limits

There are two circumstances where the time limits can be extended:

- Through agreement between both parties
- Through the absence of the employer. In this case the period that the employer has to arrange the meeting will commence either on the day of the manager's return or 28 days after the application is made, whichever is sooner.

There are no other circumstances where an automatic extension to any period applies.

Compliments, Comments and Complaints Policy

April 2014

CONTROL SHEET FOR Compliments, Comments and Complaints Policy

| Policy Details | Comments / Confirmation (To be updated as the document progresses) |
|---|---|
| Policy title | Compliments, Comments and Complaints Policy |
| Current status – i.e. first draft, version 2 or final version | Second draft |
| Policy author | Support Officer (BDC)/ Customer Service Manager (NEDDC) |
| Location of policy – i.e. L-drive, shared drive | Internet and Intranet |
| Member route for approval | Executive (BDC)/ Cabinet (NEDDC) |
| Cabinet Member (if applicable) | Portfolio Holder for Customer Services (BDC)/ Cabinet Member for Customer Services (NEDDC) |
| Equality Impact Assessment approval date | To be carried out on the procedure, the policy has been reviewed to comply with legislation |
| Partnership involvement (if applicable) | |
| Final policy approval route i.e. Executive/ Council /Planning Committee | Executive (BDC)/ Cabinet (NEDDC) |
| Date policy approved | |
| Date policy due for review (maximum three years) | March 2017 |
| Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public) | |

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1. Introduction

1.1 This policy reflects the Councils' commitment to valuing compliments, comments and complaints. It seeks to resolve customer dissatisfaction as close as possible to the point of service delivery and to conduct thorough, impartial and fair investigations of customer complaints so that, where appropriate, we can make evidence-based decisions on the facts of the case.

1.2 This policy is intended to represent a practical means by which the Councils can demonstrate its determination to manage the compliments, comments and complaints process effectively for the benefit of the customer and both Bolsover District Council (BDC) and North East Derbyshire District Council (NEDDC), hereafter referred to as 'the Councils'.

1.3 The decision to develop a joint policy was made to enable Officers working across both Councils to be able to do so within one set of standards and criteria, which will ensure a consistent approach for customers of the Councils, in line with the principles of the Strategic Alliance which aims to share expertise and deliver savings.

1.4 It is important that the policy is 'owned' by Elected Members as their role as leaders in the community brings them into frequent contact with residents who make compliments, comments and complaints to the Councils.

1.5 The policy determines a standardised and centralised approach to handling complaints which aims to help us 'get it right first time', which demonstrates a clear escalation process and ensures that complaints are investigated by Officers other than those involved in the original complaint, avoiding any conflicts of interest. We want quicker, simpler and more streamlined compliments, comments and complaints handling process with local, early resolution by capable, well-trained Officers, which is managed by the Customer Service and Improvement Department.

1.6 This policy sets out the framework for handling compliments, comments and complaints that:

- Sets out a definition for compliments, comments and complaints that can be clearly communicated to both customers and employees.
- Establishes clear minimum service standards that are capable of being monitored and reported.
- Is responsive to the needs of our customers.
- Is transparent and easy to understand for both employees and customers.
- Reflects best practice.
- Helps the Councils to learn from customer feedback to improve services.

It does not include the operational aspects for handling compliments, comments and complaints, this will be covered in the supporting procedures.

2. Scope

2.1 This policy applies to all Council employees.

2.2 The policy applies to all customers of the Councils, with the exception of:

BCN Building Control Consultancy (both Councils) and Chesterfield Borough Council.
Audit (both Councils) and Chesterfield Borough Council.
Rykneld Housing, North East Derbyshire District Council.

These organisations operate their own complaints policies and procedures.

Organisations contracted to provide any services, for example waste services, debt collection services, emergency repairs services etc., on behalf of the Councils will be required to comply with this policy. This includes recording and responding to complaints, providing Council Officers with information as requested and providing assistance in connection with further investigations as appropriate. It will be the responsibility of each Manager to ensure that this is agreed as part of contractual arrangements and included in the contract.

Certain types of complaints fall outside the scope of this policy, these are listed under section 4.8.

3. Principles of the Policy

Definitions

3.1 For the purpose of this policy the following definitions will be used:

A **compliment** is an expression of satisfaction concerning a function or service provided by the Council.

A **comment** is a suggestion or idea about how a function or service provided by the Council could be improved.

A **complaint** is any expression of dissatisfaction, by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation, that needs a response.

3.2 Anyone who receives, requests or is affected by our services can make a compliment, comment or complaint. If a customer is unable or reluctant to make a complaint on their own, we will accept complaints brought by third parties as long as the customer has given their express personal consent.

3.3 The Councils' approach to receiving compliments, comments and complaints is designed to be as inclusive as possible. Although the policy has been developed to meet our statutory requirements, an Equality Impact Assessment has been carried out on the procedure, to ensure there are no barriers for anyone making a compliment, comment or complaint because of race, colour, ethnicity or national origins, religion and belief, gender, sexual orientation or marital status and disability or age. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that we will seek to address to ensure easy access to the procedure. We will make reasonable adjustments to our service and provide appropriate support to those customers who require it, including providing a response to customers in the format they require, for instance, large print, audio recordings etc.

3.4 Complaints give us valuable information we can use to improve customer satisfaction. Our complaints handling procedure will enable us to address a customer's dissatisfaction and may also prevent the same problems that led to the complaint from happening again. For our staff, compliments, comments and complaints provide a first-hand account of the customer's views and experience, and can highlight concerns we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong, and can also help us continuously improve our services.

3.5 Front line employees play a crucial role in resolving complaints early and creates better customer relations. Sorting them out as close to the point of service delivery as possible means we can deal with them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not resolve swiftly can greatly add to our workload.

3.6 The procedure supporting this policy will ensure that the Councils are able to gain meaningful information from the analysis of issues raised through compliments, comments and complaints. Information for monitoring purposes will be monitored and reported to the appropriate Officer and Elected Member groups and customers on a regular basis.

3.7 The effectiveness of the policy and its application will be reviewed through internal and external satisfaction surveys and reported to the appropriate Officer and Elected Member groups. Liaison with other local authorities and the Ombudsman Services will help ensure that current best practice continues to be reflected within the policy and supporting procedures.

4. Statement

FRAMEWORK FOR MANAGING COMPLIMENTS, COMMENTS AND COMPLAINTS

A form has been developed to capture compliments, comments and complaints, although they can also be submitted by other means.

COMPLIMENTS

A **compliment** is an expression of satisfaction concerning a function or service provided by the Council.

In addition to the form, customers may also make their compliment verbally or in writing by letter, e-mail or social media.

4.1 A central record of written compliments will be maintained by the Customer Service and Improvement Department for monitoring purposes.

4.2 Whilst pleasing to receive, compliments will not receive an acknowledgement in writing. An electronic copy of the compliment will be forwarded by the Customer Service and Improvement Department to the relevant departmental contact for their information and use, for example, team meetings, appraisals, service planning.

4.3 Information on written compliments will be reported on a regular basis for monitoring and review purposes.

The compliments handling process

| Compliment | |
|-------------|---|
| Description | Satisfaction concerning a function or service provided by the Council verbally or in writing |
| Who by | A customer to any member of staff or Elected Member |
| Action | To be passed to the Customer Service and Improvement Department for administration, monitoring and reporting purposes |

COMMENTS

A **comment** is a suggestion or idea about how a function or service provided by the Council could be improved.

In addition to the form, customers may also make their comment in writing, by letter, e-mail or social media.

4.4 A central record of written comments will be maintained by the Customer Service and Improvement Department for monitoring purposes.

4.5 An electronic copy of the comment will be forwarded by the Customer Service and Improvement Department to the relevant departmental contact for their information and use, for example, team meetings, appraisals, service planning.

4.6 All written comments will receive a written acknowledgement within three working days thanking the customer and advising that their suggestion has been forwarded to the relevant department for their information and consideration. The department may choose to contact the customer further with feedback, if appropriate.

4.7 Information on written comments will be reported on a regular basis for monitoring and review purposes.

The comments handling process

| Comment | |
|-------------|---|
| Description | A suggestion or idea about how a function or service provided by the Council could be improved |
| Who by | A customer to any member of staff |
| Action | To be passed to the Customer Service and Improvement Department for administration, monitoring and reporting purposes |

COMPLAINTS

A **complaint** is any expression of dissatisfaction, by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation, that needs a response.

In addition to the form, customers may make their complaint in writing, by letter or email. Customers wishing to make a complaint via social media will be signposted to the electronic complaint form, as complaints received via social media have historically been unstructured and may contain too little detail to enable them to be processed.

A complaint may relate to:

- Failure to provide a service
- Inadequate standard of service
- Treatment by or attitude of a member of staff
- Disagreement with the way a decision has been administered, though not the decision itself, where the customer cannot use another procedure (for example an appeal) to resolve the matter
- The organisation's failure to follow the appropriate administrative process.

4.8 Certain types of complaint fall outside of the scope of this policy and need to be dealt with through other mechanisms, these include:

(1) Grievances by existing, or former, employees about their employment. These need to be referred to the Human Resources Department to consider under their policies and procedures.

(2) Issues for which statutory appeal bodies or tribunals have been established, for example, The Appeals Service (for Benefit appeals), The Planning Inspectorate (for Planning appeals).

(3) Complaints which amount to a disagreement with the Council about its decision rather than the way the decision has been administered (e.g. the level of the Council Tax, allocating council properties in accordance with its policy).

(4) Complaints regarding a decision made by the Council when exercising its regulatory powers (e.g. licensing, serving notices) or undertaking its statutory duties (e.g. making a decision on a homelessness claim) unless the complaint relates to the way the matter has been administered.

(5) Matters, which are or could reasonably be expected to be the subject of court or tribunal proceedings.

- (6) Complaints which amount to a disagreement with or refusal to accept a rule of law which the Council is applying.
- (7) Complaints about Elected Member's conduct. These are handled by the Monitoring Officer.
- (8) Complaints which amount to a request for service e.g. noise nuisance unless it relates to how the Council is administering the request for service.
- (9) Complaints which constitute an allegation of fraud and/or corruption will need to be dealt with under Whistle Blowers Policy.
- (10) Complaints which constitute a racist incident will need to be dealt with under the procedures covering the reporting of racial incidents.
- (11) Complaints naming officers need to be assessed by the Customer Service and Improvement Department for action and may be directed to the Human Resources Department to consider whether they need to be dealt with under their procedures or dealt with within the complaints procedure.
- (12) Dissatisfaction with the organisation's policy. Although both Councils recognise that service users make complaints that are disagreements with local or national policies, these will be dealt with as 'comments'.
- (13) Complaints which are being or have been dealt with by the Local Government Ombudsman or Housing Ombudsman.
- (14) Complaints which amount to a petition. Whilst both Councils welcome petitions, these are handled by the Council's Governance Section under the Councils' Petition Schemes.

4.9 The Council will adopt a three stage complaint process as follows:

| |
|---|
| Informal – Frontline Resolution within 3 working days |
| Formal – Investigation within 15 working days |
| Internal Review – Investigation within 20 working days |

Complaints about responses to Freedom of Information requests will be reviewed in line with the Internal Review (Stage three of the complaint process) - **20 working days**.

4.10 The process, managed centrally from the investigation stage onwards by the Customer Service and Improvement Department, will provide a clear complaints system for both customers and employees. As well as providing clarity, it will ensure that all written complaints are handled by one department ensuring a consistent approach to customer service and efficient working practices through the removal of duplication e.g. customer sending in multiple letters regarding the same complaint and/or customer receiving more than one letter from the Council as their complaint related to more than one department.

The complaints handling process

The process aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff. It provides three opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation – formal and internal review**.

| Stage | Stage one Frontline Resolution | Stage two Formal Investigation | Stage three Internal Review | Ombudsman Investigation |
|--------------------|--|---|---|---|
| | Internal | | | External |
| Description | For straightforward issues that are easily resolved, requiring little or no investigation | Written complaint - for issues that have not been resolved at stage one or are complex | Written complaint - for issues that have not been resolved at stage two and require an internal review or for the internal review of Freedom of Information (FOI) responses | Written complaint to Ombudsman - for issues that remain unresolved by the Council |
| Who by | Any member of staff, Contact Centre or referral to the appropriate point for frontline resolution | By Departmental Managers (and a copy to the Customer Service and Improvement Department to enable random quality checking) or by the Customer Service and Improvement Department in complex or crosscutting cases*. | By the Customer Service and Improvement Department/ Assistant Director and reviewed by a Executive Director or the Chief Executive Officer in complex or crosscutting cases*. FOI internal reviews will be reviewed by the Assistant Director of Customer Service and Improvement | By the Customer Service and Improvement Department on behalf of the Chief Executive Officer |
| Action | 'On the spot' apology, explanation or other action to resolve the complaint quickly within 3 working days | A written response to be sent to the complainant addressing all the issues within the complaint within 15 working days | A written response** to be sent to the complainant addressing all the issues within the complaint within 20 working days | A written response to be sent to the Ombudsman addressing all the issues within the complaint within the Ombudsman's statutory timescale |

* In complex or contentious cases, i.e. those which cut across departments, present reputational implications or are high risk, these will be centrally managed and responded to by the Customer Service and Improvement Department and dealt with by the Chief Executive Officer at the Internal Review stage.

** Please note it is **mandatory** for responses to refer customers to the Local Government Ombudsman/ Housing Ombudsman's Service for those wishing to escalate their complaint.

Remedies for a complaint

4.11 There are two important reasons for having an effective complaints system – to provide a remedy and to improve services.

It is important to ascertain early on in the complaints process what outcome the customer is looking for i.e. what would be a suitable remedy. Whilst the proposed remedy may not always be reasonable and/or achievable it ensures that the Council knows early on what would be a satisfactory outcome for the customer. (This is included in the compliments, comments and complaints form).

Remedies can include:

- An apology which would normally be appropriate and adequate, but not in all circumstances. Other remedies will be considered where appropriate in addition to an apology.
- An explanation as to why a situation arose and to help the customer understand.
- An assurance that the same thing will not happen again (and monitored to make sure that it does not).
- Action that can be taken to put things right and where appropriate a change of procedure will be implemented to prevent further difficulties of a similar kind either for the individual customer or for customers generally.
- Financial compensation should always be an option, even though it may only be relevant in a few cases. Financial compensation should not be seen as an alternative to putting things right.

The guiding principle must be that as far as possible the customer is put in the position that he/she would have been in had things not gone wrong.

Customers need to know what remedies to a complaint are available and this is covered generally in publicity material for the compliments, comments and complaints system.

Where a complaint is found to be justified after investigation, at any stage, the process which has caused the complaint needs to be reviewed by the relevant officer.

For Frontline Resolution complaints (stage one) the above remedies except financial compensation could be used singularly or in combination depending on the complaint. It is important that employees handling informal complaints are aware of which remedies to offer and when.

For Formal complaints (stage two) a consideration of appropriate remedies will be requested from the relevant departmental contact as part of the complaint investigation process.

For Internal Review complaints (stage three) a consideration of appropriate remedies will be undertaken by the Assistant Director of Customer Service and Improvement, or representative, with the relevant Assistant Director, or equivalent, with a recommendation to the Chief Executive Officer, or Executive Director, for approval.

Section 92 of the Local Government Act 2000 confirms that councils are empowered to remedy injustice arising from maladministration where the complaint is made only to the council and not to the Local Government Ombudsman.

In cases where the Council's own investigations find maladministration and injustice then a report will be produced for Council and in cases where the Council's own investigations recommend a compensation payment as a remedy to a complaint then a report recommending such action will need to be taken to Council. Any financial recommendations requiring a decision will be made by the Chief Executive Officer under delegated powers following consultation with the Leader, Deputy Leader and Chief Finance Officer up to a maximum of £5,000 per recommendation. A report for information will be presented to Council. For amounts in excess of £5,000 a decision will be required by Council.

The Role of the Ombudsman

4.12 The Local Government Ombudsman (LGO) was created by Part III of the Local Government Act 1974 to provide independent, impartial and prompt investigation and resolution of complaints of injustice caused through maladministration. Both Councils are within the jurisdiction of the Commission for Local Administration, which is also known as the Local Government Ombudsman.

4.13 Additionally, Bolsover District Council is within the jurisdiction of the Housing Ombudsman (HO), which was set up by law on 1st April 2013 and which covers all housing associations and local authorities. The Housing Ombudsman considers complaints about leasehold services, moving to a property (transfer applications that are outside [Housing Act 1996 Part 6](#)), rent and service charges, occupancy rights, tenant behaviour and estate management.

4.14 In most cases, before the LGO will investigate a complaint, the Council will be given an opportunity to respond to the complaint in accordance with its procedures. In the case of the HO, they will only investigate a complaint after 12 weeks has elapsed from the end of the Council's procedure, in order to allow a 'designated person' to try to bring about a resolution. Any 'premature' complaints received from either Ombudsman will be handled by the Customer Service and Improvement Department and will commence the process at the formal investigation stage (stage two).

4.15 Customers choosing to make a complaint to either Ombudsman, after going through the Council's complaint process, will be investigated as an 'ordinary' complaint. A copy of the complaint will also be sent to the Monitoring Officer. All correspondence to and from the LGO or HO will be handled by the Customer Service and Performance Department on behalf of the Chief Executive Officer.

4.16 The Ombudsman will notify the Council in writing of its findings when it has concluded its investigation. Any financial recommendations requiring a decision will be made by the Chief Executive Officer under delegated powers following consultation with the Leader, Deputy Leader and Chief Finance Officer up to a maximum of £5,000 per recommendation. A report for information will be presented to Council. For amounts in excess of £5,000 a decision will be required by Council.

4.17 Where the Ombudsman records a decision of maladministration and/or injustice then the necessary arrangements will be made in accordance with the Ombudsman's instructions.

4.18 The Monitoring Officer has a duty to make a statutory report to Council in respect of maladministration where the Ombudsman has investigated and found maladministration and injustice on the part of the authority.

4.19 The definition of 'maladministration' is very wide and can include:

- Delay
- Incorrect action or failure to take any action
- Failure to follow procedures or the law
- Failure to provide information
- Inadequate record-keeping
- Failure to investigate
- Failure to reply
- Misleading or inaccurate statements
- Inadequate liaison
- Inadequate consultation
- Broken promises

4.20 There is no fixed definition of injustice but it can include:

- Hurt feelings, distress, worry, or inconvenience
- Loss of right or amenity
- Not receiving a service
- Financial loss or unnecessary expense
- Time and trouble in pursuing a justified complaint

4.21 In cases of maladministration the Council should try to identify all those affected and offer a suitable remedy. There may be a few cases where identifying others who may have suffered would be such an enormous task that it would affect the Council's day-to-day operation or the Council's ability to put right a failure that was the main cause of the maladministration. In these cases it would be better to improve the service and to stop the maladministration happening again.

4.22 The Council should always consider whether maladministration or failing to meet a standard has caused worry and distress to the service user and whether this needs to be taken into account when deciding on the right remedy. The Council should also provide a remedy if the complaint has been handled in a way that is itself maladministration.

4.23 Supporting procedures will explain fully the operational matters concerning complaints from the Ombudsman.

The Regulators Code and complaints about local authority regulatory services

The new Regulators Code came into force on 6th April 2014. From this date, local authorities and fire authorities will be under a statutory duty to have regard to the Code in developing the principles and policies which guide their regulatory activities.

The Regulators' Code aims to improve the way regulation is delivered at the front line. It sets out a clear framework for transparent and accountable regulatory delivery and establishes clear principles for how local authorities should interact with those they are regulating. The Code is underpinned by the statutory principles of good regulation, which provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.

The Better Regulation Delivery Office (BRDO) and Local Government Ombudsman are encouraging those delivering local regulatory services and managing corporate complaints to co-operate in ensuring their processes are transparent and easier for businesses.

Guidelines in the Regulators' Code state that:

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- Regulators should base their regulatory activities on risk
- Regulators should share information about compliance and risk
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- Regulators should ensure that their approach to their regulatory activities is transparent

Anonymous Complaints

4.24 Some customers may elect to remain anonymous when reporting complaints. For verbal complaint reporting (Frontline Resolution – Stage one) the employee dealing with the telephone call or face-to-face contact needs to explain the restrictions this may cause in trying to resolve the matter as we will be unable to provide feedback or request further information at a later date.

4.25 Anonymous complaints received in writing (Formal - Stage two) will be managed centrally by the Customer Service and Improvement Department and sent to the Departmental contact to administer.

Learning from Feedback and Training for Employees

4.26 It is important that customers and other stakeholders are aware of the compliments, comments and complaints process and how to use it. Senior management will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated.

We will:

- Use complaints data to identify the root cause of complaints
- Take action to reduce the risk of recurrence
- Record the details of corrective action in the complaints file, and
- Review complaints performance reports to improve service delivery.

Where we have identified the need for service improvement:

- The action needed to improve services must be authorised
- An officer should be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
- A target date will be set for the action to be taken
- The designated individual must follow up to ensure that the action is taken within the agreed timescale
- Performance in the service area should be monitored to ensure that the issue has been resolved
- We will ensure that staff learn from complaints.

4.27 Publicity and complaints performance information

- Poster for display in Council buildings
- Compliments, comments and complaints forms
- Council's publication
- Information on the Council's website
- Information in service booklets.

We will also report on our performance in handling complaints regularly and publish this information on the Council's website.

4.28 It is also essential that the Council knows whether the compliments, comments and complaints system, especially the complaints element, is working. The Customer Service and Improvement Department will undertake customer satisfaction surveys to establish the level of satisfaction.

It is also important that employees receive training regarding the procedure and ongoing training and development is available. Some people will need more support and employees will need to offer assistance in accordance with the Customer Service – Code of Practice and Standards.

Maintaining confidentiality is important in complaints handling. It includes maintaining the customer's confidentiality and explaining to them the importance of confidentiality generally. We must always bear in mind Data Protection legislation, as well as internal policies on confidentiality and the use of customers' information.

Habitual or Vexatious Complainants

4.29 For the purpose of this policy the following definition will be used:

The repeated and/or obsessive pursuit of

- Unreasonable complaints and/or unrealistic outcomes
- Reasonable complaints in an unreasonable manner.

Where complaints have been identified as habitual or vexatious in accordance with the criteria below, the Assistant Director of Customer Service and Improvement, following discussions with relevant Assistant Director, will take a report to the Strategic Alliance Management Team (SAMT) to seek agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken for an appropriate length of time, usually twelve months but this is not prescriptive, before being reviewed. Operational aspects for handling habitual or vexatious complainants will be covered in the supporting procedures.

Where individuals, or individuals acting on behalf of another individual or group, are submitting multiple or lengthy requests for information or complaints in relation to the same subject matter to the Council or across both Councils, the Assistant Director of Customer Service and Improvement or representative will have the option to take a report to SAMT using the evidence collated from all the individuals involved, in order to prevent duplicating or prolonging the evidence gathering process.

The Assistant Director of Customer Service and Improvement or representative will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken.

Senior Managers will need to inform and seek advice from the Customer Service and Improvement Department regarding potential habitual or vexatious complaints, which have not progressed on to the formal stage (stage two) of the complaints process and as such fall outside the control of, and therefore knowledge of, the Customer Service and Improvement Department.

Once a complainant has been determined to be habitual or vexatious, their status will be kept under review and monitored by the Customer Service and Improvement Department

with reports being taken to SAMT as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

Our experience has shown that the behaviour of some customers considered vexatious can fluctuate greatly. Following any SAMT decision that has determined a customer as habitual or vexatious SAMT may confer delegated powers to the Assistant Director – Customer Service and Improvement in cases to amend the conditions in the interest of the service where prompt action may be required at short notice. In such cases the Assistant Director – Customer Service and Improvement will put monitoring measures in place and make a decision in line with this policy.

Criteria for Determining Habitual or Vexatious Complainants

Complainants or anyone deemed to be acting on their behalf may be considered to be vexatious or persistent if one or more of the following applies where previous or current contact with them shows that they meet two or more of the following criteria:

Where complainants are:

- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to co-operate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a late stage.
- Raising numerous, detailed but unimportant questions; insisting that they are answered.
- Acting individually or on behalf of a group, submitting numerous or lengthy requests for information or complaints in relation to the same subject or where the Council has received similar complaints or requests for information from the complainant themselves previously on the same issue.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach, pursuing parallel complaints on the same issue with a variety of other organisations.
- Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints.
- Refusing to accept the decision, repeatedly arguing points with no new evidence.
- Harassing verbally or otherwise seeking to intimidate employees dealing with their complaint, including the use of foul, abusive or racist language, which will be reported to the appropriate authority.
- Threatening or using physical violence towards employees. The Employee Protection Policy (available on the Councils' Intranet) provides guidance and procedures on how to report such incidents.

- Insisting on pursuing unjustified complaints and/or unrealistic outcomes to legitimate complaints or taking actions that are out of proportion to the nature of the complaint, even when the complaints procedure has been exhausted.
- Demonstrating behaviour which has a significant and disproportionate adverse effect on the Councils resources.

The Habitual/ Vexatious complaints handling process

Options for Dealing with Habitual or Vexatious Complainants

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

1. A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
3. Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
4. Inform the complainant that in extreme circumstances the Council **will** seek legal advice on habitual or vexatious complaints and this may lead to legal action being taken against the complainant as the Council has a duty to protect both the Council's reputation and its' employees.
5. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual and/or vexatious, while seeking advice or guidance from its solicitor or other relevant agencies, such as the Local Government Ombudsman or External Auditor.
6. In cases of threats of verbal or physical abuse, recommend the complainant is added to the Employee Protection Register.

| Habitual/ Vexatious complaint | |
|--|---|
| Description | Multiple complaints or requests for information about the same* issue (s) which have previously been investigated or answered fully |
| Who by | A customer to any member of staff |
| Action | To be passed to the Customer Service and Improvement Department for administration, monitoring and reporting purposes |

***Please note:** Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints.

5. Responsibility for Implementation

The Assistant Director of Customer Service and Improvement

The Assistant Director of Customer Service and Improvement will oversee the implementation of this policy on behalf of the Chief Executive Officer who has overall responsibility for the policy. The Assistant Director of Customer Service and Improvement, with support from other team members is responsible for establishing systems and procedures that support the implementation of this policy and for managing the compliments, comments and complaints system.

The Assistant Director – Customer Service and Improvement will in some cases, where it is considered by SAMT be given delegated powers to amend conditions associated with ‘vexatiousness’ if it is in the interest of the service and where prompt action may be required at short notice.

The Chief Executive Officer and Executive Directors/ Assistant Directors:

Responsible for reviewing Internal Review complaints, they should be satisfied that the investigation is complete and the response addresses all aspects of the complaint.

The Monitoring Officer

The Monitoring Officer has a duty to make a statutory report to Council in respect of maladministration where the Local Government Ombudsman has investigated and found maladministration and injustice on the part of the authority.

Senior Managers and Departmental Complaints Contacts:

Involved in the operational investigation and management of complaints handling. As senior officers they may be responsible for preparing and signing decision letters or submitting information to the Customer Service and Improvement Department (in complex or crosscutting cases), so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

Complaints Investigator:

The complaints investigator is responsible and accountable for the management of the investigation. They may work in the service delivery team or the Customer Service and Improvement Department, and will be involved in the investigation and in co-ordinating all aspects of the response to the customer. This will include preparing a comprehensive written report, including details of any procedural changes in service delivery that could result in wider opportunities for learning across the organisation.

All staff:

A compliment, comment or complaint may be made to any member of staff within the organisation. All staff must be aware of the Compliments, Comments and Complaints Policy and procedure and how to handle complaints at the frontline stage. They should also be aware of who they should refer a complaint to, in case they are not able to personally handle the matter.

The Local Government Ombudsman/ Housing Ombudsman Link Officer:

The Link Officer's role will include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to investigations, and confirming and verifying that recommendations have been implemented. Please note: the responsibility for the Housing Ombudsman Link Officer role for NEDDC is with Rykneld Housing.



We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

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North East Derbyshire District

Council on **01246 231111**

Joint Disposal & Acquisitions Policy

(July 2014)



CONTROL SHEET FOR [Disposals and Acquisitions Policy]

| Policy Details | Comments / Confirmation (To be updated as the document progresses) |
|---|---|
| Policy title | Disposals and Acquisitions Policy |
| | |
| Current status - i.e. first draft, version 2 or final version | Final |
| | |
| Policy author | Building and Contracts Manager |
| | |
| Location of policy - i.e. L-drive, shared drive | L drive |
| | |
| Member route for approval | Executive, Cabinet, Strategic Alliance Joint Committee |
| | |
| Cabinet Member (if applicable) | Regeneration |
| | |
| Equality Impact Assessment approval date | N/A |
| | |
| Partnership involvement (if applicable) | |
| | |
| Final policy approval route i.e. Executive/ Council /Planning Committee | N/A |
| | |
| Date policy approved | |
| | |
| Date policy due for review (maximum three years) | |
| | |
| Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public) | June 2017 |
| | |
| | |

JOINT DISPOSALS & ACQUISITIONS POLICY

METHOD OF DISPOSAL OF SURPLUS/UNDER-USED COUNCIL OWNED PROPERTY

Introduction

- 1.1 Government advice recommends that local authorities have a document describing their strategy, policy and guidance for disposing of land.
- 1.2 This document is in accordance with Government advice and details Bolsover District Council and North East Derbyshire District Council's policies and internal guidance relating to disposals of land and property. For the purpose of this document, a disposal of land means any freehold disposal, by sale or exchange, of Council owned land or buildings and any disposal by the granting of a lease for a period greater than 7 years. Leases of 7 years or less are not covered by this document.
- 1.3 The purpose of this document is to make the Council's strategy, policies, guidance and procedures transparent and public. It is intended for use by Council officers and to inform developers and members of the public.
- 1.4 It is important that each land disposal is treated on its own merits and nothing in this document will bind the Council to a particular course of action in respect of a land disposal. Alternative methods of disposal, not specifically mentioned in this document, may be used where appropriate, subject to obtaining proper authority. The Council's actions in disposing of land are subject to statutory provisions, in particular, to the overriding duty on the Council, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal of land. This duty is subject to certain exceptions that are set out in the 'Local Government Act 1972: General Disposal Consent (England) 2003'
- 1.5 This document sets out, in sequence, the procedure to be adopted in connection with the disposal of surplus/under-used property.
- 1.6 To ensure policy is correctly implemented, the Council's Asset Management Group (AMG), directed and facilitated by Property and Estates will consider and make recommendations on all Council owned property transactions prior to disposal. This may be either by making recommendations to Council Committees or recommending delivery through existing delegated powers. The group is made up of key departmental heads and appropriate Portfolio Holders.

Definition of Surplus/Under-used property

2.1 A site (or part of the site) is deemed to be surplus to the Council's requirements if:

- (a) it makes no contribution to the delivery of the Council's services nor generates any income, and
- (b) it has potential for future regeneration/redevelopment purposes and/or surplus to the Councils operational requirements or an alternative site can be identified.
- (c) an alternative site has been identified which would achieve more cost effective service delivery.

(d) It is not required for the development of Council Housing

2.2 A general fund site (or part of the site) is deemed to be under-used if either:

- (a) the income being generated from the site is below that which could be achieved from:
 - (i) an alternative use
 - (ii) disposing of the site and investing the income
 - (iii) intensifying the exiting use, or
- (b) part of the site is vacant and is likely to remain vacant for the foreseeable future.

A HRA site (or part of the site) is deemed to be under-used if either

- (a) the income and social value being generated from the site is below that which could be achieved from:
 - (i) an alternative use
 - (ii) disposing of the site and investing the income
 - (iii) intensifying the exiting use, or
- (b) part of the site is vacant and is likely to remain vacant for the foreseeable future.

Site Identification

3.1 Sites for possible disposal may be identified in the following ways:

- (a) Through Local Development Framework designation
- (b) Through Service Departments declaring specific sites as being surplus to requirements or uneconomical*
- (c) Through continually reviewing Council owned assets to ensure the asset is facilitating service delivery or generating an appropriate income.
- (d) Through approaches by third parties

(*where an **under-used** asset is generating an income, a Cost/Benefit analysis should be carried out, in consultation with SAMT, to establish whether it is in the Councils best interests to dispose of the site)

Site investigations

- 4.1 Once a potential site has been identified, the lead party will consult with AMG, Legal Services, and Planning Services to establish whether there are any development constraints on the site or restrictions to disposal such as designation as Public Open Space.
- 4.2 Ground investigation works, and desk studies into previous land use history, will also be carried out where appropriate.

Valuations

- 5.1 In normal circumstances, the valuation of sites will be undertaken by the Council's Senior Valuer. Where a disposal is in respect of a major or complex site, additional independent valuation advice may also be sought, from, e.g. the District Valuer or from another suitably qualified surveyor.

Method of Disposal

- 6.1 The Commercial Property and Developments Manager will recommend to AMG the most appropriate method of disposal e.g. Auction, Private Treaty etc.
- 6.2 Unless a "special purchaser" has been identified i.e. one who is prepared to pay a premium for the site (over and above market value), all potential purchasers are to be given an opportunity to tender/submit an offer, according to the method of disposal recommended.
- 6.3 Where the disposal is to be by way of a long lease, the Assistant Director of Finance & Revenues and Benefits will be consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.
- 6.4 The Council will usually use one of seven means to dispose of land. Further guidance upon when it will be appropriate to use any particular means of disposal is contained in Annex 1. The means of disposal are:-
 - **Private Sale** - a sale of land negotiated with one or a small number of purchasers. The land may or may not have been marketed as available for sale. A binding legal agreement is created on 'exchange of contracts' between the Council and the purchaser.
 - **Public Auction** - a sale of land by open auction available to anyone. The sale will be publicly advertised in advance. The auctioneer creates a binding legal agreement upon the acceptance of a bid.
 - **Formal Tender** - a sale of land by a process of public advertisement and submission of tenders by a given date in accordance with a strict

procedure. The Council creates a binding legal agreement upon the acceptance of a tender.

- **Exchange of Land** - a transaction involving the exchange of Council owned land with another land owner. The land acquired by the Council will meet at least one of its corporate objectives and will be 'equal' to the land exchanged.
- **Informal Negotiated Tender** - a sale of land after a public advertisement that requests informal offers or bids that meet a given specification of set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder.
- **Development Partner/Agreement** - a private sector partner who have been procured through appropriate means to jointly deliver and benefit from redevelopment/regeneration schemes.
- **Transfer to RP Partner** - where deemed appropriate HRA land at NEDDC can be transferred to its RP partner by general consent.

Marketing Strategy

- 7.1 The Commercial Property and Developments Manager will recommend a marketing strategy to AMG. All staff costs, legal costs, marketing costs, consultants costs etc. associated with any potential disposal of an asset (even where such costs do not lead to an actual disposal) will be re-charged to the cost centre where the Capital Receipt is, or would be, placed.

Timing

- 8.1 The timing of any marketing/disposals will be considered against the background of the Council's budgetary requirements, together with the current state of the property market. Before recommending that a disposal is to proceed, the following factors are to be taken into consideration:
- Has Senior Management Team advised of an immediate need to raise capital receipts?
 - Current property market conditions
 - Potential for the site value to increase in the future
 - Regional Planning Guidance and the Local Development Framework process (or other such Planning Policy documents) - this will influence decisions on the disposal (and acquisition) of land, as well as the future use of individual sites.

Executive Approval

- 9.1 The Executive Director of Operations (in conjunction with any other relevant Assistant Director) and following presentation and consideration at AMG, will prepare a report for the next Executive unless the disposal can be dealt with under delegated authority. The report will recommend the most appropriate method for marketing and disposing of the property. If the disposal falls within existing delegations, and it is deemed appropriate **not** to refer the matter to the Executive, the relevant consultations will be carried out, as set out in the delegations.
- 9.2 Prior to the disposal of Open Space the intention needs to be advertised as appropriate to enable comments received to be considered before a decision is made.

Negotiations

- 10.1 The capital receipt from any disposal is to be maximised unless there are over-riding factors identified in the Corporate Plan or Housing Business Plan that take precedence over the receipt of capital.
- 10.2 Where Strategic Alliance Management Team consider that a site should be disposed of at a price below open market value, the matter is to be reported to the Executive (BDC) Cabinet (NEDDC) for approval, prior to the disposal. A disposal of land at a price below open market value may require the consent of the Secretary of State under the provisions of the Local Government Act 1972.
- 10.3.1 If possible a timescale for the development of any land will be agreed with the prospective purchaser. If the land is not developed in this timescale then the Council will have the opportunity to repurchase the land at the original sale price or the current market value whichever is the lower. This is to prevent purchasers 'land banking' and benefiting from any future increases in land values. This may not be possible on large regeneration schemes where significant upfront investment from the buyer is required to enable development (e.g. Planning consent, Archaeology, etc).

Instructions

- 11.1 Once a potential purchaser has been identified and all the terms of the disposal have been agreed (or earlier if appropriate), Legal Services will be instructed to prepare the relevant legal documentation.

Completion

- 12.1 Once the disposal has been completed, Legal Services will advise the Joint Executive Director of Operations, Building and Contracts Manager, Head of Housing (Bolsover HRA land only), Rykneld Homes MD (NEDDC HRA land only) relevant Members and such others as are appropriate.

METHOD OF ACQUISITION OF LAND AND PROPERTY

Introduction

- 13.1 This part of the strategy sets out, in sequence, the procedure to be adopted in connection with the acquisition of land and property.

Reasons for the acquisition of Land or Property

- 14.1 Unless there are exceptional circumstances, the Council will only acquire land or property for the following reasons:
- its contribution towards the provision of the Council's services
 - economic development
 - revenue income generation
 - strategic acquisition for regeneration or redevelopment purposes
 - To enable the building of new council housing
 - For use as Council Housing

Market Research

- 15.1 Once a need to acquire property has been identified, market research will be carried out by the relevant Assistant Director, in consultation with the Building and Contracts Manager, to establish whether suitable land or property is available on the market to fulfil this need.
- 15.2 Where a number of potentially suitable properties exist in the marketplace, robust comparisons will be made to establish which is the most suitable for the Council's needs. Criteria against which such decisions will be made include: -
- price
 - condition of property
 - availability (in terms of timing)
 - nature of tenure being offered (freehold or leasehold)
 - locational advantages (where a strategic acquisition is under consideration)

- return on investment (where a revenue generating asset is being considered)

Financial Appraisal

16.1 When a suitable property has been identified, a financial appraisal will be carried out to establish the financial/budgetary implications of acquiring the property at the quoted asking price. The advice of the Assistant Director of Finance & Revenues and Benefits will be sought regarding current rates of interest on capital invested, to enable the opportunity cost of the acquisition to be fully assessed. The financial appraisal will take into account the following matters:

- the capital cost of acquisition
- any revenue, or potential revenue, generated from the property, both short and long term
- availability of external funding sources
- possibility of joint ventures
- the cost, in Asset Management terms, of owning the property, including:-
 - immediate maintenance/refurbishment requirements
 - demolition costs, if appropriate
 - ongoing maintenance/life cycle costings
 - national non-domestic rates
 - insurance
- the overall effect of the expenditure on the Council's budgetary position.
- State Aid and Best Value considerations should also be addressed.

Independent Valuation

17.1 Valuation advice will be provided by the Council's Valuer, or in cases of a complex nature either from the District Valuer or another suitably qualified surveyor. Where such advice suggests that the true Market Value of the property is below the asking price, (or where the amount of expenditure is likely to exceed that set aside in the Medium Term Financial Plan for strategic land acquisition), and there are overriding factors which justify the purchase, a report shall be prepared for the Executive by the relevant Assistant Director, in consultation with the Executive Director of Operations, seeking approval to continue with the proposed acquisition.

17.2 Where the acquisition is to be by way of a long lease, the Assistant Director of Finance & Revenues and will be specifically consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.

Negotiation

- 18.1 Once the principle of an acquisition has been agreed, negotiations will be commenced with the vendor by the Council's Valuer in consultation with the relevant Assistant Director. Where the sale is by auction or tender, bids will be formulated as appropriate

Executive/Cabinet Approval

- 19.1 Any offer to the vendor will be made "*subject to contract, Executive/Cabinet approval and, where appropriate, survey*" and a report will be prepared for the next Executive/Cabinet, by the relevant Assistant Director in consultation with the Executive Director of Operations, recommending acceptance of the acquisition.
- 19.2 Where circumstances dictate that an urgent decision is required (and where resources have not been set aside and the principle of the acquisition has not already been agreed) the Leader of the Council and the Joint Chief Executive will be consulted as to whether the use of the Chief Executive's delegated powers is possible/appropriate after taking advice on the financial and any legal implications arising. Any decisions made in accordance with this condition will be 'Key Decisions' and must be reported in accordance with the relevant procedures.

Instructions

- 20.1 Once Executive/Cabinet approval has been received, and any surveys satisfactorily carried out (or earlier if appropriate), Legal Services will be instructed to complete the documentation associated with the acquisition.

Completion

- 21.1 Once the disposal has been completed, Legal Services will advise the instructing officer who will in turn advise the Executive Director of Operations, Building and Contracts Manager, Assistant Director of Finance & Revenues and, relevant Members and such others as are appropriate.

DESCRIPTION OF LAND DISPOSALS

DISPOSAL BY PRIVATE SALE

- 1.1 A disposal by Private Sale may take place after a period during which the land is put on the market including advertising and generally making known that it is available for sale. In this case, the Council will be able to consider the highest bid as representing the best consideration that can be reasonably obtained.
- 1.2 If land is to be sold by Private Sale without being marketed, then the reasons justifying a private sale must be recorded in writing. In some circumstances the Council may seek an additional independent valuation to verify that 'best consideration' is being obtained.

A private sale without the land being marketed may be justified where:

- (a) the land to be disposed of is relatively small in size and an adjoining or closely located landowner is the only potential or likely purchaser.
 - (b) the nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained.
 - (c) the Council's land is part of a larger area of land that is proposed for development, redevelopment or regeneration where the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area.
- 1.3 A legally binding agreement will not be reached until either contracts for the lease or sale of land are exchanged or a development agreement is signed.

DISPOSAL BY PUBLIC AUCTION

- 2.1 Sale by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price can be obtained by auction.
- 2.2 The authority from the Council's Executive must record in writing
 - (a) the reasons justifying a sale by public auction;
 - (b) delegated powers to agree the reserve price, if any, for the auction;
 - (c) the authority for a Council officer to attend the auction and to act on behalf of the Council on the sale.
- 2.3 The contract for sale or lease must be ready for exchange at the auction.

- 2.4 A binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed on behalf of the Council and exchanged with the purchaser.

DISPOSAL BY FORMAL TENDER

NB: Disposal by this method is not straightforward and careful consideration as to why it is necessary to use this method should be recorded. This should only be considered if no other disposal options are available.

- 3.1 A sale of land by formal tender may be appropriate where the land ownership is not complex and the Council is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance. For example; the disposal of land to a developer with an obligation to build industrial units for lease, or the conservation of a listed building. In such instances, a process of formal tender may be appropriate in gaining best consideration.
- 3.2 Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage.
- 3.3 The reasons justifying a sale by formal tender must be recorded in the Executive report. The Council's rules for tender offers contained in the Contract Procedure Rules will be followed.
- 3.4 The nature of the formal tender process is that a legally binding relationship is formed when the Council accepts a tender in writing by exchanging contracts. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents should include a contract for sale or lease which should be completed with the tenderer's details, the tender price and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender. If the tender is acceptable the Council will complete and sign contract its contract, date both parts and send its signed contract to the buyer, at which point a binding contract will be created
- 3.5 Sale of land by formal tender will require a detailed specification to be drawn up. This will specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met.
- 3.6 The Council will place a public advertisement seeking expressions of interest and publicise the selection criteria by which it will assess tenders. Those individuals selected will then be invited to submit their tender bids.
- 3.7 Legal Services will always be consulted before tender the Council seeks to dispose of land by formal tender

DISPOSAL BY EXCHANGE OF LAND

- 4.1 Disposal by exchange of land will be appropriate when it is advantageous to the Council and other parties to exchange land in their ownerships and will achieve best consideration for the Authority.

- 4.2 A binding legal agreement will be created when a contract is exchanged for the exchange.
- 4.3 The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. For example, where the Council in exchange for a larger piece of land receives a smaller piece of land but the recipient of the larger plot agrees to build industrial units or houses on the Council's smaller area to equalise the consideration. In such circumstances the Council may seek an independent valuation to verify that 'best consideration' will be obtained.

DISPOSAL BY INFORMAL/NEGOTIATED TENDER

- 5.1 A disposal by informal/negotiated tender differs from a formal tender in that neither the Council nor the successful bidder is legal obliged to enter into a contract for the disposal of the land. The informal/negotiated tender process allows the Council to identify one preferred bidder with whom it may then negotiate further detailed terms or proposals for the development of the land concerned.
- 5.2 The Council uses a public advertisement to request informal development proposals for land that meet a given specification. This process is particularly useful for large or complex development or regeneration sites requiring development and where the proposals may need to be developed in co-operation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.
- 5.3 The Council's rules for tender offers contained in the Contract Procedure Rules will be followed in respect of the receipt of tenders. Any exceptions to that process must be authorised and recorded in accordance with these Rules.
- 5.4 A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.

Development Partner/Agreement

A private sector partner who have been procured through appropriate means to jointly deliver and benefit from redevelopment/regeneration schemes. Examples of such Public/Private partnerships can be found in the RICS/Local Partnerships Paper 'Local Asset Backed Vehicles - A success story or unproven concept?' which can be found on the link below:

<http://www.localpartnerships.org.uk/images/PDFs/2012/LocalAssetBackedVehicles.pdf>

EXCEPTIONS

- 6.1 Other methods of disposal may be used where circumstances warrant them.

LATE BIDS AND OTHER CONSIDERATIONS

- 7.1 Guidance from the Local Government Ombudsman recognises the problem caused to local authorities by 'late bids'. The Guidance states that difficulties are less likely if Councils ensure that exchange of contracts take place as quickly as

possible after the decision to sell (or lease) is made. It suggests that local authorities should be allowed to sell at an agreed price within a reasonable period of reaching a 'subject to contract' agreement.

7.2 In the context of the methods of land disposal dealt with in this document, a late bid may occur:-

- (a) in the case of a private sale, after a sale or lease has been agreed, but before exchange of contracts
- (b) in the case of a public auction, after the auction has been closed, but the reserved price not having been met.
- (c) in the case of a formal tender, after the closing date for tenders, but before selection of the successful tender.
- (d) in the case of an informal or negotiated tender, after receipt of bids, but before exchange of contracts or signing of a development agreement.
- (e) in the case of disposal by exchange after, a sale or lease has been agreed, but before exchange of contracts.

7.3 Each 'late bid' must be considered in the context of the individual circumstances at the time. The Council's approach to 'late bids' will vary depending upon the method of land disposal used. In each case, its overriding duty will be to obtain best consideration that it can reasonably obtain (subject to any exceptions in the General Disposal Consent). The Council's approach to late bids is as follows:

- (a) The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.
- (b) Late bids cannot be considered where land is being disposed of by public auction after a successful bid has been accepted.
- (c) Except as provided herein, until the Council has entered a legally binding contract or agreement with another person it will consider late bids unless there are good commercial reasons for not doing so. This should be explained to any purchaser when a disposal of land by private sale or negotiated/informal tender is agreed.
- (d) Consideration of a late bid does not mean that it will necessarily be accepted even if it is the 'highest' bid. The Council will take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of late bids used as a spoiling or delaying tactic.
- (e) Subject to the above, the Council may, in appropriate circumstances, as both the late bidder and the person to whom the land was previously to have been sold, invite both parties to submit their last and final bids in a sealed envelope by a set deadline.

- (f) A decision on whether to accept a late bid for a private sale, informal tender or by exchange are to be made either by the Executive or delegated powers.
- 7.4 A last minute bid may be rejected for sound commercial reasons. For example, if there is no real certainty of it leading speedily to a contract or is suspected as a spoiling bid.
- 7.5 The Council cannot be concerned with the issue of “gazumping” - the overriding duty, with certain exceptions as mentioned in the General Disposal Consent, is to obtain best consideration.
- 7.6 In considering what amounts to ‘monetary value’ in terms of best consideration to be obtained, the creation of jobs or desirable social outcomes, will be considered by the Council as part of its general powers of wellbeing under the Local Government Act 2000

GENERAL DISPOSAL CONSENT

- 8.1 The General Disposal Consent makes provision for the Council to dispose of land at less than full market value, known as an ‘under-value’. Specified circumstances must apply as follows:-
 - (a) The Council considers that the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the whole or part of its area, or any person resident or present in its area.
 - (b) The difference between the unrestricted or market value of the land to be disposed of and the consideration for the disposal does not exceed £2 million.

For example; land may be sold at an under-value for only affordable housing rather than all residential types, as long as the difference between the consideration obtained for development for affordable housing and the land’s unrestricted value for all residential types, is less than £2 million.

- 8.2 The Council must still comply with its duty to obtain best consideration for the restricted value. So, using the above example, the Council must ensure that it achieves the best consideration that may be reasonably obtained for land restricted to development for only affordable housing.
- 8.3 The Council must also comply with normal and prudent commercial practices including obtaining the view of a professionally qualified valuer as to the likely amount of any under-value.

Land Disposal Approach - One to One Sales e.g garden land.

1. Approach from interested party.
2. Send holding reply.
3. Carry out consultation exercise with other departments.
4. Respond to applicant.
5. If sale possible send heads of terms on without prejudice and subject to contract basis. Applicant to confirm acceptance of terms in writing.
6. Consult local members to ensure they have no objections
7. Report to Executive for approval outlining terms provisionally agreed or if below £10,000 report to SAMT under delegated powers.
8. Notify applicant of Executive decision and request details of Solicitor.
9. Instruct Legal.
10. Prior to completion peg out site if necessary.
11. Complete sale and notify the Finance Department and other Departments within the Council and amend the Terrier records.

Land Disposal Approach - Open Market Sales e.g Building Plots

1. Site for disposal identified either internally or from enquiry from member of public.
2. If from member of public advised that the Council cannot deal in isolation and the site will have to be marketed.
3. Through AMG and other relevant parties carry out consultation to see if the site can be sold.
4. If yes value site and prepare for sale details. AMG should consider the benefits of raising the value through obtaining outline planning permission, demolition, etc.
5. Advertise in appropriate manner.
6. Receive offers.
7. Advise successful bidder.
8. Consult local members to ensure they have no objections to the sale.
9. Report to Executive.
10. Advise bidder of outcome of Executive meeting and get details of Solicitors if appropriate. Bidder to be advised at this stage that Council has a duty to consider any other offers it receives prior to exchange of contract.
11. Instruct Legal.
12. Prior to completion set out site if necessary.
13. Complete sale and notify the Finance Department and other Departments within the Council and amend the Terrier records.