

EXECUTIVE

Monday, 11 January 2016
6.00 pm
Committee Room 1, City Hall

Membership: Councillors Ric Metcalfe (Chair), Donald Nannestad (Vice-Chair), Rosanne Kirk, Neil Murray, Fay Smith and Peter West

Officers attending: Angela Andrews, Democratic Services, Jaclyn Gibson, John Latham, Bob Ledger and Carolyn Wheeler

A G E N D A

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MINUTES AND EXTRACTS

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| 1. Confirmation of Minutes - 14 December 2015 | 3 - 6 |
| 2. Declarations of Interest | |

Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.

CORPORATE MANAGEMENT & CUSTOMER SERVICES

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RECREATIONAL SERVICES & HEALTH

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You are asked to resolve that the press and public be excluded from the meeting during the consideration of the following items because it is likely that if members of the press or public were present, there would be disclosure to them of 'exempt information'.

In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, notice is hereby given of items which will be considered in private, for which either 28 days' notice has been given or approval has been granted by the appropriate person specified in the Regulations. For further details please visit our website at <http://www.lincoln.gov.uk> or contact Democratic Services at City Hall, Beaumont Fee, Lincoln.

Management Structure. This item is being considered in private as it is likely to disclose exempt information, as defined in Schedule 12A of the Local Government Act 1972. No representations have been received in relation to the proposal to consider this item in private.

SECTION B

CORPORATE MANAGEMENT & CUSTOMER SERVICES

- | | |
|--------------------------|-----------|
| 13. Management Structure | 175 - 198 |
| [Exempt Para(s) 1] | |

Present: Councillor Ric Metcalfe (*in the Chair*),
Councillor Donald Nannestad, Councillor Rosanne Kirk,
Councillor Neil Murray, Councillor Fay Smith and
Councillor Peter West

Apologies for Absence: None.

100. Confirmation of Minutes - 30 November 2015

RESOLVED that the minutes of the meeting held on 30 November 2015 be confirmed.

101. Declarations of Interest

No declarations of interest were received.

102. Living Wage Increase November 2015

Purpose of Report

To recommend how the living wage increase announced on 2 November 2015 could be implemented.

Decision

That the revised living wage be implemented with effect from 1 January 2016.

Alternative Options Considered and Rejected

None.

Reason for Decision

The Council became an accredited member of the Living Wage Foundation in October 2013. Since accreditation the Council had implemented annual living wage increases as an uplift in salary for the affected staff. On 2 November 2015 it had been announced that the living wage would rise from £7.85 to £8.25.

The Council was committed to maintaining its Living Wage accreditation and in order to do so, the Council had 6 months to implement the living wage increase. Noting the endorsement of the City of Lincoln Council and Employee Joint Consultative Committee, and in order to maintain the accreditation and ensure employees were being paid appropriately it was agreed that the revised living wage would be implemented from 1 January 2016 onwards. Members noted that the Council's Pay Policy Statement would need amending accordingly.

103. New Build Programme

Purpose of Report

Further to the report to the Executive on 16 June 2014 on the resources and strategic options for the house building programme, to present a proposal and

obtain approval for the fourth development phase of the new council house building programme to provide 16 new council homes for rent.

Decision

1. That the next phase of new build development on land at Blankney Crescent to provide 16 new houses be approved.
2. That the development scheme be added to the Housing Investment Programme in 2015/16 and 2016/17 and included on the list of schemes monitored by the Strategic Plan Implementation Team.

Alternative Options Considered and Rejected

None.

Reason for Decision

On 16 June 2014 the Executive approved a strategy to accelerate the Council's house-building programme. In accordance with that strategy the Executive had been presented with proposals to continue to the next phase of the house-building programme through the development of Housing Revenue Account land on Blankney Crescent by providing 16 houses for rent. The site was considered to be particularly appropriate as it could be developed without the Council incurring any land acquisition costs.

The properties would be built to achieve a fabric which was compliant with the Sustainable Homes Code Level 3, thereby providing properties that were economical to heat and be in line with reducing fuel poverty. The proposals were approved in accordance with the Council's strategic priority to increase the supply of affordable housing.

104. Bereavement Services Business Case

Purpose of Report

To request Executive approval regarding the recommendations contained in the Bereavement Services business case and as outlined in the executive summary of the provided report.

Decision

1. That the recommendations contained in the Bereavement Services business case be approved.
2. That capital and revenue improvements to the crematorium costing £157,420 be approved and funded from the Invest to Save Reserve, subject to completion of the appropriate project management requirements.
3. That the staffing changes highlighted in paragraph 2.2 of the provided report and paragraph 4.0 of the business case be approved.

4. That the income generation scheme detailed in paragraph 8.1.2 of the business case be approved, subject to Council approval of the specific fees and charges.
5. That the medium and longer term recommendations of the business case be approved.

Alternative Options Considered and Rejected

None.

Reason for Decision

The Bereavement Services team was based at the Council's crematorium on Washingborough Road. As a consequence of its proximity, location and quality of service, the crematorium provided a service for 80% of all deaths in the city, represented by 1,750 cremation services per annum. The crematorium generated annual revenues in excess of £1m and was running at 78% of its potential full capacity.

Members agreed that the reputation of the crematorium was of paramount importance, as a result of the serious consequences if mistakes were made in its operation. In addition, it was forecast that the central Lincolnshire area would experience significant housing growth and so it was necessary to ensure the crematorium was fit for purpose and could compete in an increasingly competitive market. As such, a number of changes proposed to the service had been considered by the Policy Scrutiny Committee and recommended to the Executive for approval

The proposed improvements were outlined in the business case and had an initial total cost of £157,420 and an ongoing revenue cost of £7,850 per annum. This cost would be met through the invest to save budget.

The staffing at the crematorium was agreed to be changed in line with the recommendations of the business case. This would entail the creation of a senior cremator operator post, an increase in the hours of the typist clerk and the removal of a vacant post. These changes were agreed in order to ensure suitable staffing was in place to support the efficient operation of the service. Members noted the concern expressed by trade unions regarding the principle of weekend working, but were content that this would be appropriately managed by the responsible staff.

In order to defray the significant revenue and capital investment made by Council, the income generation schemes outlined in the business case were to be implemented at the earliest opportunity. These would include new tariffs for witnessed burial charges, direct cremations and the use of a new Wesley system, while further income could be generated through the proposed extension to the opening times and through future consideration of bereavement services tariffs. The Executive further considered the other proposals made for investments in the medium-to-long term and gave support in principle to the development of relevant schemes.

105. Exclusion of the Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following items of business because it was likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

HR and Workbased Learning Review. This item was considered in private as it was likely to disclose exempt information, as defined in Schedule 12A of the Local Government Act 1972. No representations had been received in relation to the proposal to consider this item in private.

106. HR and Workbased Learning Review

Purpose of Report

To report the findings from the HR and Workbased Learning review and to gain the approval of the proposed restructure by the Executive.

Decision

That the proposed restructure be approved.

Alternative Options Considered and Rejected

None.

Reason for Decision

A review had been undertaken of the Council's Human Resources and Workbased Learning teams, as a result of vacancies within the relevant teams and the opportunity for improved working and savings. The review had made a number of recommendations, including that the teams be combined under one service manager. The proposals also included a career-graded HR Officer and an HR Team Leader role. This, in addition to the career-graded post, would also provide a clear career path for team members.

It was further noted that the proposals would increase capacity to deliver the Council's Organisation Development Strategy, provide a clear career path in a service area into which it had been historically difficult to recruit, mitigate against uncertainty surrounding funding of the Council's apprenticeship scheme, and provide the potential to expand the apprenticeship scheme to benefit the wider organisation. Noting the support of the City of Lincoln Council and Employee Joint Consultative Committee, members resolved to support the proposed scheme in order to deliver the benefits discussed above.

SUBJECT: COUNCIL TAX BASE 2016/17

DIRECTORATE: DIRECTOR OF RESOURCES

LEAD OFFICER: MARTIN WALMSLEY, HEAD OF SHARED REVENUES AND BENEFITS

1. Purpose of Report

- 1.1 The purpose of this report is to seek Members' recommendation of the Council Tax Base for the financial year 2016/17.

2. Executive Summary

- 2.1 This report is submitted to the Executive each year and sets out the calculation of the Council Tax Base for the following financial year.

3. Background

- 3.1 The Local Government Finance Act 1992 and Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) require the Council to formally set its Tax Base as the first stage of the Council Tax setting process.

4. Special Items

- 4.1 Before setting the Council Tax Base, the issue of any special items relating to a part of the Council's area must be considered. If there are any items of expenditure that relate to one part of the local authority area, then that expenditure can be levied on those residents in that area and not on others.
- 4.2 There are no items of special expenditure.

5. Council Tax Base

- 5.1 Certain assumptions have to be made in order to determine the number of dwellings within the Authority's area, and these are set out in Appendix A.
- 5.2 The calculation of the Council Tax base, detailed in Appendix B, shows the number of Band D equivalent chargeable dwellings as being 23,244. This is based on the Regulations in paragraph 3.1 above and assumes that 98.25% of the Council Tax due for 2016/17 will be collected.
- 5.3 The Council Tax base number of Band D equivalent chargeable dwellings for 2016/17 has been calculated as 27,961– less 4,717 deduction calculated for the localised Council Tax Support scheme – resulting in a proposed Council Tax base for 2016/17 of 23,244

6. Organisational Impacts

- 6.1 Finance: The Council must confirm its Council Tax Base as a pre-requisite to setting the Council Tax charge for 2015/16.
- 6.2 Legal Implications: The Local Government Finance Act 1992 and Statutory Instrument No 1992/612 – Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) set out the requirement for the Council to confirm and formally approve its Council Tax Base and notify it to its precepting bodies. The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 provide for Councils to make technical changes to certain discounts from April 2013.
- 6.3 Equality and Diversity: There are no specific equality and diversity impacts as a direct result of this report.

7. Recommendations

- 7.1 The Executive is asked to recommend to Council that it:
- a) Notes that there are no special items as defined in Section 35 of the Local Government Finance Act 1992 (as amended) applicable to any part or parts of the City of Lincoln local authority area;
 - b) Approves the Director of Resources' calculation of the Council Tax Base for the financial year commencing 1 April 2016 and ending 31 March 2017, as set out in Appendix B of this report;
 - c) Approves, in accordance with the Director of Resources' calculation, and pursuant to the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended), that the Council Tax Base for the 2016/17 financial year is 23,244.

Key Decision No

Do the Exempt Information Categories Apply No

Call In and Urgency: Is the decision one to which Rule 15 of the Scrutiny Procedure Rules apply? No

Does the report contain Appendices? Yes

If Yes, how many Appendices? Two

List of Background Papers: None

Lead Officer: Martin Walmsley, Head of Shared Revenues and Benefits, Telephone (01522) 873597

APPENDIX A: Executive 11th January 2016
Assumptions made in the Calculation of the Council Tax Base
(See APPENDIX B)

Number of Dwellings:	The number of dwellings on the Council's database as at 30 November 2015
Exempt properties:	These are laid down by Regulations and are properties exempt from Council Tax, e.g. student occupied property. The total in each of the exemption categories has been calculated as at 14 December 2015 and it has been assumed that the exemption will remain throughout 2016/17.
Disabled relief:	These are properties that are occupied by disabled persons and may be placed in a lower valuation band if they fulfil the criteria laid down by the Regulations. The number of these properties has been calculated at 30 November 2015 and it has been assumed that the relief will remain throughout 2016/17.
Discounts on relevant Day – i.e. 25%, 50%, 10% + 50% levy:	These are laid down by Regulations, in addition to technical changes introduced from April 2013, and are properties subject to a percentage discount from the Council Tax, i.e. second homes, single person households or empty properties. The total in each of the discount categories has been calculated as at 14 December 2015 and it has been assumed that the discount will remain throughout 2016/17.
Net additions expected In year:	This is an estimate of the number of dwellings known to be currently under construction plus the anticipated number to be constructed throughout 2016/17. Account is taken where dwellings will not come into a charge until part way through the year. Adjustments to discounts and exemptions and appeals are also taken into account
Collection Rate:	It is assumed that 98.25% of the Council Tax due for 2016/17 will be collected.
Council Tax Support:	These are estimates of the amount of Council Tax Support to be granted in 2016/17 (localised replacement scheme for Council Tax Benefit from April 2013).

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City of Lincoln - 2015/16 Council Tax Base Estimate as at 30 November 2015

Appendix B

Valuation Bands	A-	A	B	C	D	E	F	G	H	TOTAL
Properties	0.00	26806.00	8750.00	4810.00	2507.00	1204.00	383.00	126.00	45.00	44631.00
Exempt properties	0.00	-1828.00	-630.00	-224.00	-92.00	-224.00	-8.00	-6.00	-23.00	-3035.00
Disabled Band Reductions	76.00	-9.00	-14.00	-25.00	-12.00	-7.00	-2.00	3.00	-10.00	0.00
Adjusted Chargeable Dwellings	76.00	24969.00	8106.00	4561.00	2403.00	973.00	373.00	123.00	12.00	41596.00
25% Discounts (SPD and disregards)	-4.75	-2891.00	-632.50	-316.25	-130.75	-41.75	-16.00	-3.50	0.00	-4036.50
25% Discounts (less than 2 years)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
50% Discounts (empty properties)	0.00	-50.00	-9.50	-2.00	-4.50	-1.50	-3.50	-6.00	-3.00	-80.00
10% Discounts (second homes)	0.00	-18.70	-5.40	-2.90	-2.00	-1.60	-0.20	-0.20	0.00	-31.00
100% Discounts	0.00	-256.00	-65.00	-22.00	-13.00	-7.00	-2.00	0.00	0.00	-365.00
50% levy	0.00	41.50	6.00	1.50	2.00	0.00	0.50	0.50	0.00	52.00
Estimated Future Adjustment	0.00	180.00	59.00	32.00	17.00	8.00	3.00	1.00	0.00	300.00
Adjusted Dwellings	71.25	21974.80	7458.60	4251.35	2271.75	929.15	354.80	114.80	9.00	37435.50
Ratio to Band D	5/9th	6/9th	7/9th	8/9th	9/9th	11/9th	13/9th	15/9th	18/9th	
Band D Equivalent	39.58	14649.87	5801.13	3778.98	2271.75	1135.63	512.49	191.33	18.00	28398.76
Less Estimated non-collection (1.75%)	-0.69	-256.37	-101.52	-66.13	-39.76	-19.87	-8.97	-3.35	-0.32	-496.98
Crown Properties	0.00	35.62	11.63	6.39	3.33	1.60	0.51	0.17	0.06	59.30
Adjusted to Band D Equivalent	38.89	14429.11	5711.24	3719.24	2235.33	1117.35	504.03	188.15	17.74	27961.08
CTR (Working Age)	-5.83	-2618.60	-213.81	-69.51	-28.70	-7.58	-0.87	0.00	0.00	-2944.90
CTR (Pensioner Age)	-2.11	-1327.53	-278.06	-129.87	-24.60	-4.64	-3.32	-1.67	0.00	-1771.80
Council Tax Base	30.95	10482.98	5219.37	3519.86	2182.03	1105.13	499.84	186.48	17.74	23244.38

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SUBJECT: COLLECTION FUND SURPLUS OR DEFICIT – COUNCIL TAX

DIRECTORATE: DIRECTORATE OF RESOURCES

REPORT AUTHOR: LOUISE ALLISON, FINANCIAL SERVICES MANAGER

1. Purpose of Report

- 1.1 To inform Members of the estimated balance for the Council Tax element of the Collection Fund and the surplus or deficit to be declared for 2015/16.

2. Programme Summary

- 2.1 Prior to setting the Council Tax for 2016/17 the City Council is required to estimate whether there is to be a surplus or deficit on Council Tax element of the Collection Fund for the current financial year (2015/16).
- 2.2 The Council will declare a surplus on Council Tax for 2015/16 of £879,300 for the financial year 2015/16.

3. Background

- 3.1 As a Council Tax Billing Authority the City Council is required to estimate whether there is to be a surplus or deficit on the Collection Fund for the current financial year, prior to setting its Council Tax for the next year. The calculation is based on an estimate of tax collected in year compared to the estimate made the previous year, taking into account any previously declared surplus or deficit and the expected year-end arrears position.
- 3.2 The calculation of Council Tax is based on an estimate of tax collected in year compared to the estimate made the previous year, taking into account any previously declared surplus or deficit, and a forecast for the remainder of the current year.
- 3.3 A surplus or deficit may occur in the Collection Fund if actual performance during the year is higher or lower than originally estimated when Council was set. Areas of variance include:
- Council Tax base is larger or smaller than originally anticipated (reasons may be increased property development or changes in exemptions and discounts)
 - In year collection rates are higher or lower than expected,
 - Arrears collection rates are higher or lower than expected
- 3.4 The Council is required to declare any surplus or deficit during January of each financial year and once approved has an obligation to notify its major precepting authorities (Lincolnshire County Council and Lincolnshire Police) of their share of the estimated surplus or deficit.

- 3.5 A report on the estimated balance on the Collection Fund for National Non-Domestic Rates (NNDR) will be reported to the Executive on 25 January 2016 alongside the estimated NNDR base ahead of the submission of the NNDR 1 return to the DCLG due by 31 January 2016.

4. Estimated Surplus/Deficit for 2015/16 – Council Tax

- 4.1 As at 31 March 2016 the Collection Fund is estimated to have a surplus of £350,000 for Council Tax relating to the Financial Year 2015/16.
- 4.2 In addition to declaring the estimated surplus or deficit position on the Collection Fund for the current financial year the Council is also required to declare any surplus or deficit relating to the difference between previously declared surplus/deficit positions and the actual outturn position as reported in the Council's Statement of Accounts. In 2015/16 there is a surplus balance of £529,300 in the Collection Fund relating to previous years.
- 4.3 Based on the forecast position of the in-year Collection Fund as at 31 March 2016 and taking into account an adjustment for the difference between prior year estimates compared to the actual outturn it is estimated that there will be a surplus of £879,300 on the Council Tax element of the Collection Fund in 2015/16, to be distributed to preceptors in 2016/17.

5. Strategic Priorities

- 5.1 There are no direct implications for the Council's Strategic Priorities arising as a result of this report.

6. Organisational Impacts

6.1 Finance

For City of Lincoln the financial implications of the report are summarised below:

Distribution of surplus/(deficit)	CoLC share £
Council Tax – 2015/16 surplus	57,010
Council Tax – Prior year surplus	83,790
Net impact surplus	140,800

The Council's share of the estimated surplus/deficits will be distributed in 2016/17 and will form part of the Medium Term Financial Strategy 2016-21.

- 6.2 Legal Implications incl Procurement Rules - There are no legal implications arising as a direct result of this report.

7. Risk Implications

- 7.1 (i) Options Explored
- 7.2 (ii) Key risks associated with the preferred approach

8. Recommendations

- 8.1 The Executive are recommended to confirm the action of the Assistant Director of Resources (Business Development & Finance) in declaring a Council Tax surplus of £879,300.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? None

List of Background Papers: None

Lead Officer: Louise Allison, Financial Services Manager
Telephone (01522) 873361

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SUBJECT: LOCALISED COUNCIL TAX SUPPORT 2016/17

DIRECTORATE: DIRECTOR OF RESOURCES

LEAD OFFICER: CLAIRE MOSES, REVENUES AND BENEFITS MANAGER

1. Purpose of Report

- 1.1 For Executive to review consultation responses and consider City of Lincoln Council's proposed Localised Council Tax Support scheme for 2016/17, and refer to Full Council for approval.

2. Executive Summary

- 2.1 The Council has a statutory duty to consider annually whether to revise its Local Council Tax Support Scheme or replace it with another scheme. This report proposes keeping the current scheme in use for 2016/17, subject to minor amendments and seeks Executive's consideration to refer the proposed scheme to Full Council for approval.

3. Background

- 3.1 The Government abolished the national Council Tax Benefit scheme in March 2013 and replaced it with a local discount Council Tax Support (CTS) from April 2013. Funding for the scheme was reduced by 10% of the estimated expenditure. This Council decided that it would not reduce the support provided under the former Council Tax Benefit scheme and would fund the shortfall, this being the case for the 2013/14, 2014/15 and current 2015/16 scheme.
- 3.2 For 2015/16, the Council approved a £10,000 exceptional hardship fund to supplement Council Tax Support awards in exceptional cases. Up to 3 December 2015, £8,364 had been awarded from this fund. It is proposed that this fund continues into future years.

4. Reviewing the Council Tax Support scheme

- 4.1 Every Billing Authority must consider whether it will revise its Council Tax Support scheme by 31st January every year and allow for a period of consultation with its major preceptors and other stakeholders before it is approved by full Council. A CTS scheme cannot be changed mid-financial year.
- 4.2 Pensioners are protected and the parts of the scheme that apply to them are prescribed by regulation. As at the time of writing this report, the details needed to update this element of the CTS scheme have only just been announced by the Secretary of State and therefore the necessary amendments to the Council's scheme can be prepared for Council to approve.
- 4.3 The proposed CTS scheme must go through certain steps to comply with the provisions stated in the Local Government Finance Act 2012 before it can be adopted

by this Council as a Billing Authority:-

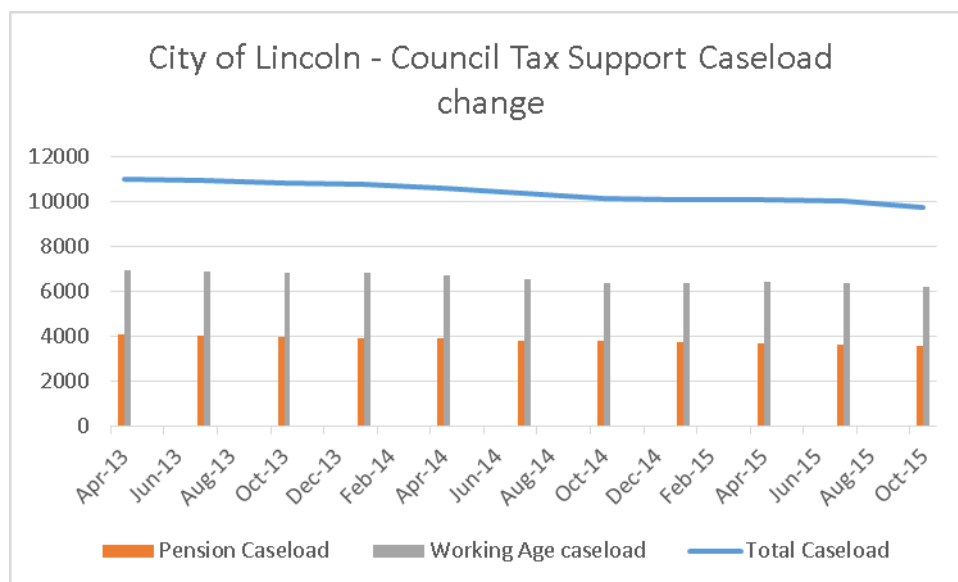
Before making a scheme, the authority must (in the following order):-

- a) consult any major precepting authority which has power to issue a precept to it,*
- b) publish a draft scheme in such manner as it thinks fit, and*
- c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.*

5. Council Tax Support Caseload

- 5.1 Council Tax Support is now a discount rather than a benefit, therefore affecting the Council Tax taxbase calculation. The more that is awarded the more the taxbase is reduced on which to raise Council Tax. Central government's policy intention is that Councils are now empowered to reduce the discounts awarded for CTS by reducing poverty and increasing jobs in the area so fewer people need to claim as this will allow Councils to increase the Council Tax revenue they can raise.
- 5.2 As a result, changes to the number of customers claiming CTS can affect the actual amount spent on the scheme.
- 5.3 Since April 2013 claimant caseload has continued to reduce with a total reduction of 11.4% since April 2013 through to October 2015. The table and graph below show the caseload change from 1 April 2013:

	Total Caseload	Pension Caseload	Working Age caseload
Apr-13	11,018	4,077	6,941
Jul-13	10,947	4,036	6,911
Oct-13	10,829	3,996	6,833
Jan-14	10,765	3,935	6,830
Apr-14	10,603	3,889	6,714
Jul-14	10,378	3,827	6,551
Oct-14	10,171	3,781	6,390
Jan-15	10,124	3,724	6,400
Apr-15	10,108	3,679	6,429
Jul-15	10,048	3,644	6,404
Oct-15	9,760	3,554	6,206



- 5.4 The latest projection for the amount of the CTS discount to be awarded in 2015/16 based upon spending as at 30 November 2015 is £7,558,122. This is a reduction of £352,864 from the predicted cost of £7,910,986 used within the taxbase calculation, the Council's share of this is approximately £57,517.
- 5.5 It is difficult to be certain about the amount of caseload change that may occur in the future and the effect that this will have on expenditure because CTS is an out-of-work and also in-work scheme. A household might be getting full CTS while out of work and then by getting work they may be part-time and on low wages and still getting full CTS or becoming self-employed without any profits. Overall income might not increase much above basic benefit levels so might not result in CTS expenditure falls. Although some further reduction is expected during 2016/17, national estimates are that this will begin to plateau out during 2017/18.

6. Proposed Scheme 2016/17

- 6.1 As set out in paragraph 4.1 above every Billing Authority must consider whether it will revise its CTS scheme each year by the 31st January, the Council must therefore decide whether it wishes to amend any elements of the scheme. As Members will be aware the Council when establishing the CTS scheme in 2013/14 adopted a scheme that did not change entitlement rules from the previous Council Tax Benefit system. This 'no change' scheme was again agreed by the Council for 2014/15 and 2015/16.
- 6.2 On the basis that the same policy objectives remain in place as in previous years, including the strategic priority to reduce poverty and disadvantage, then it is proposed that effectively a 'no change' scheme is adopted for 2016/17.
- 6.3 Although there will be no material change to the calculation of awards within the modelling, there will be some technical changes that will still need to be applied to ensure that the Council's scheme complies with the Prescribed Scheme Regulations (covering Universal Credit, premiums and discounts). These details are still awaited from Department for Communities and Local Government (DCLG).
- 6.4 Technical amendments to the scheme in relation to uprating income, applicable amounts, disregards and allowances are to be collated once statutory details have been released by the Secretary of State; it is intended that these will be circulated to

members for consideration at the Executive meeting of 11 January 2016

- 6.5 The Council also needs to ensure that the scheme covers sick and disabled customers who no longer receive the Disability Premium. The latter was included within the public consultation but only changes the wording not the effect of the scheme.
- 6.6 Prior to estimating the cost of the scheme for 2016/17 officers have made a number of high level assumptions, as follows:
- When establishing the estimates for 2016/17 officers concluded that caseload change of -1% is predicted.
 - The cost of the scheme in 2016/17 will be affected by the levels of Council Tax set by the City Council itself as well as the major precepting authorities of the County Council and the Police Authority, these are not due to be set until early March 2016. The Spending Review 2015 announced the introduction of a new 2% social care precept for local authorities with social care responsibilities i.e. Lincolnshire County Council, as well as offering greater flexibility to Police and Crime Commissioners allowing them to raise income from council tax by £5 rather than 2%. These additional powers have not been modelled in the scheme costs, and will not in any case affect the cost of the scheme to the City Council. For the purposes of estimated the cost of the scheme in 2016/17 the increase in Council Tax has been assumed to be 1.99%.
- 6.7 In addition officers have also considered the significant changes that were announced within the Welfare Reform and Work Bill 2015/16 and whether this should be applied to the CTS scheme as well, these announcements included;
- Housing Benefit backdating will be restricted to 4 weeks. Currently for the Council Tax Support scheme, backdating is 3 months for pension age and 6 months for working age. Backdating expenditure for Council Tax Support is low and would realise some savings. However, reducing backdating could result in smaller Council Tax balances which could be more difficult to collect, putting increased pressure onto recovery.
 - Family Premium will be removed for Housing Benefit from April 2016. DCLG have given clarification that removal of this premium for CTS is at the discretion of the local authority.
 - Up-rating Freeze for social security benefits, including Housing Benefit for 4 years.

As it is proposed that a 'no change' scheme is adopted then none of these announcements will be implemented for the CTS scheme.

- 6.8 Based on the scheme assumptions as set out above the estimated cost of the scheme is £7,731,411 of which the Council's share would be £1,260,220. The current Medium Term Financial Strategy assumes an estimated cost for the scheme of £1,288,642, the proposed scheme therefore estimates a reduction in costs of £28,422.

- 6.9 As required changes to the scheme are uprating the allowances, premiums and non-dependent deductions and incorporating changes specified by the prescribed regulation changes, there is therefore no change to the adopted policy to change the way CTS is calculated. Officers have considered if there is any need for any transitional arrangements to the revised scheme and concluded transitional arrangements are not needed for the 2016-17 scheme.

7. Consultation

- 7.1 Public consultation on a no change scheme was undertaken between 30 October 2015 and 27 November 2015. There were 22 responses in total and the results of the public consultation are shown in Appendix 4.
- 7.2 In addition the Council is also required to consult with the major precepting authorities, those being Lincolnshire County Council and the Lincolnshire Police & Crime Commissioner. The responses to this consultation are attached at Appendix 5 and 6.

8. Timetable

- 8.1 The timetable to approve any change to the new scheme takes into account the existing meeting calendar. The full Council as Billing Authority needs to approve the scheme after consultation with its major preceptors. The process must be completed each year by 31st January as required by the Local Government Finance Act 2012. Policy Scrutiny Committee considered the proposed scheme on 17th December 2015, the Minute extract being included as Appendix 7.

9. Significant Policy Impacts

9.1 Strategic priorities

Council Tax Support has a key role in Reducing Poverty and Disadvantage by ensuring residents in those households who cannot afford to pay their Council Tax receive financial support. The changes to Council Tax Support form part of the national welfare reform agenda, with the risks of changes to numbers of claimants due to economic change and funding gap costs being passed from central government to local authorities. Central government now has a fixed cost funding arrangement whereas local government must set a scheme in advance of the financial year it applies to but cannot change it should circumstances change unexpectedly or if the assumptions used to decide the scheme are not realised. Central government states that this places responsibility for the local economy such as creating businesses and jobs on local government as part of the localism agenda.

9.2 Community engagement/ communication

Council Tax Support awards are notified on Council Tax bills. As the proposed scheme is 'no change', there would be little to communicate except to notify claimants of the decision once their award for the new financial year is known.

9.3 Equality and Diversity

The Authority will be obliged to comply with its general equality duty under the Equality Act 2010. The scheme is being amended in line with statutory requirements and uprating the financial allowances. There is no change proposed to the way the existing scheme operates so no equality assessment has been undertaken.

10. Organisational Impacts

Finance (including whole life costs where applicable)

- 10.1 In 2013/14 the level of funding for CTS was specified separately from other government funding. Since 2014/15 funding for the scheme has now been subsumed into the government's annual funding settlement for local authorities. Whilst central government does not specify how much of this settlement should be used to fund CTS schemes, the overall annual funding settlement is expected to reduce each year over the next four year period.
- 10.2 The actual cost of the discount scheme in 2016/17 will not be known for certain until the end of the financial year and will be dependent on the actual caseload in year as well as the levels of Council Tax set by the City Council and the major precepting authorities. An indicative costs based on a number of assumptions is set out in paragraph 6.8 of this report.
- 10.3 The estimated cost of the 2015/16 scheme if effectively a 'no change' scheme was to be agreed would be reduce the cost to the Council by £28,422 in comparison to the current Medium Term Financial Strategy.
- 10.4 The estimated cost of the scheme, based on current caseload, is taken into consideration when calculating the Council's tax base for the financial year and will impact on the estimated Council Tax yield for the year. Any difference in the actual cost of the discount scheme to that estimated in the tax base calculation will be accounted for within the Collection Fund and will be taken into account when future years surpluses or deficits are declared. A report on the Council's tax base for 2016/17 will be submitted to the Executive and Full Council in January 2016.
- 10.5 The exceptional hardship fund of £10,000, made available during 2015/16, will continue to be available into 2016/17.
- 10.6 **Legal Implications incl Procurement Rules**
The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012, laid before Parliament on 22nd November 2012, set out the regulations for a default scheme and this was adopted by the Council subject to local policy needs in January 2013. The Secretary of State has issued amendment regulations setting out some changes that must be adopted by the Council for pensioners and the Council has also decided in 2013 to keep the schemes allowances and premiums in line with those for Housing Benefit for working age claimants. These are incorporated into amendments to the local scheme for approval by the Council.
- 10.7 The regulations for the City of Lincoln Council scheme proposed to be adopted are to be collated and made available for Council in January 2016.
- 10.8 **Staffing**
No change to current staffing arrangements as a result of this policy.

11. Risk Implications

(i) Options Explored

- 11.1 Mindful of the current financial position of the Council and the financial challenges it faces over the Spending Review 2015 period officers have modelled a number of

scenarios which give an indication of the potential cost of the scheme if the Council were minded to adopt an alternative scheme. These scenarios include;

- Appendix 1 – No uprating of applicable amounts, personal allowances and non-dependent deductions;
- Appendix 2 – Restricting maximum CTS entitlement to a particular Council Tax Band (Bands C and D are modelled);
- Appendix 3 – 90% of Council Tax maximum eligibility.

(ii) Key risks associated with the preferred approach

- 11.2 The Council and other precepting authorities bear the risk of the cost of the Council Tax Support scheme should caseload increase causing the cost to increase more than predicted.

12. Recommendations

12.1 The Executive is asked to recommend to Council that it:

- 1) Reviews consultation responses relating to the Localised Council Tax Support scheme for 2016/17;
- 2) Considers the proposed City of Lincoln Council's Localised Council Tax Support scheme for 2016/17, and refer to Full Council for approval;
- 3) Approves continuation of an Exceptional Hardship Fund of £10,000 for 2016/17 to top-up CTS awards in appropriate cases.

Key Decision Yes

Do the Exempt Information Categories Apply No

Call In and Urgency: Is the decision one to which Rule 15 of the Scrutiny Procedure Rules apply? No

Does the report contain Appendices? Yes

If Yes, how many Appendices? Seven

List of Background Papers: None

Lead Officer: Claire Moses – Telephone 873764

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11 January 2016 City of Lincoln Council Executive – Localised Council Tax Support 2016/17

Appendix 1

Council Tax increase 1.99%, Working age Caseload decrease 1%, and no uprating:

	1% working age caseload reduction & 2% no uprating
1.99% Council Tax increase	£7,704,082
Difference to proposed 2016-17 scheme (£7,731,411)	-£27,329 (£4,455)

Figures in brackets are City of Lincoln's share at 16.3% of the Billing Authority Council Tax. All figures rounded to nearest £500

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11 January 2016 City of Lincoln Council – Executive – Localised Council Tax Support 2016/17

Appendix 2

1.99% increase in Council Tax and Varied Band Restrictions

	Council Tax Band C Reduction with 1% caseload reduction and 2% uprating	Council Tax Band D Reduction with 1% caseload reduction and 2% uprating
1.99% Council Tax increase	£7,724,993	£7,729,346
Difference to proposed 2016-17 scheme (£7,731,411)	-£6,418 (£1,046)	-£2,065 (£336)

Figures in brackets are City of Lincoln's share at 16.3% of the Billing Authority Council Tax. All figures rounded to nearest £500.

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11 January 2016 City of Lincoln Council Executive – Localised Council Tax Support 2016/17

Appendix 3

90% Maximum eligibility with 0% Council Tax increase, various caseload changes and uprating:

	1.99% Council Tax Increase 2% Uprating 1% caseload decrease
90% Maximum Eligibility	£7,545,401
Difference to proposed 2016-17 scheme (£7,731,411)	-£186,010 (£30,320)

Figures in brackets are City of Lincoln's share at 16.3% of the Billing Authority Council Tax. All figures rounded to nearest £500.

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11 January 2016 City of Lincoln Council Executive – Localised Council Tax Support

Appendix 4 – Public Consultation Responses

	Do you agree with these principles?	We offer an exceptional hardship scheme to help those affected by these proposals to top up entitlement if they cannot afford the Council Tax and the scheme cannot help them in their circumstances. We propose to continue this in future years. Do you agree?	Council Tax Support currently gives a premium to households with children of £17.45 per week. This means the Government says that those households can have a higher amount to live on per week. The Department for Work and Pensions will be removing this premium for anyone in receipt of Housing Benefit, reducing the amount a family needs to live on each week. Do you think this premium should be removed for Council Tax Support?	Other comments?
1	Yes	Yes	No	In my view there shouldn't be any support schemes. People should pay their full Council Tax as determined by their individual bandings. Why should the money I pay be used to support other residents that are in properties they can't afford to live in. It means I'm paying more than I should.
2	Yes	Don't know	Yes	
3	No	No	Yes	
4	Yes	Yes	No	
5	Yes	Yes	No	
6	Yes	No	Yes	

7	No	Yes	No	Those in work on a low income should receive more council tax support than those purely on benefits, once I pay all my rent and council tax out of my wages I'm worse off than being on benefits and having all my rent paid for by housing benefit and most of my council tax being paid by council tax benefit. Work doesn't pay currently, sitting around all day doing nothing while on benefits would leave me more money at the end of the week.
8	Don't know	No	Yes	Help those who work hard for a living!
9	No	No	Yes	
10	No	No	Yes	
11	No	No	Yes	
12	Don't know	Yes	Don't know	It's very important single people continue to get a reduction - there is 1/2 the income going into the home compared to the amount couples have coming in
13	No	Yes	Yes	
14	Yes	Yes	No	
15	Yes	Yes	No	
16	Yes	No	No	
17	No	No	Yes	Scheme should be abolished. Council Tax payers should be required to pay 100% of their bill.
18	Yes	No	Yes	
19	No	No	Yes	
20	Yes	Yes	Yes	
21	Yes	Yes	No	
22	Yes	Yes	No	I'm very happy to pay a little extra, in order

				that those people who need financial support in this area can benefit
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The Police and Crime Commissioner for Lincolnshire

Deepdale Lane, Nettleham, Lincoln. LN2 2LT

Telephone (01522) 947192 Fax (01522) 558739

E-Mail: julie.flint@lincs.pnn.police.uk

Website: www.lincolnshire-pcc.gov.uk

Julie Flint
Chief Finance Officer

Our Reference: JF/ch/2015/0645

Date: 26th November 2015

Jaclyn Gibson
Assistant Director – Business Development & Finance
City of Lincoln Council
Directorate of Resources
City Hall
Beaumont Fee
LINCOLN
LN1 1DB

By email:- Jaclyn.gibson@lincoln.gov.uk

Dear Jaclyn

LOCAL COUNCIL TAX SUPPORT SCHEME

Thank you for your letter of 3rd November 2015 in which you seek the Police and Crime Commissioner's view on your Local Council Tax Support Scheme for 2016/17.

The Police and Crime Commissioner has no desire to make additional service reductions or propose additional increases in his council tax to fund potential shortfalls arising from Local Council Tax Support Schemes. As a result, the Police and Crime Commissioner supports proposals for Council Tax Support Schemes which eliminate, or at least minimise, the consequent funding reductions. In addition, the Commissioner supports proposals to increase income through the discretions for Council Tax exemptions.

Thank you for giving us the opportunity to comment.

Yours sincerely

Julie Flint

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11 January 2016 City of Lincoln Council Executive – Localised Council Tax Support

Appendix 6 – Lincolnshire County Council Consultation Response

Jaclyn,

Thank you for your letter of 3rd November on the above subject. Please accept this e-mail as the formal response to the consultation from the County Council.

As stated over the past few years since the introduction of the localised council tax support scheme concept the County Council has adopted a stance that it's preference was for all local schemes to be 'self-financing' taking into account the available government grant and income from the technical changes to the council tax regime from April 2013. This inevitably meant that there would need to be a modest reduction in benefits for some working age claimants going forward. With the exception of the City of Lincoln Council all other schemes in the county satisfied our requirement. Indeed that continues to be the case going forward with other local schemes. It is disappointing therefore that the proposal for next year does not involve an element of benefit reduction. It is, of course, totally within the rights of the City of Lincoln Council to adopt a policy not involving any benefit reduction but around 75% of the cost of so doing is effectively met by the County Council. The County Council faces major budget pressures over the next few years and is likely to be announcing a series of significant service reductions in public facing services as part of the budget cycle now underway and in response to the likely implications of the forthcoming Spending Review.

It is pleasing to note though that, based on the general pick-up in the economy, the current scheme is performing well relative to estimates in the current year. It is also noted that national changes to the welfare regime may impact negatively on the cost of the scheme going forward.

In light of the ongoing funding pressures faced by the County Council, particularly in adult care services, the County would ask the City of Lincoln Council to consider modifying the scheme to reduce its cost next year and in the years thereafter.

As has been the case in previous years the County Council will wish to consider any bid from the City of Lincoln Council for use of its 2016/17 second homes discount income in the light of the final decisions taken in formulating its council tax support scheme for next year and in response to ongoing budget pressures more generally.

David C Forbes
County Finance Officer
Resources Directorate
County Offices
Newland

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11th January 2016 Executive – Council Tax Support Scheme 2016/17
Appendix 7: Extract from Policy Scrutiny Committee Minutes 17th December 2015

40. Localised Council Tax Support 2016/17

The Head of the Shared Revenues and Benefits Service:

- a. presented the report 'Localised Council Tax Support 2016/17'.
- b. advised that the Localised Council Tax Support Scheme was required to be approved by 31 January 2016.
- c. informed that there would technically be 'no change' to the scheme however, some minor amendments had been made, and some changes to be announced from DCLG would need to be considered and included.
- d. brought members attention to 5.3 of the report and the reduction in caseload from April 2013 by 11.4%.
- e. summarised that the latest projection shows that the Council's cost of the 2015/16 Council Tax Support Scheme would be approximately £57,517 less than initially forecast.
- f. explained to members the proposed 2016/17 scheme found at paragraphs 6.1 to 6.9 of the report.
- g. advised of the assumptions made to the 2016/17 scheme including a -1% caseload change and how Council Tax would be distributed.
- h. reported that under the 2016/17 scheme it was anticipated that there would be a reduction in costs of £28,422.
- i. advised members of the consultation process that was required to take place as set out in paragraph 7 of the report.
- j. invited members questions and comments.

Members made the following questions and comments and received the relevant responses.

Question What criteria was in place with regards to Hardship and how was this funding allocated, was it in relation to the Section 13A Policy?

Answer This was really the Section 13A Policy, but could be combined with Housing Benefit. It allowed a supplement towards peoples Council Tax in exceptional circumstances.

Question What reasons were there for the reductions in the caseloads?

Answer Could only speculate as there were a number of reasons. It may be that there had been a 'knock on' effect following the 2008 recession. However, the 'churn rate' was still very high and meant that despite a drop in caseloads officer workloads were still high.

Question The consultation response seemed to be mixed almost 50/50 between positive and negative comments, why do you think this was?

Answer On this subject the consultation was often mixed. As some residents would be claiming and gave positive comments, others that would never claim gave negative comment, causing a split across the whole consultation.

Question Could you provide more detail of what the 'family premium' was?

Answer Essentially the 'family premium' was provided by the central government for families to receive additional 'premiums'; these premiums allowed people access to further discounts and financial support.

Comment Within the report it mentions an uprating freeze would be in place for four years.

Response Central Governments did announce this as part of the Welfare Reform and Work Bill 2015/16. We would not look to freeze rates for the purpose of calculating Council Tax support.

Question As part of those announcements housing benefit could only be back dated for four weeks, this could potentially have a huge impact on people's lives?

Answer We were not looking to implement this for Council Tax Support, however we could only urge people to come in as soon as possible to give as much time otherwise people may lose out on their benefits.

RESOLVED that members comments and the report be noted and forwarded to the Executive for consideration and approval.

SUBJECT:	COUNCIL TAX SECTION 13A POLICY
DIRECTORATE:	DIRECTOR OF RESOURCES
REPORT AUTHOR:	CLAIRE MOSES, REVENUES AND BENEFITS MANAGER

1. Purpose of Report

- 1.1 For Executive to consider a Council Tax policy for Section 13A Relief, and refer to Full Council for approval.

2. Executive Summary

- 2.1 Section 13A of the Local Government Finance Act, provides the Council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply.
- 2.2 The policy sets out how the Council will administer applications under these discretionary powers.
- 2.3 These discretionary awards can be given to:
- Individual Council Tax payers;
 - Groups of Council Tax payers defined by a common set of circumstances;
 - Council Tax payers within a defined area; or
 - To all Council Tax payers within the Council's area.

3. Background

- 3.1 On 27 May 2014 the payment of discretionary Council Tax support under regulation 13a(1)(c) of the Local Government Finance Act was the subject of legal examination.

A judgement from the President of the Valuation Tribunal confirms that valuation tribunals dealing with appeals on discretionary relief under regulation 13A(1)(c) are not entitled to refuse discretionary reductions on the grounds that either the circumstances are outside of the local authorities scheme or that the local authority has no budgetary provision for such additional reductions in liability.

That ruling has come from tribunal president Professor Graham Zellick in a case brought by two residents of East Riding of Yorkshire Council. Their appeals were the first relating to Council Tax discretionary relief heard by the tribunal since the Local Government Finance Act 2012 came into force

- 3.2 In SC v East Riding of Yorkshire Council [2014] the President of the Valuation Tribunal ruled that the Tribunal has unlimited powers to overturn decisions on discretionary council tax payments. Despite the fact that the courts or tribunals do

not normally interfere with local authority discretionary powers to grant relief, in this case the President confirmed that there is a right of appeal against decisions on discretionary relief and, as a result, has amended his advice on discretionary relief appeals contained in paragraph 28 of the President's Practice Statement Council Tax Reduction Appeals.

Despite the fact that rulings of the valuation tribunals do not normally set a precedent, this is a ruling of the president, who has also amended the official advice to tribunals. The effect of this is to create a rule which other tribunals will be expected to follow

- 3.3 The president said in this case that "... it is for the appellant to raise doubt as to the correctness of the authority's decision and to argue what the correct decision should have been. The authority may then defend its decision and the panel will decide the appeal on the balance of probabilities. There is no inhibition on the Tribunal's substituting its view for that of the authority".
- 3.4 Under Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), the Council has the power to reduce liability for council tax in relation to individual cases or classes of cases that it may determine and where national exemptions and discounts cannot be applied, for example, properties affected by flooding or fire, or a reduction due to an individual application, for example, on the grounds of exceptional financial hardship.
- 3.5 The Local Government Finance Act 2012 introduced a new section 13A into the 1992 Act covering both the new council tax reduction schemes and the former discretionary power to grant relief – this was introduced as Section 10 of the Act.
- 3.6 Liability may be reduced "to such an extent as the billing authority thinks fit". Billing authorities can apply a reduction in particular cases or by determining a class of case. Liability for Council Tax can be reduced to nil.
- 3.7 The financial burden of awarding a Section 13A discount has to be met through an increase in the general level of Council Tax for other payers. The granting of Section 13A discounts has previously only been made in exceptional circumstances.
- 3.8 The Act is intended to enable authorities to respond to local and individual circumstances, and allows the Billing Authority the power to reduce the amount of Council Tax payable.

4. Main Body of Report

4.1 Current Decision Making

- 4.2 Guidelines are set out in the proposed policy under which an individual application for a reduction under Section 13A can be considered. Each case would be looked at on its individual merits but the guidelines are intended to ensure that a consistent approach is taken and that applicants understand the criteria that will be considered in assessing their application

- 4.3 For many years, the law has given local councils the power to reduce any resident's council tax liability to "nil". However, this power has been brought into sharper focus since the abolition of the national Council Tax Benefit scheme from April 2013. Instead of receiving a full Council Tax rebate many people in receipt of means tested benefits now have a shortfall to pay – although the City of Lincoln Council Localised Council Tax Support scheme from 2013/14 to 2015/16 (inclusive) has effectively 'protected' the scheme for working age taxpayers.
- 4.4 Each new Council Tax Support scheme must include a procedure for the individual to apply for a 13A reduction. Application for Section 13A is referred to in Part 3 of the Council Tax Support Regulations, but does not give details with regards to the policy.
- 4.5 The power in Section 13A clearly allows for a reduction scheme to be available but any proposal has to be exercised in a rational manner for a proper purpose and have regard to all legally relevant and non-legally relevant consideration (*Wednesbury* principles)
- 4.6 **The Tribunal Decision**

The President of the Valuation Tribunal (England) has issued a landmark judgment confirming that the Tribunal has unlimited power to overturn decisions by councils which refuse to award discretionary hardship payments.

The President concluded that if a council refuses to exercise their power for a particular resident, those affected could appeal to his tribunals, which have full power to order the council to make a further – or total – reduction in Council Tax owed.

- 4.7 The original practice statement (council tax reduction Appeals CTE/PS/A11 gave a limited role for the valuation tribunal. Following the successful appeal, the practice statement has been changed and now falls into a subject covered by the Valuation panel and not a billing authority decision.
- 4.8 The tribunal president outlined sixteen points designed to assist billing authorities when making an initial decision, reviewing decisions and dealing with appeals: -
1. Focus reaches further;
 2. Tribunal can substitute its own view;
 3. A decision does not have to be unreasonable to be set aside;
 4. Decisions set aside should be done so with care;
 5. Process is not as important as the merit of the case;
 6. Local authorities really need a discretionary scheme;
 7. It should be looked at by lawyers;
 8. Just because the decisions follow the council policy does not mean it is immune from appeal;
 9. No discretionary scheme is above tribunal scrutiny;
 10. Do not deviate from the policy;

- 11.If you do deviate, it will weaken the case;
- 12.Tribunal will be wary of decisions that are made under Section 13A;
- 13.Every application is on its merits
- 14.Circumstances can change when talking about outgoings and income;
- 15.Local authority budget is not a factor;
- 16.The final decision might not be made before additional information is available.

- 4.9 The Valuation Tribunal powers to act would be made possible through the procedure Regulations (the Valuation Tribunal for England) (Procedure) Regulations 2009 SI 2009 2269

Regulation 38(d) After dealing with a section 16 appeal the VTE may by order require a calculation (other than an estimate) of an amount to be quashed and the amount to be recalculated

Therefore, the tribunal can require the local authority to recalculate its' Council Tax in accordance with the decision from the tribunal and that includes the payment of relief under Section 13A.

4.10 **Impact for Billing Authorities**

- 4.11 All 16 points raised in paragraph 4.8 could have significant impacts on the billing authority – both financial and policy.

4.12 **Financial Implications**

- 4.13 The president's ruling specifically said a factor which cannot have any relevance for the Tribunal is whether or not an overall budget had been created by the authority for such discretionary applications. He said that "I do not see how in law this can be a cash-limited exercise. The merits of an appeal cannot be affected by the existence of any such budget. A 'budget' is in any event a somewhat artificial concept in view of the fact that the authority is forgoing income and not spending existing funds".
- 4.14 The most significant point made by the Valuation Tribunal in paragraph 25 of Appendix A and point 15 of paragraph 4.8 above - 'Local Authority budget is not a factor'. A Section 13A reduction is not an award, it is a reduction in liability after all other discounts and exemptions have been considered.
- 4.15 The loss in Council Tax revenue resulting from the granting of a Section 13A reduction must be met by the billing authority and not passed on to other major precepting authorities.
- 4.16 There is no requirement, therefore, to take into account the cost of reduction granted under Section 13A when calculating the tax base. The billing authority will be required to transfer from its General Fund to its Collection Fund the amount by

which the Council Tax has been reduced by any local reductions.

- 4.17 Prior to the Valuation Tribunals recent decision, it would have been anticipated that only a small number of reductions are likely to be granted and those that were would have been for short periods of time. However, the decision made could potentially result in more applications being made, or at least, those applications that are made and turned down, appeals are received and taken through to Valuation Tribunal for reconsideration.
- 4.18 City of Lincoln currently has an exceptional hardship budget of £10,000 for 2015/16, as at 30 November 2015 £8,364 has been spent. Officers have reviewed this budget, as Exceptional Hardship payments can be made instead of Section 13A. The Council Tax Support scheme report being presented to this same Committee on 17 December 2015 recommends the continuance of the £10,000 Exceptional Hardship fund for 2016/17.

This budget is also used in conjunction with Discretionary Housing Payment applications, and therefore, is used for other circumstances which are not included within Section 13A.

4.19 **Consultation on the proposed policy**

- 4.20 In order to ensure the proposed policy is fit for purpose and meets the needs to various stakeholders and customers, effective consultation has been undertaken for the period 4 November to 11 December 2015. No consultation responses have been received.

Below is a timeline in respect of consultation and approval.

- Policy Scrutiny Committee – 17 December 2015
- Executive – 11 January 2016
- Council – 19 January 2016

5. **Strategic Priorities**

5.1 Protecting the poorest people in Lincoln

Council Tax reductions have a key role in Reducing Poverty and Disadvantage by ensuring residents in those households who cannot afford to pay their Council Tax receive financial support. The changes to Council Tax Support and hardship policies form part of the national welfare reform agenda, with the risks of changes to numbers of claimants due to economic change and funding gap costs being passed from central government to local authorities. Central government now has a fixed cost funding arrangement whereas local government must set a scheme in advance of the financial year it applies to but cannot change it should circumstances change unexpectedly or if the assumptions used to decide the

scheme are not realised. Central government states that this places responsibility for the local economy such as creating businesses and jobs on local government as part of the localism agenda.

6. Organisational Impacts

6.1 Finance

The exceptional hardship fund of £10,000 made available during 2015/16, is recommended via the Council Tax Support scheme report to this same Executive meeting continue to be available into 2016/17 – as set out in paragraph 4.17.

6.2 Legal Implications including Procurement Rules

This policy is required in order to comply with Section 13A of the Local Government Finance Act 1992.

6.3 Equality, Diversity & Human Rights

The Authority will be obliged to comply with its general equality duty under the Equality Act 2010. An Equality Assessment has been prepared and is shown in Appendix 5 to this report.

7. Risk Implications

7.1 The Council bears the risk of the cost of the reduction to the bill.

8. Recommendation

8.1 Executive to consider a Council Tax policy for Section 13A Relief, and refer to Full Council for approval.

Is this a key decision?	Yes
Do the exempt information categories apply?	No
Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?	No
How many appendices does the report contain?	<p>Appendix 1 – Valuation Tribunal for England Judgment</p> <p>Appendix 2 – Letter to Local Authorities from DWP</p> <p>Appendix 3 – Presidents Explanatory Note on Practice Statement A11</p> <p>Appendix 4 – Draft Section 13A policy</p> <p>Appendix 5 – Equality Assessment</p> <p>Appendix 6 – Policy Scrutiny Committee minute</p>
List of Background Papers:	None
Lead Officer:	<p>Claire Moses, Revenues and Benefits Manager</p> <p>Telephone (01522) 873764</p>

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THE VALUATION TRIBUNAL FOR ENGLAND

Appeal Numbers:
1. 2001M113393
2. 2001M117503

27 May 2014

Council tax – discretionary reduction – Local Government Finance Act 1992, s. 13A(1)(c) – appeal to the VTE – LGFA 1992, s.16(1)(b) – scope of appeal – powers of VTE – VTE (Procedure) Regulations 2009, reg. 38(1)

APPELLANT

RESPONDENT
(Billing Authority)

1. S. C. v. East Riding of Yorkshire Council

2. C. W. v. East Riding of Yorkshire Council

Before: The President (Professor Graham Zellick QC)

At: Black Lion House, London

On: 7 May 2014

Appearances:

Mr Jan Luba QC, instructed by Mr Sarwan Singh of City Law School for Legal Action on the Council Tax, for the appellants.

Mr Thomas Spencer, Solicitor, assisted by Miss Sammi Jude, Adjudication Officer, both of East Riding of Yorkshire Council, for the respondent.

I. Background

1. A billing authority has had a power to reduce “as it thinks fit” the amount of council tax payable, beyond those reductions prescribed in legislation, since 2003 (Local Government Finance Act (LGFA) 2003, s.76, inserting s.13A into the LGFA 1992), echoing section 53 of the General Rate Act 1967 and perhaps even the Poor Relief Act 1814.
2. Until recently, section 13A was little used, since council tax payers in financial difficulties could apply for council tax benefit – a nation-wide scheme - which often reduced their liability to zero. Council tax benefit was replaced by council tax reduction under the Local Government Finance Act 2012 which requires every billing authority to have its own council tax reduction scheme. Most such schemes provide for reductions for those in financial need but rarely to nil, except in the case of those beyond working age.
3. The Act of 2012 introduced a new section 13A into the 1992 Act covering both the new council tax reduction schemes and the former discretionary power to grant relief. The relevant part of section 13A reads:

“Reductions by billing authority

- (1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13) -

- (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority’s council tax reduction scheme (see subsection (2));

- (b) . . .

- (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) . . . , such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.

. . .

- (6) The power under subsection (1)(c) includes power to reduce an amount to nil.

- (7) The power under subsection (1)(c) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.”

4. Subsection (2) requires authorities to make a scheme referred to in subsection (1)(a); and para. 2(7) of Sched. 1A to the 1992 Act (inserted by Sched. 4 to the 2012 Act) requires that a council tax reduction scheme “must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(c)”.

5. Three things may be noted here:
 - (i) discretionary relief is applicable both to those who have been awarded a reduction under a council tax reduction scheme and those who have not (“may be reduced to such extent (or if the amount has been reduced under paragraph (a) . . . , such further extent”): s.13A(1)(c));
 - (ii) as schemes must stipulate the procedure for applying for a reduction (or further reduction) under section 13A(1)(c), it follows that authorities must consider every such application on its merits; and
 - (iii) whereas there must be a formal, published scheme for council tax reduction, there is no requirement for a scheme governing discretionary relief, unless there has been a “determination” pursuant to section 13A(7) that a class of case is to be reduced in accordance with that determination.
6. Those unfamiliar with these matters may be surprised to learn that elected members play no part in these decisions (at least in East Riding of Yorkshire Council). An application for discretionary relief is first dealt with by an officer. If the applicant is dissatisfied, it will then be reconsidered by another officer (who, so far as I can tell, need not be senior to the first).
7. These two appeals, identified under Practice Statement A10 (*Points of Law and Principles of Valuation*: 1 February 2013) as involving novel points of law, are the first appeals relating to council tax discretionary relief heard by the Tribunal since the Act of 2012 and afford an opportunity to consider and define the nature and scope of such appeals.

II. Is there a right of appeal?

8. Although this point was not an issue in these appeals, it may be helpful to set out the basis of the Tribunal’s jurisdiction should any billing authority wish to question it.
9. Council Tax appeals reach the Tribunal pursuant to section 16(1) of the LGFA 1992:

“A person may appeal to a valuation tribunal if he is aggrieved by -

 - (a) any decision of a billing authority that a dwelling is a chargeable dwelling, or that he is liable to pay council tax in respect of such a dwelling; or
 - (b) any calculation made by such an authority of an amount which he is liable to pay to the authority in respect of council tax.”
10. Mr Luba QC for the appellants did not concede that such an appeal fell outside subsection (1)(a) but argued that if (a) did not cover it, then (b) did.
11. In my view, and in the absence of full argument, para. (a) is limited to whether a dwelling is chargeable to council tax or that the appellant is liable to pay council tax and is not apt to cover the amount actually payable. That falls under para. (b) as “any calculation . . . of an amount which he is liable to pay”.

12. In precisely the same way as council tax reduction scheme appeals come to the Tribunal under section 16(1)(b), so too do calculations of the amount payable as a result of an application for discretionary relief under section 13A(1)(c). It is difficult to see any basis for a contrary argument.
13. For the sake of completeness, it is worth stating that these are not matters reserved to judicial review by virtue of section 66 of the LGFA 1992. These appeals do not challenge a council tax reduction (CTR) scheme (s.66(2)(ba)) or a calculation within section 66(2)(c); and a determination under section 13A(7) is (surprisingly perhaps) not one covered by section 66(2)(b).
14. Accordingly, I cannot see any basis for questioning the Tribunal's jurisdiction to entertain appeals in respect of a billing authority's decision to refuse discretionary relief or regarding the amount of any relief granted, including its duration.

III. The Tribunal's approach to such appeals

15. Appeals in respect of council tax benefit went to the First-tier Tribunal Social Entitlement Chamber, but council tax reduction appeals automatically come to the Tribunal under section 16(1)(b) as appeals in respect of a calculation of an amount to be paid in respect of council tax. Confirmation of this, if needed, may be found in para. A18A(2)(b) of Schedule 11 to the LGFA 1988, inserted by Part 2 of Sched. 4 to the LGFA 2012, which permits a First-tier Tribunal judge to sit in this Tribunal on appeals relating to a council tax reduction scheme.
16. The introduction of this new jurisdiction led to my issuing a Practice Statement describing the procedures for dealing with such appeals (*Council Tax Reduction Appeals* (VTE/PS/A11). I took the opportunity to include a section on appeals in respect of discretionary relief, whether or not there had also been a CTR application.
17. Because appeals against a billing authority's exercise of discretion to refuse relief or grant less relief than the appellant hoped for or requested were wholly different in nature from every other kind of appeal before the Tribunal, none of which involves discretionary decisions, I concluded that the Tribunal's approach to such appeals must be different and indeed more limited and premised on ensuring that the discretion had been exercised lawfully in the public law sense. Para. 28 of the Practice Statement therefore states:

“The Tribunal's powers on such an appeal are to apply judicial review principles to the billing authority's decision (due process, reasonableness, proportionality, legality etc.); it should not normally substitute its own view for that of the authority. Where illegality has been found, the matter should normally be remitted to the billing authority to be reconsidered.”
18. This provision was widely considered in draft before it was issued; had attracted no adverse comment; and escaped criticism in a recent article by a barrister (Alan Murdie, *Insight* (IRRV), April 2014, at p.31).

19. However, having now heard Mr Luba QC's submissions on this point, it is clear to me that it is incorrect.
20. Mr Luba points out that there is nothing in the legislation to distinguish this category of appeal from any other and there is therefore no justification for adopting a different or more limited approach whether based on judicial review principles or otherwise. It is not unknown, or even unusual, for tribunals to be called to upon to act in this way in respect of the exercise of discretion by public bodies. They are appeals just like any other and, as Mr Luba variously put it, are subject to the Tribunal's "full jurisdiction", its "true appellate function" and a "full merits review". Clear statutory language would have been necessary to indicate that the Tribunal should deal with these appeals only on judicial review principles (*cf, e.g.,* Regulation of Investigatory Powers Act 2000, s.67(2)). I doubt the government gave any thought to these ramifications and may now be surprised to learn of the role which the Tribunal is inescapably required to play.
21. The respondent relies on the approach set out in the Practice Statement but made no legal arguments in its support.
22. I accept Mr Luba's argument and the Practice Statement will therefore be amended and reissued.
23. The Tribunal's approach is thus the same as in every other appeal. This is captured in para. 5 of our Model Procedure (VTE/PS/B1: 22 May 2013):
 - "(1) It is for the appellant to satisfy the Tribunal that the appeal should be allowed.
 - (2) All parties must satisfy the Tribunal in respect of any argument or evidence they advance or introduce."
24. Thus, it is for the appellant to raise doubt as to the correctness of the authority's decision and to argue what the correct decision should have been. The authority may then defend its decision and the panel will decide the appeal on the balance of probabilities. There is no inhibition on the Tribunal's substituting its view for that of the authority, but any such substitution must be soundly and solidly based.
25. The following points (which are not based on Mr Luba's submissions and with which he may or may not agree) are designed to assist billing authorities, council tax payers and Tribunal members and clerks in dealing with these appeals:
 - (1) The focus of an appeal as opposed to a review is fundamentally different: full appeal reaches further and assesses the actual merits of the decision reached.
 - (2) Some deference should, however, be paid to the view of the original decision-maker and an effort made to understand how that decision was arrived at, but that cannot prevent the Tribunal from substituting its view for that of the authority provided that the Tribunal can articulate cogently why it is doing so and how it has arrived at its conclusion.

- (3) The authority's decision does not have to be unreasonable in the *Wednesbury* sense before it can be set aside, but the Tribunal should intervene only where there are strong grounds for doing so.
- (4) It may not be an exact parallel, but the Court of Appeal will allow an appeal against sentence only where the sentence is wrong in principle. This suggests that some restraint should be exhibited by the Tribunal before disturbing a billing authority's decision.
- (5) Procedural defects may recede in importance, or be completely effaced, since the Tribunal will be chiefly concerned with the actual merits of the decision. Earlier defects in process may therefore be cured or superseded by the appeal, and a decision may be adjudged correct despite defects in process.
- (6) Although a scheme or policy is not required by statute, it is difficult to see how such an open-ended discretion can be satisfactorily exercised in the absence of one.
- (7) Any such policy should be scrutinised by the authority's lawyers before promulgation.
- (8) Compliance with a formal published policy or scheme, if there is one, cannot preclude the Tribunal from allowing an appeal.
- (9) Any such scheme is not immune from challenge in the Tribunal as, for example, is a council tax reduction scheme (see para. 13 above). It is not the Tribunal's business to impugn any scheme as such but rather that its own powers cannot be inhibited or circumscribed by a scheme.
- (10) Failure to comply with a substantive element of a scheme to the detriment of the applicant is likely to lead to the overturning of the decision unless there are good reasons for having departed from it.
- (11) However, compliance with a scheme or policy may help in persuading the Tribunal that the original decision was correct.
- (12) The Tribunal should be slow to interfere with a decision that properly flows from a determination made under section 13A(7).
- (13) An authority cannot as a matter of law fetter its discretion and must therefore consider every application on its merits whatever the policy or scheme says.
- (14) Suppose, for example, there is a provision that non-essential expenditure should be disregarded when calculating legitimate outgoings and determining disposable income. The Tribunal could conclude that the item was wrongly so characterised and should be included. Or that on its specific facts it should be included. Thus, mobile phones might normally be treated as a luxury but might become a necessity if the appellant is a carer who might need to be contacted urgently when not at home. Or a subscription to a satellite television service might have to be accepted if the appellant is locked into a contract that pre-dates his financial difficulties.

- (15) A factor which cannot have any relevance for the Tribunal is an overall budget created by the authority for the totality of discretionary applications in a given year so that any application will be considered in relation to the available budget and once that sum is exhausted no further applications can be granted. I do not see how in law this can be a cash-limited exercise. The merits of an appeal cannot be affected by the existence of any such budget. A “budget” is in any event a somewhat artificial concept in view of the fact that the authority is forgoing income and not spending existing funds.
- (16) Where the Tribunal is minded to allow the appeal and order a recalculation but is unsure of the actual amount to substitute, the appeal may either be adjourned for the parties to supply whatever further information is needed to reach a decision or it may conclude the appeal by quashing the calculation and ordering the authority to recalculate properly. The former is likely to be the better course in most cases.
26. These observations may be revised or refined in the light of experience, but it is desirable to give us as much guidance as possible at this time.
27. This analysis produces a striking anomaly. There will be council tax payers whose applications for CTR have been rejected, despite undoubted financial need, because (for example) they fall foul of some eligibility provision in the scheme, such as a two-year residency requirement in the area. No appeal can be made to the Tribunal because the residency requirement cannot be questioned except by judicial review. But if these council tax payers - offered no reduction but in clear financial need, apply for discretionary relief and are again rejected - appeal to this Tribunal, we must consider their appeals on their merits and cannot be bound by the residency requirement. This could result in a successful appeal ordering reduction of the council tax bill even to nil. Can Parliament or the Government really have intended this result?

IV. The Tribunal’s powers on such appeals

28. The next question is what the Tribunal is empowered to do when allowing such an appeal.
29. For this we need to turn to the Procedure Regulations (The Valuation Tribunal for England) (Procedure) Regulations 2009, SI 2009 No 2269). Reg. 38(1) (which closely follows the language of para. 10A(1) of Sched. 11 to the LGFA 1988, inserted by the Local Government and Public Involvement in Health Act 2007, Sched. 15) provides:

“After dealing with a section 16 appeal the VTE may by order require -

...

- (c) the decision of a billing authority to be reversed; or
- (d) a calculation (other than an estimate) of an amount to be quashed and the amount to be re-calculated.”

30. Reg. 38(10) provides:

“An order under this regulation may require any matter ancillary to its subject matter to be attended to.”

31. I pause to observe that the use of “may” in reg. 38(1) does not imply (as is commonly supposed) a discretion as that word often does when used in contradistinction to “shall”. This is one of those instances where “shall” would simply be inappropriate. Para. (1) would have to open with the words “After allowing an appeal under section 16”. The use of “may” is clearly not intended to imply that an appeal may be allowed and the Tribunal has a discretion as to whether to award the appropriate redress.

32. Returning to sub-paras. (c) and (d) of reg. 38(1), the question is whether they are to be read in the light of section 16(1). Does “decision” in reg. 38(1)(c) refer to a “decision” under section 16(1)(a) or to any decision of a billing authority in relation to council tax; and does “calculation” in reg. 38(1)(d) reflect section 16(1)(b)?

33. It seems to me that reg. 38 is designed to mirror section 16 and that we are therefore concerned only with reg. 38(1)(d) for the reason given in para. 11 above.

34. Section 10 of the LGFA 1992 defines how the council tax is to be calculated and it makes clear that the calculation is to have regard to a variety of provisions, including section 13A.

35. I cannot see that it makes any difference that such appeals fall only within sub-para. (d) and not (c). Sub-para. (d) is entirely apt to deal with the Tribunal’s powers described in section III above. The Tribunal stipulates the decision to which the authority should have come, including its financial aspects, and orders it under reg. 38(1)(d) to quash its calculation of the council tax payable and re-calculate it in accordance with the Tribunal’s decision. There is no need to be able to reverse the decision under reg. 38(1)(c); nor do I see any need to invoke the provisions of reg. 38(10) to be able to give effect to the Tribunal’s conclusions. The billing authority is required to comply with the Tribunal’s order (LGFA 1988, Sched. 11, para. 10A(2)(a)) and to do so within two weeks (reg. 38(9)).

V. The two appeals

1. *Mr and Mrs C.*

36. Mrs C. is severely disabled. Her husband is her full-time carer and they have a dependent child. Neither works. Their income is entirely in the form of benefits. They have no savings.

37. They receive the maximum council tax reduction totalling 75 per cent of the council tax, leaving a balance of £247.96 or £4.75 pw. Their application for relief from the residual £247.96 was rejected on the ground that their income exceeded their outgoings by £30.20 pw, sufficient to pay council tax of £4.75 pw.

38. However, in making its calculations based on figures supplied by Mr C., the authority uprated the benefits income from the 2012/13 figures used by Mr C. to the 2013/14 rates without making any corresponding adjustments to the expenditure. There were bound to be increases in expenditure at a time of high inflation, not least in energy costs. The C.s' gas and electricity bills, for example, have nearly doubled – from £23 pw to £44 pw. This increase is much greater than the increase in benefits rates. Other outgoings will also have increased, if not quite so steeply.
39. The respondent Council insists that the discretionary scheme is only for temporary assistance; it is a short-term emergency measure with a 12-week maximum unless the circumstances are exceptional. I see no warrant for this limited approach in the legislation and it strikes me as arbitrary and potentially unreasonable. The Council say there must be severe financial hardship *and* exceptional circumstances. They informed the Tribunal:
- “If the circumstances have been long standing or if a discretionary reduction is unlikely to alleviate the hardship, the decision maker may decide that a reduction should not be applied.”
40. This reasoning is difficult to follow. To exclude discretionary relief merely because the circumstances are long-standing strikes me as perverse and insupportable; and I am at a loss to understand how a reduction in the bill would be unlikely to alleviate hardship once it is established that the applicant is in financial distress.
41. I accept that in the majority of cases the starting point is likely to be the difference between income and allowable expenses. This is also in most cases likely to be the dominant consideration, although due regard must be given to all other relevant factors. The obligation to pay a tax must take priority over expenditure on what may be called luxuries or life-style choices.
42. For example, the Government recently urged local authorities to use the power in favour of residents affected by the floods. There was no suggestion that help should be afforded only to those unable to meet any additional costs caused by or resulting from flood damage.
43. If in Mr and Mrs C.'s case it had been shown that there was surplus income over expenditure, the case for a discretionary reduction would be weak. Unfortunately, the Council interfered with the figures and produced a calculation which is manifestly wrong and cannot be relied upon.
44. Mr Luba wrote to the Council on 23 April 2014 requesting revised figures in the hope that this hearing might thereby be avoided. Surprisingly, this elicited no response.
45. In the circumstances, I directed the parties to submit a revised schedule of income and expenditure covering the whole year 2013/14, showing whether there was surplus income from which the residual council tax could be paid.
46. No schedule was agreed but both parties submitted revised figures and representations. Mr Luba commented:

“The reality is that the revised Schedule, and the Appellant's instructions upon it, amply show that this is a household existing at the very margins of

viability. On the Council's own figures, the operating margin is £8.25pw from an income of £366.09pw i.e. an operating margin of less than 3%. It must be recalled that the household is a disabled woman, her carer and a dependent child with no capital and no prospect of changed circumstances.

Yet the Council's position is that they should meet their remaining council liability of £3.96pw for the *full* 52 weeks of 2013/14 *and* pay the £80 costs expended on enforcing that sum."

47. Mr Luba invited me to allow the appeal and order that the liability be reduced to nil.

48. I accept that the appellant and his wife are in extremely hard-pressed financial circumstances and are being asked to pay the residual council tax from a very small surplus of income over expenditure, which allows very little latitude for contingencies or emergencies. But as there is such a surplus, which Mr Luba does not dispute, I see no basis in law for interfering with the respondent's decision to reject the application for discretionary relief and the appeal must therefore be dismissed.

2. Mr and Mrs W.

49. It very quickly became apparent during the course of the hearing that the authority's decision in this case was fatally and irretrievably flawed. Mr Spencer for the Council did not resist this conclusion but asked for the matter to be remitted to the Council for fresh consideration.

50. Mr and Mrs W., both unemployed and in receipt of benefits, received full council tax reduction, leaving 25 per cent of the council tax to be paid. This amounted to £289.54 or £5.55 pw. They have no savings and are deeply in debt, with arrangements with a number of creditors to make modest regular payments to clear these debts, though the rate of payment is such that it is unlikely they will be cleared in the foreseeable future. There are also arrears of council tax prior to 2013/14. The Council itself calculated a shortfall of £72.34 in their income to meet existing liabilities and outgoings.

51. Nevertheless, the Council rejected the application for discretionary relief. The officer who took the first decision explained that discretionary relief was available only where "an exceptional circumstance has caused . . . distress and/or severe financial hardship". It was acknowledged that the council tax bill "caused you some financial issues, [but] I do not consider you have exceptional circumstances". The second officer was even more explicit:

"A discretionary council tax reduction can only be granted where the council is satisfied that an exceptional circumstance has caused you distress and/or severe financial hardship."

52. Thus, to qualify for relief, there had to be some exceptional circumstance that had *caused* severe financial hardship. Furthermore, in its submission to the Tribunal the Council observes that the appellants' hardship would not be resolved by an award, given their inability to meet their other debts, and their situation was long-standing and unlikely to be resolved in the short term.

53. I commend the Council for having a published scheme, though it would have benefited from legal scrutiny and revision before publication. It is unnecessary to set out a detailed analysis of the scheme, but suffice it to say that it offers no support to the approach taken by the two decision-makers, still less to the extraordinary statements in the submission. Mr Spencer (who was not responsible for that submission and had not at that stage been consulted) does not disagree.
54. The simple fact is that there is no surplus income to meet this bill. The respondent accepts that. It is difficult to imagine a clearer case for discretionary assistance. To deny help on the grounds that this situation owes nothing to exceptional circumstances, or that absent an exceptional circumstance relief is unavailable, or that their situation cannot be measurably improved by any relief granted strikes me as perverse, irrational and unsustainable.
55. It is, in my judgment, as clear as it may be that the appellant is entitled to discretionary relief; that there is no plausible or rational basis for limiting that relief to 12 weeks or any other period; and that only full remission of the residual council tax for the year makes any sense in view of the absence of any funds to meet their liability. I rule accordingly. No doubt the Council will revisit their scheme in the light of this decision.

VI. Acknowledgments

56. I must record my considerable gratitude to Mr Jan Luba QC who agreed to act *pro bono* for the appellants. He has not only served his clients well, but has rendered great assistance to the Tribunal in defining its approach in cases such as this. He has acted in the highest traditions of the English Bar.
57. In view of the involvement of City Law School in instructing Mr Luba, and the assistance of two of its students, I made known at the beginning of the hearing that my wife was a Professor of Law at City University Law School, London. No objection was taken to my continuing with the hearing.
58. I am also grateful to Mr Spencer and Miss Jude for agreeing to the hearing's taking place in London once it was known that the appellants did not intend to be present.

ORDER

The respondent Billing Authority is ordered, pursuant to reg. 38(1)(d) of SI 2009 No 2269, to quash its calculation in respect of the council tax liability of Mrs C. W. for 2013/14 and to recalculate that liability under section 13A(1)(c) of the LGFA 1992 so as to reduce that liability to nil.



President



Registrar
27 May 2014



Department for
Communities and
Local Government

To All Billing Authorities

23 July 2014

Dear Billing Authorities,

**VALUATION TRIBUNAL FOR ENGLAND DECISION ON COUNCIL TAX
DISCRETIONARY REDUCTION**

We understand that some billing authorities are concerned about the attached recent judgment (Appeal numbers: 2001M113393 and 2001M117503), relating to East Riding Council. This changes the way appeals against refusal of s.13A(1)(c) discretionary council tax relief are dealt with.

The Department are looking at the judgment and will update local authorities in due course.

In the meantime, an authority would be sensible to check the legal robustness of their decisions and any s.13 A(1)(c) schemes which are in place. It is also worth noting that the Valuation Tribunal for England's decision is not a binding precedent, and each case is decided on its merits.

Yours sincerely,

Hülya Mustafa
Deputy Director
Council Tax

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PRESIDENT'S EXPLANATORY NOTE ON PRACTICE STATEMENT A11: COUNCIL TAX REDUCTION APPEALS

Introduction [1-2]*

1. This note seeks to explain the Practice Statement on Council Tax Reduction (CTR) Appeals in straightforward, non-technical language. However, the Practice Statement is the authoritative version and, if there is any conflict between what is said in this note and the wording of the Practice Statement, it is the wording in the Practice Statement that must prevail.
2. This note does not attempt to summarise or explain every point covered in the Practice Statement. It concentrates on those that are of most importance.
3. The Purpose of the Practice Statement is to describe the arrangements for dealing with CTR appeals in the Valuation Tribunal for England (VTE). It builds on what is said in the relevant law – in particular, the official regulations made by Parliament which have been amended to deal with CTR appeals.

Notice of appeals – incomplete information [3-6]

4. The official regulations specify what information the person who wishes to appeal must provide. If it is not provided, the notice is not valid and there is thus no appeal. We will inform the person where we think information is missing so that it can be provided. If it is still not provided, the appeal cannot proceed.
5. If there is a dispute over whether enough information has been provided, one of the most senior members of the Tribunal – the President or a Vice-President – will consider the matter. If he or she is of the opinion that there is information missing, an order called a "direction" will be issued stating what further information is required and the date by which it must be sent. If it is not received by the deadline, the appeal will be automatically "struck out", i.e. it will not proceed. And the same will happen if, at a hearing, it is discovered that information that should have been supplied is missing, but common sense should be applied here, so that the appeal should not be struck out if the error or omission is merely technical or the result of a clerical error and no difficulty or prejudice has been caused to the billing authority. If the appeal is struck out, the appellant may bring a new appeal but if it is outside the time limit, it will then be necessary to seek the Tribunal's permission.

* The numbers in square brackets in the sub-headings refer to the paragraph numbers in the Practice Statement.

Notice of appeal: failure to serve notice on billing authority [7-10]

6. There can be no appeal unless a written notice has first been sent to the billing authority which issued the council tax bill, stating why its decision is said to be wrong. An appeal cannot begin until this has been done.

Striking out [11-24]

7. "Striking out" means that the appeal is rejected and will not proceed to a hearing. This can happen in a variety of situations, for example:
 - (a) if the Tribunal's order to provide specified information has not been complied with;
 - (b) if the case is a challenge to the scheme itself and not to its application to the particular individual; or
 - (c) if the maximum reduction has been granted.
8. In 7(b), the Tribunal cannot deal with the case because it has no "jurisdiction" or authority to do so. A challenge to the lawfulness of a scheme may only take place in the High Court (Administrative Court) on what is called an application for judicial review.
9. In 7(c), since the maximum reduction has been awarded, there is nothing the Tribunal can do. The appeal therefore has no reasonable prospect of success.
10. In 7(b) and (c), a notice will be sent informing the person of the intention to strike out and giving 14 days to write to the Tribunal to explain why that should not happen. If nothing is received, the strike out will go ahead. If written comments are received, they will be considered by the Tribunal and the appeal will either be struck out or allowed to proceed to a hearing and the person will be notified accordingly.

Discretionary reductions in council tax [25-30]

11. Billing authorities must also include powers to reduce a person's council tax on a discretionary basis. There is a right of appeal to the Tribunal against a billing authority's decision under its discretionary arrangements. The Tribunal's approach to these appeals is described in para. 28 and Annex 6.

Standard directions [31-32]

12. Standard directions are the contents of the notice sent to each party along with the notice of hearing. They set out what each party must do before the hearing and what happens if they fail to do so. These directions are aimed primarily at billing authorities.
13. Where a billing authority fails to comply with the standard directions and does not provide the information prescribed, not only will the authority be barred but the appeal will be allowed by default.

14. A bar will not be lifted unless the billing authority in its application expressly states that it will supply the material prescribed in the standard directions. If the Tribunal is minded to lift the bar, it will do so only if the material is received within 14 days.

Listing [33-41]

15. CTR appeals will be heard by two-person panels of the Tribunal. Some of the more complex cases (i.e. concerning capital, income and right to residence) will normally be listed before a judge of the First-tier Tribunal with relevant experience, sitting with a VTE chairman. Other cases will be listed before a chairman and a member of the Tribunal.

Decisions and reasons [42-44]

16. A panel consisting of a judge and a chairman may if it wishes give its decision orally at the end of the hearing; other panels will not announce their decision at the hearing.
17. In all cases, a written decision notice will be sent to the parties. It will contain a very brief explanation for the decision, perhaps only two or three sentences. A full written decision may be requested within two weeks of receiving the decision notice.



President

17 June 2014

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Council Tax Section 13A Relief Policy and Procedures

11 January 2016 City of Lincoln Council – Executive Appendix 4

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Council Tax Section 13A Relief Policy and Procedures

Section 1	Background Information Nationally Locally
Section 2	Statement of Objectives
Section 3	The Policy Section 13A Scheme Applying for Section 13A Relief Eligibility Criteria Awarding Section 13A Relief Payment of an award Notification Right of Appeal Overpayments Fraud
Section 4	Monitoring
Appendix A	Application Form

Section 1

Background Information

Section 13A Relief Background

1.1 Nationally

Section 13A of the Local Government Finance Act 1992 allows the council to reduce the amount of Council Tax payable where national discounts and exemptions cannot be applied. The council has the right to choose whether to use powers on a case by case basis ie: on the grounds of exceptional financial hardship or to specify certain classes of use where several taxpayers may fall into a group due to similar circumstances.

1.2 Locally

There is a financial implication to awarding discounts under Section 13A as the Council has to find all awards without any Government support and this therefore has a direct impact on the taxpayers of City of Lincoln.

Section 2

Statement of Objectives

City of Lincoln Council recognises that it must be able to respond flexibly to the needs of its taxpayers and that it wishes to support strong and sustainable local communities.

In order to comply with Council priorities value for money in the delivery of services needs to be achieved, as well as addressing issues such as protecting the poorest people in Lincoln.

Section 13A awards will be used to help mitigate any unforeseen or exceptional hardship circumstances that threaten taxpayers' ability to pay the council tax or to remain in their homes.

As there is a financial implication when awarding discounts under Section 13A because the Council has to fund all awards from its own funds without any Government support, any such awards must meet certain criteria to ensure they offer value for money to the districts taxpayers.

Section 3

The Policy

3.1 Section 13A Scheme

The council will consider making a Section 13A award to applicants who meet the qualifying criteria, as specified in this policy. All applications will be considered on their individual merits. Council Tax accounts in joint names should make joint applications for Section 13A Relief.

3.2 Applying for Section 13A Relief

Features of the scheme are that:

- it is discretionary
- the applicant does not have a statutory right to a payment
- other than the normal appeal against the application of a discretionary function by Judicial Review there is no right to a statutory appeal of any application decision. However, in the interests of fairness, the council will operate an internal review procedure for appeals.

In order for an application to be considered it should be made in writing using the form at Appendix A and submitted to the Council Tax Section.

3.3 Eligibility Criteria

When determining an application consideration will be made to:

- the applicants personal circumstances
- the applicants evidence of hardship
- the applicants not having access to assets or savings that could be realised to pay the Council Tax
- any other eligible discounts, reliefs or exemptions that could be awarded
- the Council Tax account and if it is in arrears the Council must be satisfied that non-payment is not due to wilful refusal or culpable neglect.

3.4 Awarding Section 13A Relief

In deciding whether to make a Section 13A award we must have regard to the applicants' circumstances and in order to do this reasonable evidence may be requested in support of their application. This may include:

- Income and expenditure statements;
- Any sources of credit for example cash cards, credit cards, store cards, overdraft facilities and loan arrangements;
- Any help which is likely to be available from other sources;
- Any special circumstances of which the Council may be aware.

Council taxpayers will be expected to make contact with external agencies for assistance eg: Citizens Advice, Money Advice etc.

The Council will decide how much to award based on all the applicants circumstances and will be at the Council's discretion.

All decisions will be made by the Revenues and Benefits Manager in conjunction with the Council Tax Administration Team Leader, or by officers of at least equal seniority as and when required.

3.5 Payment of an award

All awards will be made by crediting the award value to the Council Tax account to which it applies. The relief will only be paid to a maximum of the end of the tax period to which it is claimed and will not automatically continue to reduce a future year's liability, as it is a short term assistance only and should not be considered a way of reducing the Council Tax long term.

3.6 Notification

The Council will aim to notify the applicant of the outcome of their request within 5 working days of the date that the decision is made. This will be in writing and will detail:

- The amount of the award (if appropriate)
- The period of the award (if appropriate)
- Provide details of how the award will be made (if appropriate)
- The reasons why a decision was made (if unsuccessful)
- The rights of appeal (if appropriate)

3.7 Right of Appeal

Section 13A awards are administered under the Local Government Finance Act 1992 and are not subject to a statutory appeals process. However, in the interests for fairness the Council will accept a taxpayer's request for a reconsideration of a decision where the Council has not awarded a discretionary relief or where the taxpayer feels the award should be increased.

Requests for an appeal should:

- Be made in writing;
- Be received within 21 days of receipt of the initial decision notice;
- Be signed by the applicant or their representative
- Include full reasons and evidence for the appeal.

Decisions on appeals will be made by the Director of Resources in conjunction with the Head of Shared Revenues and Benefits, or by officers of at least equal seniority as and when required.

The Council will aim to notify a taxpayer of its decision on the appeal within 21 days of receiving the request.

It is not in the Valuation Tribunal's jurisdiction to investigate an Authority's decision not to exercise its discretion in individual cases. In these instances the Council taxpayer should make an application before the High Court for a judicial review.

3.8 Overpayments

If the Council becomes aware that the information contained in an application for Section 13A relief was incorrect or that relevant information was not declared either intentionally or otherwise, the Council may seek to recover the value of any award made as a result of that application. The award will be removed from the Council Tax account and any resulting balance will be subject to the normal methods of collection and recovery applicable to such accounts.

3.9 Fraud

The Council is committed to the fight against fraud in all its forms. Any applicant who tries to fraudulently claim a Section 13A relief might have committed an offence under the Fraud Act 2006 and the matter will be investigated and dealt with appropriately. This could lead to criminal proceedings.

Section 4

Monitoring

The Council is committed to its responsibility to equality and fairness and will ensure that people are treated fairly and given fair chances. The scheme aims to give the fairest outcomes to everyone regardless of race, gender reassignment, age, disability, religious beliefs, sex or sexual orientation.

This policy will be monitored and reviewed to ensure it has been applied fairly and consistently.

**For further information please contact the Council Tax
Section on 01522 873355**

Other Languages

All written communication will be available in alternative languages, large print or braille where identified or on request.

If you have difficulty in understanding anything in this document, please go to the Council Offices, where we can call in an interpreter for you through the National Interpreting Service.

City of Lincoln
City Hall
Beaumont Fee
Lincoln
LN1 1DD

FRENCH

Si vous avez besoin d'éclaircissements au sujet de ce document, veuillez vous rendre au City Hall, Beaumont Fee, Lincoln ou tout autre Council office, où nous pourrions faire appel à un interprète par le biais du National Interpreting Service.

POLISH

Jeżeli masz trudności ze zrozumieniem tego dokumentu, zgłoś się do urzędu miasta w City Hall, Beaumont Fee w Lincoln lub do innego urzędu należącego do rady miejskiej, w którym wezwiemy tłumacza z National Interpreting Service.

PORTUGUESE

Se tiver dificuldade em compreender qualquer coisa neste documento, por favor dirija-se à City Hall, Beaumont Fee, Lincoln ou qualquer outra repartição do município, onde poderemos chamar um interprete para si através do Serviço Nacional de Interpretação.

TURKISH

Bu belgeyi anlamakta zorlanırsanız, Beaumont Fee, Lincoln Belediyesi'ne ya da herhangi başka bir belediye meclisi ofisine gidin; National Interpreting Service aracılığıyla size bir çevirmen sağlanacaktır.

BENGALI

এ ডকুমেন্টের কোন কিছু বুঝতে যদি আপনার অসুবিধা হয়, তাহলে দয়াকরে দয়াকরে সিটি হল (City Hall), বিউমন্ট ফি (Beaumont Fee), লিনকন (Lincoln) অথবা অন্য যে কোন কাউন্সিল অফিসে যান, যেখানে ন্যাশনাল ইন্টারপ্রিটিং সার্ভিস -এর মাধ্যমে আমরা আপনার জন্য একজন ইন্টারপ্রিটার বা দো-ভাষীকে ডাকতে পারবো।

FARSI

اگر شمادر باره اسناد مشکل داشته باشید ، لطفاً باهال مرکزی ، بیمونت فی ، لینکولن ویا به دفتردیگر انجمن بروید و ما میتوانیم از طریق سرویس قومی با مترجم زنگ بزنییم.

SORANI

ئەگەر زەحمەتیت ھەیە لە تیگە یشتنی ھەر شتێک لەم بەلگەنامەیەدا، تکایە برۆ بۆ *City Hall*, *Beaumont Fee*, *Lincoln* یان ئۆفیس ھەر شارەوانیەک (کاؤنسلێک) ی تر، کە دەتوانین مۆتەر جیمێت بۆ بانگ بکەین لە ڕێگەی خزمەتگوزاری میلیی بۆ وەرگیران (تەرجومە) ھو.

KURDISH

Eger hun di vê dokumane de difahmkirina hin tiştan de astengî dikîşinin, ji kerema xwe re herin City Hall û Beaumont Fee, Lincoln bibînin, an jî ji karmendê şaredariyê yekî din bibînin. Em ê ji we ra ji serwîsa wergerandina netewî wergerckî peyda bikin.

RUSSIAN

Если Вам трудно понять что-либо в настоящем документе, просим обращаться в городской совет по адресу: City Hall, Beaumont Fee, Lincoln, или любое другое учреждение Совета, где мы можем вызвать для Вас переводчика через «Национальную службу устных переводов».

CZECH

Pokud potřebujete vysvětlení na tomto dokumentu najdete na radnici, Beaumont Fee, Lincoln ani s jakoukoli funkcí Rady, Kde můžeme nazvat tlumočnickou prostřednictvím Národního tlumočnické služby.

SLOVAK

Ak potrebujete vysvetlenie na tomto dokumente nájdete na radnici, Beaumont Fee, Lincoln ani s akoukoľvek funkciou Rady, Kde môžeme nazvať tlmočníka prostredníctvom Národného tlmočnickej služby

LATVIAN

**11 January 2016 City of Lincoln Council – Executive
Appendix 4**

Ja jums ir nepieciešams skaidrojums par šo dokumentu, lūdzu, dodieties uz City Hall, Beaumont maksa, Lincoln vai jebkuru Padomes biroju, kur mēs varam zvanīt tulks, izmantojot Valsts mutiskās tulkošanas dienestu

LITHUANIAN

Jei reikia paaiškinimo šis dokumentas eikite į Rotušė, Beaumont Fee, Lincoln ar bet Tarybos biure, kur mes galime skambinti vertėją per Nacionalinę žodžių tarnybos

DRAFT



City Hall
Beaumont Fee
Lincoln
LN5 5PQ
Telephone: (01522) 873355
Email: counciltax@lincoln.gov.uk
Web: www.lincoln.gov.uk

**APPLICATION FOR COUNCIL TAX REDUCTION UNDER SECTION 13A
OF THE LOCAL GOVERNMENT FINANCE ACT 1992**

Please note that if a joint bill has been issued then the application must also be made in joint names.

Name of Applicant(s)	Telephone Number
	Email Address
Contact Address	Address of property for which relief is being claimed
Owners Name(s)	Is the property currently vacant? Yes <input type="checkbox"/> No <input type="checkbox"/>
What is the value of equity in the property?	£
Is the property currently marketed for sale? Yes <input type="checkbox"/> No <input type="checkbox"/>	Please provide details of marketing agent/estate agent for this property
Is the property currently marketed for rent? Yes <input type="checkbox"/> No <input type="checkbox"/>	Please provide details of marketing agent/estate agent for this property

**11 January 2016 City of Lincoln Council – Executive
Appendix 4**

Please provide details of any other properties or land owned by yourself and value of any rental income you are in receipt of

If you have left a property empty to move to more suitable accommodation or to receive or provide care due to old age, disablement, illness, alcohol or drug misuse or mental disorder then please provide details below

Please provide the detailed reasons why you are applying for a reduction in Council Tax. This should fully explain the circumstances that are creating financial difficulty and how long you expect these circumstances to continue

Has an application for Council Tax Reduction been made?

Yes ☐

No ☐

Are you receiving financial assistance from any other source?

Yes ☐

No ☐

Please provide details

Have you approached any organisation to assist with your current financial situation such as Citizen Advice Bureau / Money Advice etc.?

Yes ☐

No ☐

Please provide details

**11 January 2016 City of Lincoln Council – Executive
Appendix 4**

Please provide details of any stocks/shares/savings/ money you may have or money you are owed

Please provide any additional information you may wish to provide in support of your application

Your application will not be processed unless the enclosed financial information sheet is completed and returned.

All applicants must provide documentary evidence in support of their claim. At a minimum these should include the following:

- Confirmation of all income received
- Bank statements
- Any additional information to support the application
- Written details of any savings/stocks/shares

I declare that the information I have given on this form is complete and accurate, to the best of my knowledge.

I understand that a copy of this form may also be sent to Lincs2Advice who may be able to offer me further advice and assistance.

I also understand that whilst this application for relief is pending I am not entitled to withhold payment of the council tax due to the council.

Signature: _____ Date: _____

Full Name (please print): _____

Data Protection – We are asking for this information in accordance with the provisions of the Council Tax (Administration & Enforcement) Regulations 1992 (Reg. 3) and the Data Protection Act 1998, S.29. It will be used to help us determine your liability for and collect your Council Tax. It may be shared with other sections of this Council, with other Councils and with other public bodies to determine eligibility for Housing Benefit, liability for Council Tax, to collect Council Tax, to assess and collect other Taxes and Duties, to help detect and prevent fraud, to help detect and prevent crime and to carry out public duties.

**Please return your completed form to
City of Lincoln Council, PO Box 1257, Lincoln, Lincolnshire, LN5 5PQ**



City Hall
Beaumont Fee
Lincoln
LN5 5PQ
Telephone: (01522) 873355
Email: counciltax@lincoln.gov.uk
Web: www.lincoln.gov.uk

Council Tax – Financial Statement for Section 13A Application

Account Reference Number:

Name of Applicant:

Address:

Income	Amount	Weekly/Monthly
Wages	£	
JSA/Income Support	£	
Working Tax Credit	£	
Disabled Tax Credit	£	
Child Tax Credit	£	
Retirement Pension	£	
Works Pension	£	
Guaranteed Pension Credit	£	
Savings Credit	£	
Child Benefit	£	
Incapacity Benefit/ESA	£	
Maintenance	£	
Non Dependant Contribution	£	
DLA	£	
Any other Income	£	
Total Income	£	
Expenditure	Amount	Weekly/Monthly

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Rent/Mortgage	£	
Council Tax	£	
Water Rates	£	
House Insurance	£	
Gas/Electricity/Fuel	£	
Housekeeping	£	
Telephone/Mobile	£	
TV Rental	£	
TV Licence	£	
Travel Expenses	£	
Car Running Costs (Petrol, Oil)	£	
Car insurance	£	
Car Tax	£	
Car Repayments	£	
Catalogues	£	
Loans		
Credit Card/Store Cards	£	
Hire Purchase	£	
Fines	£	
Child Care	£	
Clothing	£	
Other Expenses (please detail)	£	
Total Expenditure	£	

WARNING: Deliberately giving false information could lead to prosecution.

I DECLARE that the information I have given on this form is complete and accurate to the best of my knowledge.

I understand that City of Lincoln Council may check and cross-reference this information against other databases held within the Local Authority.

Signed

Dated

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SECTION A

Name of policy / project / service	Council Tax – Section 13A Policy and Procedure Revenues and Benefits Shared Service
Background and aims of policy / project / service at outset	<p>To ensure that all council tax payers are treated equally if they make an application to reduce the amount of council tax they are required to pay under Section 13A of the Local Government Finance Act 1992.</p> <p>To ensure that before making a decision in respect of an individual that their particular circumstances have been considered at each stage in the process.</p> <p>To ensure that council tax is spent in the most efficient and effective way for the council and its council tax payers.</p>
Person(s) responsible for policy or decision, or advising on decision, and also responsible for equality analysis	The policy is the responsibility of City of Lincoln. It is approved by the Executive Board. It will be administered by the Council's Shared Revenues and Benefits Service
Key people involved <i>i.e. decision-makers, staff implementing it</i>	<p>City of Lincoln is the policy and decision-making body. Legislation relating to Section 13A has been considered in the development of the policy.</p> <p>The policy will also provide reference for Shared Service staff</p>

SECTION B

This is to be completed and reviewed as policy / project / service development progresses

**11 January 2016 City of Lincoln Council – Executive
Appendix 5**

	Is the likely effect positive or negative? (please tick all that apply)			Please describe the effect and evidence that supports this?*	Is action possible to mitigate adverse impacts?	Details of action planned including dates, or why action is not possible
	Positive	Negative	None			
Age			Y	There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Age Concern, Money Advice Service	NA	
Disability including carers (see Glossary of Terms)			Y	There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Disability Network, Citizens Advice Bureau	NA	
Gender re-assignment			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Pregnancy and maternity			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Race			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Religion or belief			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Sex			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Sexual orientation			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Marriage / civil partnership			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	
Human Rights (see page 8)			Y	There is no evidence that this policy would impact on people in any way because of this characteristic.	NA	

- Evidence could include information from consultations; voluntary group feedback; satisfaction and usage data (i.e. complaints, surveys, and service data); and reviews of previous strategies

Did any information gaps exist?	Y/N/NA	If so what were they and what will you do to fill these?
Socio-economic	Y	There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Citizens Advice Bureau, Money Advice Service.

SECTION C

Decision Point - Outcome of Assessment so far:

Based on the information in section B, what is the decision of the responsible officer (please select one option below):

- | | Tick here |
|---|-----------|
| • No equality or human right Impact (your analysis shows there is no impact) - sign assessment below | [] |
| • No major change required (your analysis shows no potential for unlawful discrimination, harassment)- sign assessment below | [] |
| • Adverse Impact but continue (record objective justification for continuing despite the impact)-complete sections below | [] |
| • Adjust the policy (Change the proposal to mitigate potential effect) -progress below only AFTER changes made | [] |
| • Put Policy on hold (seek advice from the E&D officer as adverse effects can't be justified or mitigated) -STOP progress | [] |

Conclusion of Equality Analysis (describe objective justification for continuing)	No consultation has taken place as this policy is required in order to comply with Section 13A of the Local Government Finance Act 1992. This policy is based on nationally applicable legislation and it covers all applicants who must all meet a set of standards and criteria intended to ensure that evidence of hardship justifies a reduction in council tax liability.
When and how will you review and measure the impact after implementation?*	We will monitor the number of applications received and how many applications are refused and whether or not the reason is for any of the protected strands eg: race, religion, gender, age etc. Each application will be judged on its own merits based on the criteria set within the guidelines.

**11 January 2016 City of Lincoln Council – Executive
Appendix 5**

Checked and approved by responsible officer(s) (Sign and Print Name)	 Claire Moses	Date	10 September 2015
Checked and approved by Assistant Director (Sign and Print Name)		Date	

11th January 2016 Executive – Council Tax Section 13A Policy
Appendix 6: Extract from Policy Scrutiny Committee Minutes 17th December 2015

42. Section 13A Policy

The Head of the Shared Revenues and Benefits Service:

- a. presented the report 'Section 13A Policy'.
- b. advised members of the discretionary powers that were available under Section 13A Local Government Finance Act.
- c. informed that it gave the Council the option to give relief at times of need and hardship.
- d. explained to members the case law as set out at paragraph 3.2 of the report and the SC v East Riding of Yorkshire Council case.
- e. advised members of the 16 points that were designed to assist billing authorities.
- f. highlighted this policy was in place to minimise the risk of challenge that could come about through judicial review.
- g. invited members questions and comments.

Members made the following questions and comments and received the relevant response.

Question So to clarify Section 13A could be used when we would like to help someone in difficult circumstances?

Answer Yes, or where we would like to help a group, such as a community hit by flooding for example.

Question On the application form it asks to list assets, would we try and claim back on these?

Answer We need to make sure they display hardship and try to work with applicants looking at a number of ways that we could assist with their problem.

Question Could it be made clearer to residents that this would only be a short term measure?

Answer The funding was only set per annum as no one could predict what future monies would be available.

Question There were a number of languages the form had been translated into, but Mandarin was not available, could the form be translated for the Chinese population?

The Legal and Democratic Services Manager reassured members that popular languages within the city were regularly monitored and if necessary this form would be translated in to Mandarin.

Question The form appears to be 'geared' toward owners, could this not be split up to make it clear anyone could apply?

Answer I would be reluctant to create another form for this reason only, though valid point, but anyone could apply, not just property owners.

Question Do we require proof of income? Otherwise these forms could be completed fraudulently?

Answer We would normally request proof of income and money in bank accounts. Each application under Section 13A would be considered on a case by case basis.

Question The term 'asset' had an incredibly broad definition within the policy was there no way to define that further?

Answer No, it had to be kept deliberately vague as we may need to claim back against these.

Question Could the President of the Valuation Tribunal overturn a decision based on the 16 points as shown at 4.8?

Answer As an authority there had never been a need to take a Section 13A case to court, however, it was crucial that the policy remained as unchallengeable as possible.

RESOLVED that the report and members comments be noted.

SUBJECT:	REVIEW OF FRAUD SANCTION POLICY
DIRECTORATE:	DIRECTORATE OF RESOURCES
REPORT AUTHOR:	MARTIN WALMSLEY, HEAD OF SHARED REVENUES AND BENEFITS

1. Purpose of Report

- 1.1 For Executive to consider/approve revised Fraud Sanction Policy, in respect of the shared Revenues and Benefits service between City of Lincoln Council and North Kesteven District Council.

2. Executive Summary

- 2.1 On 12th September 2013, Revenues and Benefits Joint Committee approved an updated version of the shared Benefit Fraud – Sanctions and Prosecutions Policy, making references to the Council Tax Support schemes (which replaced the national Council Tax Benefit scheme from 1st April 2013). The purpose of the policy is to assist the Councils in the shared service in preventing and detecting fraud in a consistent, effective, efficient and equitable manner.
- 2.2 On 1st October 2014, responsibility for investigation of Housing Benefit fraud in respect of City of Lincoln and North Kesteven transferred to the Single Fraud Investigation Service (SFIS) under Department for Work and Pensions (DWP). However, numerous functions still remain with the local authorities – including;
- Provision of data to SFIS;
 - Consideration of Administrative Penalties;
 - Investigation of Council Tax Support fraud.
- 2.3 This report seeks Members' consideration/ approval regarding a revised Fraud Sanction Policy, to reflect work now being undertaken by SFIS and different levels of overpayment value being considered for prosecution.

3. Review of Fraud Sanction Policy

- 3.1 A final draft revised Fraud Sanction Policy is contained at Appendix 1 to this report, to make reference to work now being undertaken by SFIS rather than local authorities, and also regarding different overpayment values being considered for prosecution. The re-drafted policy also proposes 'substitute officers' to consider sanctions, so that there are not delays when an officer is absent from the office.
- 3.2 The following key amendments have been made in the document at Appendix 1:
- Paragraph 1.2: Reflects transfer of Housing Benefit fraud investigation to DWP from 1st October 2014.

- Paragraph 4.1.1: Reflects working with SFIS/DWP in terms of detection of Benefit Fraud, provision of data, facilitating anti-fraud training and publicising successes.
- Paragraph 4.2.1: Reflects working with partners to facilitate delivery of an effective fraud investigation service, provision of Single Point of Contact and secure transfer of data to/from SFIS.
- Paragraph 4.5.1: Due to transfer of Housing Benefit Fraud staff to DWP, the provision of appointing an Authorised Officer is now preceded with “If required at any time...”.
- Paragraph 5.1.1: Makes provision for substitute officers for consideration of sanctions, as required. This also makes reference to Council Tax Support –only cases and the potential to work with other local authorities on these (which is being explored under the Lincolnshire Corporate Fraud project).
- Paragraph 5.1.2: Removal of paragraph referring to ‘Caution’ as this is no longer a sanction available to SFIS.
- Paragraph 5.2.3: Removal of reference to ‘Caution’. Additional sentence regarding consideration of DWP overpayment amounts for prosecution.
- Paragraph 5.2.4: Additional sentence regarding consideration of DWP overpayment amounts for prosecution.
- Paragraph 5.3.1: Adds reference to Criminal Prosecution Service (the legal body for considering SFIS-investigated cases).
- Paragraph 5.3.2: Removal of this paragraph (as Administrative Penalties are now delivered by SFIS, and not the local authorities).
- Paragraph 5.3.2 (previously 5.3.12): Now makes reference to working with another local authority on investigative functions delivery.

3.3 The revised policy is to go through the consideration/approval process as follows:

City of Lincoln Council	North Kesteven District Council
Policy Scrutiny Committee: - 17 th December 2015	Performance and Resources Overview and Scrutiny Panel: - 18 th January 2016
Executive: - 11 th January 2016	Executive Board: - 11 th February 2016

4. Strategic Priorities

4.1 The funding Councils receive for Council Tax Support is limited by Government, so

any losses the Council incurs through fraud can result in there being less support available for those who need it, a reduction in the resources available to provide services to those who need them, or an increase in Council Tax levels.

5. Organisational Impacts

- 5.1 Finance: There are no tangible costs involved in the amendments proposed to this policy, although they will help to allow more effective and efficient use of officer time.
- 5.2 Legal Implications including Procurement Rules: There are no direct Legal or Procurement implications arising from this report.
- 5.3 Equality, Diversity & Human Rights: There are no direct implications arising from this report.

6. Risk Implications

- 6.1 (i) Options Explored: Not making the proposed amendments would mean the current sanction limits in place are not consistent with those under DWP. Not having substitute officers available for consideration of sanctions could delay progression of cases.
- (ii) Key risks associated with the preferred approach: None.

7. Recommendation

- 7.1 Executive approves the revised Fraud Sanction Policy;

Is this a key decision? ~~Yes~~/No

Do the exempt information categories apply? ~~Yes~~/No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? ~~Yes~~/No

How many appendices does the report contain? Two

List of Background Papers: None

Lead Officer: Martin Walmsley, Head of Shared Revenues and Benefits
Telephone (01522) 873597

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11th January 2016 – City of Lincoln Council – Executive
Appendix 1: Proposed revised Benefit Fraud Sanctions and Prosecutions
Policy

City of Lincoln Council

&

North Kesteven District Council

Benefit fraud, sanctions and prosecutions policy

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- 1. BACKGROUND**
- 2. STATEMENT OF INTENT**
- 3. ACTION TO COUNTER FRAUD**
- 4. THE PREVENTION AND DETECTION OF FRAUD**
 - 4.1 The prevention of fraud
 - 4.2 The detection of fraud
 - 4.3 Duties and considerations of employees and elected members
 - 4.4 Duties and considerations of investigation officers
 - 4.5 Resources
- 5. SANCTIONS AND PROSECUTIONS**
 - 5.1 The decision making process
 - 5.2 Factors to consider
 - 5.3 Delivering sanctions and prosecutions
 - 5.4 Publicity

1. Background

- 1.1 On 1st June 2011 the City of Lincoln and North Kesteven District Councils entered into an arrangement to share the provision of revenues and benefits services between them. By sharing their services the Councils are seeking to achieve savings and efficiencies.
- 1.2 From 1st October 2014, transfer of Housing Benefit Fraud investigation transferred from City of Lincoln Council and North Kesteven Council to the Department for Work and Pensions (DWP) under the Single Fraud Investigations Service. City of Lincoln Council and North Kesteven District Council retain responsibility for investigating potentially incorrectly-claimed Council Tax Support.
- 1.3 For the purposes of this policy, a person is considered to commit benefit fraud if they commit or attempt to commit a statutory offence against any of the following schemes operated by the Councils:
 - Housing Benefit;
 - Council Tax Benefit;
 - Council Tax Support;
 - any successor benefit to these schemes.

2. Statement of Intent

- 2.1 The City of Lincoln and North Kesteven District Councils are committed to protecting public funds by taking action to combat benefit fraud. The Councils will not tolerate any form of benefit fraud, whether it is attempted from within or outside of the Councils. If there is sufficient evidence to show that a claimant or some other third party has committed benefit fraud, the Councils will consider taking action against that person under the appropriate legislation.
- 2.2 The Councils will seek to recover any benefit overpaid as a result of fraudulent activity and will use every power available to them to minimise the loss to the public purse through fraud.

3. Action to counter fraud

- 3.1 The Councils are committed to operating in an open and honest way in order to:
 - encourage the prevention of fraud;
 - promote the detection of fraud;

- deter people from committing fraud by prosecuting or issuing sanctions against people caught committing benefit fraud.

4. The prevention and detection of fraud

4.1 The prevention of fraud

4.1.1 The Councils will seek to prevent fraud from entering the benefits system by:

- requiring appropriate verification of evidence and details provided by claimants to obtain benefit;
- carrying out risk based reviews of claims, as required;
- publicising the Councils' involvement in data matching and other counter fraud activities;
- participating and contributing to the Regional Boards for fraud;
- working with SFIS to facilitate the effective detection of Benefit Fraud;
- providing reliable and timeous data to the DWP on anti fraud activity and sanction and prosecution outcomes;
- promoting and providing means for members of the public to report cases of suspected fraud to the Councils;
- work with SFIS to facilitate delivery of anti-fraud training to Council staff, as appropriate;
- in partnership with SFIS, publicising successes in detecting fraud and delivering sanctions and prosecutions to deter others from committing similar fraudulent acts.

4.2 The detection of fraud

4.2.1 The Councils will seek to detect fraud by:

- working with partners to facilitate delivery of an effective fraud investigation service to ensure that irregularities and fraudsters are identified and dealt with appropriately;
- providing caseload information to the Secretary of State for Work and Pensions for data matching, risk analysis and identification of irregularities;
- participating in anti fraud activities such as the National Fraud Initiative (NFI);

- participating in the annual Housing Benefit Review conducted by the DWP which involves a statistically valid sample of the caseload being reviewed in depth by Secretary of State appointed inspectors to evaluate the level of fraud and error in the regional and national caseload and helps the Council to plan its risk profile;
- complying with Police and Criminal Evidence Act, Regulation of Investigatory Powers Act, Social Security Acts, Data Protection Act and other relevant legislation in managing anti-fraud activity;
- provide a 'Single Point of Contact' (SPOC) for SFIS for management of fraud matters;
- provide a SPOC for secure transfer of data to/from SFIS;
- monitoring fraud referrals, investigation activity and sanction and prosecution outcomes to develop and identify high risk areas for anti fraud exercises.

4.3 Duties and considerations of employees and elected members

- 4.3.1 The Councils expect officers to report details of any property that they are renting to tenants and any claims to benefit to which they have some connection. This may be a claim to benefit where an officer or member is the landlord, claimant, partner, dependant or non dependant of the claim. Any interest in a claim to benefit by officers and members must be recorded in the Register of Interests in the usual manner.
- 4.3.2 Any officer involved in the administration of benefits who has knowledge of a claim where they are a close family member of the claimant or partner (as defined in regulation 2 of the Housing Benefit General Regulations) must report this connection to the Head of Shared Revenues and Benefits. Officers involved in the administration of revenues and benefits may be required to complete a declaration periodically about these issues.
- 4.3.3 Any officer found to be involved in an offence under the Social Security Administration Act 1992 (as amended), or any other criminal offence involving claims to benefit at either of the Councils, or any other Council or Government Department, must report this to the Head of Shared Revenues and Benefits. In addition to any prosecution proceedings that result from the benefit fraud, the Councils may take disciplinary action.

4.4 Duties and considerations of investigation officers

- 4.4.1 Whilst investigating benefit/support fraud, the Councils' investigation officers and authorised officers will work within the guidelines of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigation Act 1996, the

Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Social Security Acts and subsequent amendments, any new legislation introduced to govern this area of work and the Councils' policies on customer care.

- 4.4.2 Officers will operate within the confines of the Data Protection Act 1998 and will maintain client confidentiality.
- 4.4.3 The Councils will investigate any instances where an officer has abused their powers whilst investigating any allegation of benefit/support fraud. If the investigation reveals breaches of the law or Council policy then disciplinary action may take place.

4.5 Resources

- 4.5.1 If required at any time, The Head of Paid Service will appoint at least one "Authorised Officer" under Section 110A of the Social Security Administration Act 1992 and Regulation 3 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.
- 4.5.2 The Authorised Officer may exercise any of the powers that are conferred by Section 109B and 109C of the Social Security Administration Act 1992 and Regulations 4 and 5 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013. Authorised Officers exercise powers to obtain information to assist in an investigation. Obstruction of such an officer or failure to produce information is an offence and the Council may take action against any person who commits it.
- 4.5.3 The Head of Paid Service will ensure that the Authorised Officers are fit and proper persons to be authorised and will issue those persons with a certificate of appointment.

5. Sanctions and Prosecutions

5.1 The decision making process

- 5.1.1 A panel consisting of the Legal and Democratic Services Manager City of Lincoln Council (or nominated Council Solicitor in their absence), and the Head of Shared Revenues & Benefits (or Revenues and Benefits Manager in their absence) will consider in each case recommended for further action when the evidence is sufficient to suggest that an alleged offender would be found guilty if the case were placed before the Court. The panel will consider whether further action should be taken in those cases proven and which sanction, if any, should be applied. A record of the reasons for the decision will be made. As

Housing Benefits investigation is now a function under DWP through SFIS, the evidence provided and case summaries will be the responsibility of SFIS. The Sanction Panel will provide an audit trail of decisions made. For Council Tax Support-only cases, the same Panel will consider cases for sanction and follow the same process (but without SFIS) – which could include other partners, for example other local authorities assisting with this function.

5.1.2 The courses of action available to the panel are as follows:

- Prosecution through the Courts

The offender may be prosecuted through either the Crown or Magistrates Court, dependant upon the severity of the case and if found guilty will face a maximum sentence of seven years in prison, or a fine, or both for the most serious offences;

- Administrative penalty

As an alternative to prosecution, the offender may agree to repay an extra financial penalty instead of facing prosecution. The amount of the penalty is specified by law, but varies dependent upon the period of the offence and the scheme against which the offence has been perpetrated:

- for offences against the housing and council tax benefit schemes committed in part or in whole prior to 8th May 2012, the penalty is 30% of the amount overpaid;
- for offences against the housing benefit and council tax benefit schemes committed wholly after 7th May 2012, the penalty is 50% of the amount overpaid, with a minimum penalty of £350 and a maximum penalty of £2000;
- for offences committed against the council tax support scheme, the penalty is 50% of the amount overpaid with a minimum penalty of £100 and a maximum penalty of £1000.

5.1.3 The panel can decide to take no action in respect of any case. If this occurs a record of the panel's reasons for reaching this decision will be recorded.

5.1.4 In all cases, the claimant will be expected to repay any amount of benefit overpaid.

5.2 Factors to consider

5.2.1 The panel will take the following factors into account when deciding whether it is in the public interest to prosecute someone whom it is alleged has committed benefit fraud:

- the amount of any overpayment of Housing Benefit, Council Tax Benefit or Council Tax Support, or any successor benefit made as a consequence of the fraud;

- the amount of any overpayment of any other social security benefit, or loss to public funds, made as a consequence of the fraud;
 - the physical and mental condition of the alleged offender;
 - the number and type of offences it is alleged to have been committed and the length of time over which the offences have taken place;
 - any voluntary disclosure;
 - the level of co-operation offered by the alleged suspect during the investigation;
 - any relevant social factors such as age, health, employment, family commitments, financial issues, and any other issues that are felt to be relevant;
 - the strength of the evidence;
 - any failings in the investigation;
 - any failings in the administration of the claim that could have contributed to the alleged offence;
 - any exceptional or unusual factors specific to the case;
 - any mitigating factors brought to the attention of the Council;
 - any admission or denial of the offence by the alleged offender;
 - any refusal to accept an administrative penalty or caution;
 - any previous proven history of committing benefit fraud offences.
- 5.2.2 In deciding which sanction is appropriate, the panel will take account of the following guidelines. These guidelines are based upon Department for Work and Pensions research and practice and local experience. Each case will be considered on its own merits and the guidelines are not binding.
- 5.2.3 If the overpayment of benefit is under £2,000, the Council will generally seek to offer an administrative penalty, unless when considering the other factors, prosecution is more appropriate. The Council will also give consideration to DWP overpayment amounts for prosecution, which SFIS will liaise and update the Councils regarding as and when these guideline-limits change.
- 5.2.4 If the overpayment of benefit is over £2,000, the Council will generally seek to prosecute the offender, unless when considering the other factors an alternative to prosecution would be more appropriate. The Council will also give consideration to DWP overpayment amounts for prosecution, which SFIS will liaise and update the Councils regarding as and when these guideline-limits change.
- 5.2.5 The option will remain to take prosecution action in any case if aggravating circumstances exist, including attempted fraud, irrespective of the level of overpayment involved.

5.3 Delivering sanctions and prosecutions

- 5.3.1 Prosecutions will generally be taken by City of Lincoln Council's Legal Department, or by the Criminal Prosecution Service if the case has been investigated by SFIS. In cases where the investigation has been undertaken jointly by the Council and the Department for Work and Pensions, the case may either be prosecuted by the City of Lincoln's Legal Department or solicitors acting on behalf of the Department for Work and Pensions, whichever appears the most appropriate in each case.
- 5.3.2 In some cases, it may be appropriate for another local authority to administer the sanction, if for example, the alleged offender has moved away and is resident in another local authority area – or the Councils are working with another local authority on investigative functions delivery.

5.4 Publicity

- 5.4.1 The Councils may seek publicity about successful benefit fraud prosecutions. The aim of such publicity is to deter others from committing similar frauds and to demonstrate to taxpayers that the Councils are protecting public funds.

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11th January 2016 Executive – Review of Fraud Sanction Policy
Appendix 2: Extract from Policy Scrutiny Committee Minutes 17th December 2015

41. Review of Fraud Sanction Policy

The Head of the Shared Revenues and Benefits Service:

- a. presented the report 'Review of Fraud Sanction Policy'.
- b. informed that from 1 October 2014 the fraud team moved to work with the DWP.
- c. brought members attention to paragraph 3.2 of the report and outlined the main changes to the Fraud Sanction Policy.
- d. explained that the DWP had a much higher threshold before they would sanction residents, only tending to prosecute only for much higher amounts than the £2,000 previously in the Council's policy.
- e. invited members questions and comments.

Members made the following questions and comments and received the relevant responses.

Question Fully supportive of the changes, had anymore thought been given to partnering with other authorities?

Answer No, other than partners of the shared service at NKDC it would need to be reviewed again with a proper business case if anything like this was being proposed.

Question Why was anything over, for example, £5,000 being investigated when it was previously £2,000?

Answer Due to the move to the DWP they were only focussing on much higher amounts, with specific targets as to what the team are looking to focus on.

Question Were we successful with our own sanctions before the team moved over to the DWP?

Answer The team had some great results whilst working for the Council. There is very little in the way of statistical information since the team moved over to the DWP.

RESOLVED that the report and members comments be noted.

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SUBJECT: ADVERTISING POLICY

DIRECTORATE: CHIEF EXECUTIVE & TOWN CLERK

REPORT AUTHOR: STEVE WELSBY, COMMUNICATIONS MANAGER

1. Purpose of Report

- 1.1 To seek approval from the Committee on the attached advertising protocol.

2. Executive Summary

- 2.1 City of Lincoln Council welcomes the opportunity to publicise information and products that may be of interest to its residents.
- 2.2 As more opportunities arise to benefit from advertising revenue the protocol outlines to council staff what is and is not suitable in terms of advertising.
- 2.3 The document also outlines the processes that need to take place ahead of the council accepting any form of advertising.

3. Background

- 3.1 The council currently accepts paid-for advertising through some of its available channels (such as within its residents' magazine, Your Lincoln) and is always looking for opportunities to raise advertising income where suitable. However, it does not currently have an advertising policy in place.

4. The Requirement for an Advertising Protocol

- 4.1 Adopting the policy will show that the council considers advertising an important and valuable source of income that can be explored further with the support of the policy.
- 4.2 The policy will ensure that everyone who works for the council is aware of the types of advertising it will accept and those it will not (such as any which may conflict with our residents' safe, healthy and economically independent lifestyles and any advertising which may bring the council into disrepute).
- 4.3 The policy will help to highlight that there is no suggestion the council endorses the products and services being advertised.
- 4.4 The policy will assist the council in keeping its buildings clear of unauthorised advertising.
- 4.5 Having the policy in place will help outline to advertisers the processes considered in accepting or rejecting their adverts and that it is done in a formal manner.

- 4.6 The policy will encourage advertisers who offer services most clearly and closely associated to our activities to advertise with us and complement our aims and objectives, removing confused and conflicting messages.

5. Strategic Priorities

- 5.1 The adoption of the policy will help manage any revenue income streams which, in turn, directly contributes to the strategic priority of making the council fit for purpose.

6. Organisational Impacts

- 6.1 Finance
There are no direct financial implications.
- 6.2 Legal Implications including Procurement Rules
There are no direct legal implications.

7. Risk Implications

- 7.1 (i) Options Explored

By not adopting the policy the council is at risk of advertising being accepted that could have an adverse impact on the council's reputation.
- 7.2 (ii) Key risks associated with the preferred approach

There are no risks identified with adopting the policy.

8. Recommendation

- 8.1 That Committee adopts the attached policy.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 2

List of Background Papers: None

Lead Officer: Steve Welsby, Communications Manager

City of Lincoln Council advertising policy

Background and general principles

City of Lincoln Council welcomes the opportunity to publicise information and products that may be of interest to its residents.

The council will generally accept paid-for advertising which does not conflict with our residents' living safe, healthy and economically independent lifestyles, and whose association will not bring City of Lincoln Council into disrepute.

Our basic principle is we will offer advertising opportunities through our available channels, such as residents' magazine, to generate income for the authority aimed at achieving best value for our residents.

A maximum level of advertising will be set for each channel and all income raised will be used to help the council achieve its savings targets.

As a local authority with specific duties and responsibilities we will always consider the type and nature of the advertising that is acceptable.

We will identify advertising clearly when and where it occurs, and make sure there is no suggestion City of Lincoln Council endorses the products or services advertised or that the advertiser can claim any special relationship with the council.

A maximum level of advertising will be set for each channel and intrusive advertising will be avoided.

All corporate advertising channels will be centrally managed, and all approaches for paid-for advertising should be made through the Communications Manager

This policy provides guidelines for the acceptance of all forms of advertising, both print and electronic.

Advertising opportunities and restrictions

The council is keen to maximise revenue from advertising, and so rather than define all specific permitted advertising we work on the basis that advertising

is permitted unless it falls into a number of prohibited categories: see following section – Acceptable products, services and advertisers

NB: Some forms of advertising may be acceptable at certain times but not at others e.g. organisations with current planning applications/contractors bidding for current tenders, organisations in financial conflict with the council or those businesses which the council may be prosecuting or seeking to prosecute.

Advertising will be subject to the Local Government Publicity Code with specific regard to advertising which is acceptable in the run-up to local or national elections, and to the Financial Services Authority.

All advertising presented must fall within the rules and guidelines laid down by the Advertising Standards Authority and comply with the British Code of Advertising, Sales Promotion and Direct Marketing (full details to be found at www.asa.org.uk)

Some areas of the council accept free advertising from charities, partners and community groups. This may appear, for example, in community centres or neighbourhood newsletters. The staff responsible for these buildings / publications should work to this policy's terms and decisions on acceptable advertising.

Acceptable products, services and advertisers

City of Lincoln Council will generally accept advertising which does not conflict with our residents' living safe, healthy and economically independent lifestyles, and whose association will not bring the council into disrepute.

Furthermore, the council will not accept advertising where the product(s) advertised are viewed to be in direct competition with any of the council's charged services. This, for example, would include, but not be limited to, companies offering parking services in the city.

The council will ensure that advertising most clearly and closely associated with our activities seeks to complement our aims and objectives, and those of our key partners, and does not create confused, conflicting messages.

Advertising of foods and drink will be restricted to products and services that either support or are related to healthy behaviours. Healthy behaviours will be determined using current health and wellbeing guidance (www.nhs.uk).

The council reserves the right to refuse advertising for any reason. For example, goods and services we will not accept includes:

- High interest lending
- Tobacco/tobacco products
- Adult services (sex industry)
- Weapons or violence

- Gambling
- Alcohol
- Fast food

In addition we will not accept advertising which is designed to promote a particular political party, seeks to persuade residents of a particular religion or belief, or unjustifiably discriminates against specific individuals or groups.

The council will respond swiftly to any unauthorised advertising at any of its premises. For example, fly-posting is not an acceptable form of advertising and will not be permitted.

Prohibitions in this section may also include advertisers who appear to compete directly with a current council service/income stream and/or the local economy of the area.

In the event of dispute, final decisions will be made by a member of the council's Corporate Management Team (CMT). Similarly, any approaches from TV/media companies wishing to film the city council's activities must always be referred to the Communications team in the first instance and any final decision on the council's participation must be signed off collectively by CMT.

Selection and quality assurance

Local advertisers will be reviewed via trading standards consumer protection as far as this is practical.

We also reserve the right to remove advertising at short notice should the subject matter be likely to appear insensitive/cause offence, particularly but not exclusively in the light of local or national events e.g. natural disasters, missing children, etc.

Disclaimer

All advertising carried on City of Lincoln Council Lincoln websites and publications will carry the following disclaimer

"City of Lincoln Council does not guarantee the accuracy of any description or statement contained in any advertisement within this xxx, nor does it endorse any product or service advertised."

We will make reasonable efforts to ensure that only advertisements suitable for 'family viewing' appear through council channels with regard to images used or copy content. However the council does not control third party sites, content or products. Advertisers may have different use and privacy policies, for which we cannot accept responsibility.

We will display a link to this advertising policy on any page of our website which carries advertising and an email link so that customers with any concerns can raise them promptly with the council.

This policy does not extend to publications related to city council events but commercially produced by others.

Advertising opportunities available to the council will be monitored closely and this policy will be updated whenever significant new opportunities present themselves, especially in light of emerging technologies.

Advertising Rates

Advertising rates are set with regard to current market conditions and will be developed and set as part of the council's corporate annual fees and charges setting process. The advertising rates may be adjusted when and where applicable (with the approval of the relevant portfolio holder) to maximise income for the council without reducing revenue streams through becoming priced out of the local market place.

39. Advertising Protocol

The Communications Manager:

- a. presented the report 'Advertising Protocol'.
- b. advised that this report since being sent to committee had been renamed to 'Advertising Policy'.
- c. informed that this policy would allow revenue to be raised through advertising by controlling what was and was not acceptable to be advertised.
- d. highlighted that the Council accepted paid-for advertising through the 'Your Lincoln' magazine but were always looking to expand this opportunity.
- e. advised that the 'Advertising Policy' set out the Council's advertising needs and requirements under the following key headings:
 - Background and general principles
 - Advertising opportunities and restrictions
 - Acceptable products, services and advertisers
 - Selection and quality assurance
 - Disclaimer
 - Advertising Rates
- f. further advised that the policy set out what would not be advertised by the Council, this included:
 - High interest lending
 - Tobacco/tobacco products
 - Adult services (sex industry)
 - Weapons or violence
 - Gambling
 - Alcohol
 - Fast food
- g. invited members questions and comments.

Members made the following questions and comments and received the relevant response.

Question Within the policy it highlights 'achieving best value for residents', what does this mean?

Answer This means that where possible, we would seek to maximise our profits from advertising while also ensuring any publication etc. includes a balance of advertising and editorial.

Question What was the maximum amount of advertising that we would allow in our magazines?

Answer There was a saturation level set to four pages per publication.

Question Would all four pages be placed altogether in a publication or would the adverts be spread apart?

Answer We would usually look to sell full pages however, if we had requests for half and quarter pages then we would try and accommodate these.

Question Within the policy itself it sets out categories that we would not advertise, but who actually decides whether the advert would be inappropriate?

Answer As Communications Manager I would be responsible for deciding what was and was not appropriate to be included.

Members queried whether their newsletters needed to be sent in to Communications to see before being distributed. The Communications Manager highlighted that a common sense approach needed to be taken and that the Council was not responsible for members local newsletters that were published by other organisations.

Members suggested moving the sentence 'We reserve the right to refuse advertising for any reason' out of the Selection and Quality Assurance section and into the 'Acceptable products, services and advertisers' to make it more noticeable before the list of acceptable products, services and advertisers.

RESOLVED that the report and members comments be noted and forwarded to the Executive for consideration and approval.

SUBJECT: ICT STRUCTURE

DIRECTORATE: DIRECTORATE OF RESOURCES

REPORT AUTHOR: MATT SMITH, BUSINESS DEVELOPMENT AND IT MANAGER

Purpose of Report

- 1.1 To propose a change to the ICT team structure.

2 Executive Summary

- 2.1 The ICT Team has not been able to recruit a suitable apprentice officer to the team, causing resourcing issues.
- 2.2 It is proposed the apprentice post be made into a permanent post at a cost of £3,830 per annum rising to £5,300 over five years which can be funded from existing budgets.

3 Background

- 3.1 In July 2014, the Executive approved a new structure for the ICT team. As part of this, it was proposed to replace an existing IT Officer role with an apprentice. Overall the team was strengthened in some areas, but this was considered to be a relative weakening of skill set, but one that could be accommodated:
- 1) To contribute to the Council's overall savings target
 - 2) As some of the role could be performed with lower skills
 - 3) As it provided an opportunity to create some succession planning into the service

4 Main Body of Report

- 4.1 Initially an apprentice was appointed to the role, and has since progressed into a more senior role in the team. However, since this point, the ICT and Work-based learning team have been trying to find a suitable candidate to replace them and have not been successful as there has been limited interest in the post, even with the role being advertised on the National Apprenticeship Service Website and circulated to neighbourhood teams to attract potential candidates.
- 4.2 This is causing issues with the ability of the team to carry out all of the roles satisfactorily and having cover for all service hours being operated.
- 4.3 In addition, after some further consideration, there are some potential issues with an apprentice:
- When the apprenticeship ceases the skills built up will be lost if the post-holder does not secure a permanent role, forcing the service to start again
 - The apprenticeship scheme which the Council offers does not offer an apprenticeship with technical ICT Skills. The existing provider, First College

only offers skills for ICT users, rather than for ICT Technical staff, so it is not possible to provide the appropriate level of training through this route.

- 4.4 Any other potential provider could potentially detract from the current apprenticeship scheme. The current scheme has been built up with stakeholders and Ofsted to ensure that it operates at the highest standards possible. Any other scheme could not be managed to the amount of rigour within the current arrangements for the purposes of one post and could be detrimental to the work being done in the established scheme.
- 4.5 Therefore an alternative option would be to change the post to a more permanent role on a lower skill level to the existing IT Officers which would allow some permanency and offer a similar career path, making it more likely to attract a suitable candidate for the role.
- 4.6 The successful candidate would also be trained appropriately for the role using a variety of in-house and external training courses as deemed necessary to perform the role and also provide some career development.
- 4.7 A potential post has now been evaluated and would amount to an increase in costs of £3,580 - £5,300 per annum, which can be accommodated within existing service budgets.

5 Organisational Impacts

- 5.1 Finance – there is an additional cost outlined in para 4.5 above, which will be resourced from within existing service budgets.
- 5.2 Legal Implications including Procurement Rules - there are no legal implications
- 5.3 Human Resources – the establishment would need to be amended to include a new post, rather than an apprentice.

The post has been evaluated as Scale 2. The change will result in a deletion of the Apprentice post for the IT Structure and the creation of an ICT Helpdesk Operator post.

Due to the difficulties on appointing to the post it is currently vacant and therefore does not affect any staff directly. However, whilst the employees within the IT department are not directly affected by this change, they have all received consultation on the proposed change and no comments and/or queries were raised.

- 5.4 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required) – There are no equality and diversity implications

6 Risk Implications

- 6.1 It is considered that a change in the post will reduce risks to the organisation of turnover and loss of skills, with additional benefits in career opportunities for the potential post holder

7 Recommendation

7.1 The Executive are recommended to approve the revised structure of the ICT Team.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? None

List of Background Papers: None

Lead Officer: Matt Smith, Business Development and IT Manager
Telephone (01522) 873308

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SUBJECT:	PROPOSED CHANGES TO THE LINCOLN TENANTS' PANEL CONSTITUTION
DIRECTORATE:	DIRECTORATE OF HOUSING AND COMMUNITY SERVICES
LEAD OFFICER:	CHRIS MORTON, RESIDENT INVOLVEMENT MANAGER

1. Purpose of Report

- 1.1 To seek approval from the Executive to make changes to the Lincoln Tenants' Panel constitution.

2. Executive Summary

- 2.1 The constitution is reviewed on an annual basis for any changes that need making. This is to ensure that the constitution is kept up to date and reflects any changes that the panel wants to make. The proposed changes in this report include; parts of the code of conduct applying outside of meetings, the option to withdraw resignations within a specified timescale and a requirement for LTP members to serve a continuous period of 12 months before being eligible to stand for the position of chair or vice-chair.

3. Background

- 3.1 The LTP constitution sets out how the Lincoln Tenants' Panel is to operate. This includes:
- Aims and objectives
 - Meeting arrangements
 - Code of conduct
 - Election of panel members.
- 3.2 The LTP constitution requires that any proposed changes to the constitution may only be formally made by a two-thirds majority of voting members attending an annual general meeting or an extraordinary general meeting called for the purpose.
- 3.3 The Executive must also approve any amendments to the constitution.
- 3.4 The proposed changes were submitted to the Lincoln Tenants' Panel at their meeting on 21 October 2015. The panel accepted all of the recommendations put forward and asked for them to be presented to the Executive.

4. Proposed changes

- 4.1 The proposed changes to the LTP constitution can be found at appendix A and a copy of the proposed revised constitution can be found at appendix B.

5. Timetable

- 5.1 The LTP constitution must go through a number of stages before it can be amended and before the amendments can be formally made. These are set out in the table below.

Stage	Date	Progress
Consultation with LTP members.	21 October 2015	Completed
Submit to Executive Committee for approval.	11 January 2015	
Changes to the LTP constitution formally made at the AGM.	23 March 2016	

6. Risk implications

- 6.1 There are no risk implications as a direct result of this report.

7. Recommendation

- 7.1 The Executive is requested to consider and approve the proposed amendments to the LTP constitution, as set out in section 4.1 and the appendices of this report.

Is this a key decision?

No

Do the exempt information categories apply?

No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?

No

How many appendices does the report contain?

Two

List of Background Papers:

None

Lead Officer:

Chris Morton, resident involvement manager
Telephone (01522) 873398

Appendix A-proposed constitution changes.

Area	Clause	Proposed amendment	Reason
Leaseholder seats	Clause: 2.2 Page: 4	Remove the number 20 from the first sentence.	Currently the constitution states that: 'LTP will comprise of 20 tenant & leaseholder representatives.' The current wording could be interpreted that there are 20 seats available for both tenants and leaseholders, however there is only one seat on the panel for leaseholders. The number 20 needs to be removed to clarify this.
West End/City Centre seats	Clause: 2.2 Page: 4	Amend the bullet points in the clause to read' -Birchwood, Moorland, Ermine East, Ermine West and St Giles: two members each; -Bracebridge/Manse, Hartsholme, Stamp End, Tower and Newport/Burton Road, City Centre and West End: one member each;	There is one seat available for the City Centre and one seat available for the West End. Currently the constitution reads: <i>'Birchwood, Moorland, City Centre/West End, Ermine East, Ermine West and St Giles: two members each'</i> This could be interpreted that two seats are available from the City Centre/West End in total. This is not the case, only one seat is available from each area.
Advertisement of vacancies	Clause: 2.4 Page: 4	Remove the mandatory requirement stated in the clause to advertise LTP vacancies in the <i>Home!</i> magazine.	The current constitution states that we must advertise a vacancy for an LTP seat in <i>Home!</i> This is not always possible because it is a quarterly magazine. If a vacancy occurs just after an edition of the magazine has been distributed, it could mean a three-month wait to recruit a new LTP member. The resident involvement team would still publicise the seat but through other communication channels.
Terms of the constitution, re-	Clause: 2.10 Page: 5	Add the following sentence onto the end of the clause 'to	This is in regards to the decision to allow LTP members to attend the panel following suspension. The decision is made by the majority of the

joining following suspension		the satisfaction of the majority of the other members of the Panel who are present when the issue is discussed at a meeting.'	LTP members who are present at the meeting, however the clause needs to be clarified to state this. At the moment it could be interpreted to read that the majority decision must be made by all elected LTP members. This is not the case, it is by the majority present at the meeting. Adding the extra sentence to the clause will clarify our position.
Minutes	Clause: 3.2 Page: 6	Amend the clause to state that the resident involvement team records the minutes and not democratic services.	Democratic services used to take the minutes at meetings but the resident involvement team now takes these.
Chair and vice-chair-resignations	Clause: 8.1.7 Page: 8	Add a clause that states 'The vice-chair will automatically assume the position of chair until the next elections, in the event that the chair steps down.'	In practice the vice-chair already assumes the position of chair unofficially in this situation, however this needs stating in the constitution.
Chair and vice chair-experience required	Clause: 8.1.8 Page: 8	Add a clause that states 'LTP members must have been on the panel for a continuous period of 12 months before being eligible to stand for chair or vice-chair.'	This is to ensure that the LTP member has enough experience to take on the role of chair or vice-chair.
Length of meetings	Clause: 9.1.2 Page 8	Remove the clause.	LTP meetings vary in length from meeting to meeting. It is difficult to state how long a single one will last.
Code of	Clause:9.2.8	Amend the clause to read 'LTP	In its current form the clause does not make clear if the code of

Appendix A-proposed constitution changes.

conduct-behaviour	Page: 9	members should be courteous to each other both in meetings and outside of them and work together to seek the best possible solution to problems being discussed. ‘	conduct can apply outside of LTP meetings. LTP members have stated that they should treat each other with respect outside of meetings and therefore this needs clarifying in the constitution.
Code of conduct-wording	Clause:9.2.19, Page: 10	Amend the part of the clause to state the clause to read ‘If an LTP member does not abide by the above code of conduct, they will be given a warning by the Chair. If they ‘break’ the code of conduct again in the same meeting, they will be asked to leave the meeting. If the problem occurs again at the next meeting, the LTP member may be asked to stand down from LTP, either permanently or for a fixed period of time.’ .	Currently the clause refers to the ‘terms’ and not the ‘code of conduct’. For consistency it should state ‘code of conduct.’
Code of conduct-disrepute	Clause: 9.2.20 Page: 10	Add a sentence to the clause ‘which could include discussing LTP business outside meetings and in public.’	Adding this sentence clarifies that discussing LTP business outside of meetings can bring the panel into disrepute.
Election procedures	Clause:16 Page: 12	Add a clause to state that ‘Elections for LTP members and LTP committee positions are conducted on a majority basis and in the event of a tie the successful candidate will	The constitution does not state that elections are held using the majority basis system. It has always been assumed that this is the case, however this is not stated and needs to be clarified.

Appendix A-proposed constitution changes.

		selected by the drawing of lots by a council officer who is not part of the resident involvement team.'	
Resignations-withdrawing	Clause:19.3 Page: 13	Add the following clause ' LTP members can withdraw their resignation in writing within seven calendar days of submission. '	This will allow LTP members a reasonable 'cooling-off period' should they change their minds after submitting resignations.
Resignations-confirmation	Clause: 19.4 Page: 13	Add the following clause 'If a written resignation is not received within 21 calendar days of the LTP member verbally stating they wish to resign the resignation will be automatically confirmed.'	LTP members must confirm their resignation in writing. Verbal notifications are not accepted, however in some cases LTP members have stood down and not submitted a written resignation. Therefore, there needs to be a provision to deal with these cases.

The Lincoln Tenants Panel Constitution-Draft

Document Control

Organisation	City of Lincoln Council
Title	Lincoln Tenants Panel Constitution
Date	TBC
Approvals	Executive TBC LTP AGM TBC
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Protective Marking	Not Protectively Marked

Amendment history

V. 2.01	Proposed amendments for Executive to consider by Director of Housing & Legal Services	11 November 2013
V. 2.02	Suggestions received from LTP to be considered by the Executive	25 November 2013
V. 3.0	Version approved by Executive	25 November 2013
V. 3.01	Proposed draft amendments including the Terms of Reference for the Designated Tenant Panel and Data Protection Principles	19 February 2014
V.4.0	Proposed amendments to rolling programme of elections and other minor changes.	25 March 2015

1.0 Aims of the Lincoln Tenants Panel

Primary responsibility for delivering the City of Lincoln Council's social housing objectives and responsibilities lies with the Council's Executive who govern local authority housing services. The Lincoln Tenants Panel has been established by the City Council as an elected group to represent tenants across the city. In accordance with the principles of co-regulation set out in the Regulatory Framework for Social Housing in England, it aims to bring together tenants to act as a consultative panel to the City of Lincoln Council in the discharge of its housing landlord functions as a Registered Provider of Social Housing as follows:

- 1.1 LTP represents the interests of all council tenants and leaseholders in meetings with officers and members of the Council
- 1.2 LTP acts as the lead consultative panel for the Council on matters relating to the Council's housing landlord functions and the management and maintenance of council housing to ensure that, through LTP, tenants are given a wide range of opportunities to:
 - Influence and be involved in the formulation of the Council's housing management policies and the housing business plan
 - Influence and be involved in the making of decisions about how housing related services are delivered, including the setting of service standards
 - Influence and be involved in the scrutiny of the performance of housing management services and the making of recommendations to the Council about how performance might be improved
- 1.3 LTP will be consulted on an annual basis on the Housing Business Plan and associated housing capital and revenue budgets (the Housing Investment Programme and Housing Revenue Account) including proposed changes to such budgets and new initiatives.
- 1.4 LTP will be consulted on the Council's Tenant Involvement Strategy and on the formulation of any local service standards (or "local offers") to supplement the national housing standards set out in the Regulatory Framework.
- 1.5 LTP will monitor and scrutinise the service delivery and performance of the Council's housing landlord service in delivering services against the national housing standards and any agreed "local offers" and will make any recommendations for improvements to service delivery that it considers appropriate to the Council's Executive Committee or Director of Housing & Community Services at it considers appropriate.
- 1.6 LTP, have elected from amongst its members a Designated Tenants Panel to act as a "Designated Person" for the purposes of the Housing Ombudsman complaints scheme. Please see attached this Panel's Terms of Reference at Appendix 2
- 1.7 LTP will receive copies of minutes and notes of all meetings of working groups and Tenant Forums for information and may consider any matters and recommendations referred to it from such groups.
- 1.8 LTP meetings will be open to other tenants and the public generally and all agendas and reports and papers submitted to LTP for consideration will be made available to the public on request and via the Council's website unless the matter under consideration contains personal or commercially sensitive information considered to be "exempt information" as defined by the Local Government Act 1972.

2.0 Membership of LTP

2.1 Membership of the panel is open to all council tenants and leaseholders of the City of Lincoln Council who meet the eligibility criteria set out below.

2.2 **LTP will comprise of tenant & leaseholder representatives as follows:**

- 17 members representing the various areas/estates in the city as follows:
 - Birchwood, Moorland, Ermine East, Ermine West and St Giles: **two members each;**
 - Bracebridge/Manse, Hartsholme, Stamp End, Tower, Newport/Burton Road, City Centre and West End: **one member each;**
- **One member** from each of the working groups;
- **One leaseholder.**

2.3 Members are elected for a maximum of four years but can stand for re-election to the panel at the end of this period. The four-year term will commence from the last AGM.

2.4 In the event of one of the 18 seats for estate or leaseholder representative becoming vacant either at the end of the current incumbent's term of office or as a result of a vacancy occurring as a result of the resignation of the current elected representative the procedure for filling the resulting vacancy shall be as follows:

- The vacancy will be advertised to tenants through communication channels and on the Council's website and nominations will be invited from persons who meet the eligibility criteria set out in paragraph 2.5. Such nominations must be supported by at least 2 other tenants/leaseholders and or a recognised tenants and residents association.
- Where more than one nomination is received the Resident Involvement Team will organise a postal ballot of tenants in the estate/area for the vacant seat concerned (or a postal ballot of leaseholders if the vacancy is for a leaseholder representative).
- Where only one nomination is received the tenant/leaseholder concerned will be declared as elected to LTP unopposed, providing they meet the eligibility criteria set out in paragraph 2.5.

In the event of one of the LTP representatives on the working group seats becoming vacant either at the end of the current incumbent's term of office or as a result of a vacancy occurring as a result of the resignation of the current working group representative the procedure for filling the resulting vacancy shall be as follows:

- The working group will be asked to nominate and elect a replacement representative to serve on LTP from amongst it's members at it's next scheduled meeting.

2.5 To be eligible to sit on the LTP, the following criteria must be met. Candidates must:

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- be a secure tenant of the City of Lincoln Council (so your name must be on the tenancy as tenant or joint tenant) or a City Of Lincoln Council leaseholder.
- be over 18 years of age
- not be in breach of our conditions of tenancy for which Notice of Seeking Possession or court action is outstanding. If a member of LTP is served with such a notice or court action while serving on the LTP, they will no longer be entitled to sit on the LTP until the breach is put right in full, including costs
- not be employed by the City Of Lincoln Council.
- not be an Elected Member of the City Of Lincoln Council. Anyone standing for election in the City or County Council elections is not allowed to be involved in the LTP from the date the list of candidates is publicly announced until the election is over. This condition applies to LTP members and elected Members seeking re-election. The only exception to this rule will be that the Portfolio Holder for Housing may attend at the invitation of the LTP Chair.

2.7 Membership should be encouraged to be representative of the wider tenant body as a whole in terms of both geographical area and equality and diversity.

2.8 Members should abide by the LTP equality and diversity statement of intent.

2.9 A member who has breached the constitution may be suspended either permanently or for a fixed period of time by majority decision of the panel. The Panel will give reasons for any decision to suspend.

2.10 Any member of the LTP who has been suspended for a fixed period of time for breaching the terms of the constitution will only be eligible to re-join after the period of suspension if they have remedied the original reason for suspension to the satisfaction of the majority of the other members of the Panel who are present when the issue is discussed at a meeting.

2.11 If any dispute remains unresolved between either members of the panel or between officers and elected members of the council and members of the panel an external independent mediator will be appointed. The cost of this will be split between the Tenant Participation Budget and a council budget.

3.0 How the LTP operates

3.1 LTP will elect its own Chair and Vice-Chair from its tenant and leasehold members when a vacancy occurs. The Chair and Vice-Chair will hold these positions for a term of 12 months before having to stand for re-election. Positions for Housing Sub and Scrutiny Committee will be elected following the Annual General Meeting.

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- 3.2 The Resident Involvement Team will prepare the agendas for meetings and take minutes, they will also send LTP members the agenda and any further information needed a minimum of five working days before the next LTP meeting. The Resident Involvement Team will also provide any other reasonable secretarial and administrative support. Information will be made available in other formats if requested.
- 3.3 It is the responsibility of LTP members to ensure that they are prepared for the meeting by reading all the relevant papers and bringing them to the meeting.
- 3.4 The LTP minutes will be sent to all appropriate officers for information and action and will be provided to the Housing Scrutiny Sub-Committee.
- 3.5 The LTP will meet at a minimum of four week intervals in line with the schedule of meetings of the Executive of the Council. Council officers who have prepared reports for Executive Committee on behalf of Housing Services should ensure that they are submitted to LTP in advance of the Executive Committee for consultation/comment by LTP. The final report to Executive Committee should state whether LTP members have been consulted, and record their views and comments to enable Executive Committee to take such comments into account in arriving at its decision.
- 3.6 The LTP will be consulted on matters agreed in the HRA Business Plan and Housing Revenue Account.
- 3.7 Special meetings of the LTP may be arranged to discuss specific issues.
- 3.8 Meetings of the LTP usually take place at City Hall, as this is a central location and has disabled access. However, from time to time this may vary.
- 3.9 A tenant representative who does not attend three consecutive LTP meetings will be asked to explain the reasons for their absence and, if no satisfactory explanation is provided, may be asked to stand down by a majority decision of the Panel. If the individual attends the meeting to give an explanation, he or she will be asked to leave the room whilst the issue is discussed by Panel members and that person will be invited to re-attend the meeting to hear the decision of the Panel.
- 3.10 Appropriate travel and childcare expenses are paid to tenant and leaseholder members attending LTP and committee meetings and training sessions. Claim forms are available.
- 4.0 Training protocol**
- 4.1 When becoming a member of LTP tenants will be offered a training plan and all new members will be required to undertake induction training.
- 4.2 The abilities and skills required of LTP members are summarised in Appendix 1. Membership of LTP will enable tenant and leaseholder representatives to develop these skills and the Resident Involvement Team will develop an individual training programme for each LTP member on an annual basis to assist tenant representatives to acquire these skills where necessary. The individual training programme will be agreed with each individual tenant representative and the

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overall tenant development programme and training budget will be reported to LTP on an annual basis.

- 4.3 LTP members will be informed at the beginning of each financial year what financial resources are available for training purposes.
- 4.4 LTP will be kept informed of what external training events are available to them. Decisions on which events to access will be based on the resources available and whether the event meets their training needs.
- 4.5 All LTP members will have equal access to training opportunities and no tenant representative will be excluded from accessing training unless they are in breach of the Code of Conduct requirements in section 9.2
- 4.6 In order to make maximum use of resources, attendees at training events will be encouraged to use the most cost effective methods of transport available, including car sharing where appropriate.
- 4.7 LTP members will be required to feedback to the next LTP meeting on any training that they have attended.
- 4.8 LTP members who are scheduled to attend any events should provide as much notice as possible if they are not able to attend.

5.0 Quorum

- 5.1 LTP meetings are only in quorum if 50% or more of occupied seats of the membership is in attendance.

6.0 Annual General Meeting

- 6.1 LTP will hold an Annual General Meeting no later than the 31 March of each year. The panel will agree a work plan for the following year. Not less than 21 days' notice will be given for this meeting. In addition elections for representation for Housing Scrutiny Sub-Committee will follow the AGM.
- 6.2 Members must be present at the AGM to be eligible to vote, proxy votes will not be accepted.
- 6.3 From its membership the LTP elects 4 members, which should include the Chair and Vice Chair, to sit on the Housing Scrutiny Sub-Committee in an advisory role and as agreed by the Council's Executive.
- 6.4 In the event of an LTP member being unable to attend Housing Scrutiny Sub-Committee a nominated substitute may attend in their place.

7.0 LTP Meetings

- 7.1 The Resident Involvement Team will prepare agendas for LTP meetings. The agenda will be based on the LTP work programme.

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- 7.2 LTP members and officers should notify the Resident Involvement Team of specific agenda items 6 working days before the meeting.
- 7.3 Any Other Business should be relevant to the aims of LTP.
- 7.4 LTP agendas, reports and minutes which are in the public domain will be published the City Council's website. Agendas, reports and minutes which contain "exempt information" will be made available to members of LTP
- 7.5 Agenda items and reports that contain "exempt information" will be printed on green paper, and the Chair will put a resolution to the meeting to exclude the press and public prior to consideration of that item.

8.0 Roles and Responsibilities of Chair and Vice Chair

8.1 Chair/Vice Chair

- 8.1.1 The Chair should welcome members and others to the meeting.
- 8.1.2 The Chair will provide a brief report to LTP, bringing LTP up-to-date with LTP news, meetings and events since the previous meeting.
- 8.1.3 The Chair should ensure everyone has a fair opportunity to speak in debates at meetings and avoid getting into argument as their main task is to chair the meeting
- 8.1.4 Speakers should go through the Chair and keep to the subject being discussed.
- 8.1.5 If things are getting heated, a five-minute time out adjournment can be called for at the discretion of the Chair or Council officers.
- 8.1.6 The Vice Chair will deputise for the Chair when necessary. Members present can elect an acting chair in the absence of the Chair and Vice Chair.
- 8.1.7 The vice-chair will automatically assume the position of chair until the next elections, in the event that the chair steps down.

- 8.1.8 LTP members must have been on the panel for a continuous period of 12 months before being eligible to stand for Chair or Vice-Chair.

9.0 Code of Conduct

9.1 The Agenda

- 9.1.1 LTP members and officers will be able to add items no later than 6 working days before the meeting.
- 9.1.2 Meetings will generally last no longer than 2 hours. Exceptional meetings and the Annual General Meeting may last longer. LTP members will be notified of this in advance.

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- 9.1.3 A quarterly budget summary will be provided by the Resident Involvement Team. The accounts should be signed off by the Chair or Vice-chair.

9.2 Behaviour of LTP Members

- 9.2.1 LTP members will observe and stick to the agenda and its timings (guided by the Chair). They should follow the guidance of the Chair in the conduct of the meeting.
- 9.2.2 The physical layout of meetings should benefit all members.
- 9.2.3 LTP members should follow the agenda and not introduce items during the meeting. Meetings should start at the stated time.
- 9.2.4 Late arrivals should enter the meeting quietly and not disrupt the meeting with apologies until an appropriate moment in time is available.
- 9.2.5 LTP members should not use offensive or discriminatory language or remarks.
- 9.2.6 If people want to speak during the meeting they should first indicate to the Chair by the show of hands.
- 9.2.7 Everyone should speak one at a time, avoiding cross talking, and allow others to finish what they are saying.
- 9.2.8 LTP members should be courteous to each other both in meetings and outside of them and work together to seek the best possible solution to problems being discussed.
- 9.2.9 LTP members should bear in mind the rights of individual residents and the duties of staff when proposing solutions to problems.
- 9.2.10 Mobile telephones should be switched off or put on to silent mode during meetings. Emergency calls should be taken outside the meeting.
- 9.2.11 Wherever possible jargon should be avoided and if used a full explanation should be given.
- 9.2.12 LTP members are acting on behalf of all tenants and leaseholders, so no personal issues should be raised during meetings. Any personal issues should be dealt with via the normal procedures and not during meetings.
- 9.2.13 Identity badges should be worn when on LTP business.
- 9.2.14 LTP members should not disclose to another person any information, which is marked as confidential or verbally stated to be confidential at a meeting. All LTP members will be required to sign and abide by the attached Confidentiality Agreement
- 9.2.15 LTP members should not approach the press as a LTP representative, the Chair and Vice-Chair are the only members who may approach the press as LTP representatives. If the Chair or Vice Chair are concerned as to whether to respond to the press or not they ought to contact the Communication Office at City

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Hall or the Resident Involvement Team for advice before proceeding.

- 9.2.16 Any correspondence sent on behalf of LTP should be shared with all LTP members.
 - 9.2.17 LTP members who make referrals will ensure these are related to housing or the neighbourhood they represent, and that wherever possible, they have been reported via the normal channels before being referred (e.g. reporting repairs to Customer Services).
 - 9.2.18 When representing LTP at other meetings, members should also observe the rules laid down by the constitution.
 - 9.2.19 If an LTP member does not abide by the above code of conduct, they will be given a warning by the Chair. If they “break” the code of conduct again in the same meeting, they will be asked to leave the meeting. If the problem occurs again at the next meeting, the LTP member may be asked to stand down from LTP, either permanently or for a fixed period of time.
 - 9.2.20 LTP members must not bring the Panel or the Council into disrepute, which could include discussing LTP business outside meetings and in public
 - 9.2.21 Any LTP member who is deemed to have breached the rules will have the right to appeal against this and will be treated in an open and fair manner. Appeals will be administered through the Resident Involvement Team and referred to the Housing Appeals Panel for mediation
-
- 10.0 **Officers and Councillors**
 - 10.1 If an officer or councillor wishes to speak at a LTP meeting they will need to make a request to the Chair and/or the Resident Involvement Team, indicating what they wish to discuss and how long they wish to speak so it can be planned into the agenda.
 - 10.2 Meetings of LTP, once called to order by the Chair at the appointed time, will be conducted in public in the presence of elected members, officers and any other tenants, members of the public or media that may be present unless the item(s) under discussion contain “exempt information” in which case the public and media may be requested to leave. LTP members will be provided with facilities to meet in private for up to 1 hour prior to the published scheduled meetings of LTP for the purposes of formulating and agreeing the line of questioning and detailed scrutiny questions to be put to officers and elected members in the formal LTP meeting. Similarly any request supported by the majority of LTP members and made through the Chair for facility to meet in private at another time of their choosing for the purposes of formulating and agreeing the line of questioning and detailed questions to be put to officers and members in the formal LTP meeting will be agreed.
 - 10.3 Officers and councillors will respect all the ground rules of the meetings.
 - 10.4 Officers and councillors will respect that LTP members are volunteers and are not a

political organisation. Individual or political lobbying will not be allowed in LTP meetings.

10.5 When officers receive requests for information and referrals from LTP they will acknowledge these if they cannot give a reply within 10 days and give some indication of timings for a full reply and/or action in accordance with an agreed Communication Protocol.

10.6 Officers and Councillors are not able to vote.

10.7 LTP members can request officers and councillors to leave the room during the meeting.

11.0 **Minutes**

11.1 Draft minutes will be agreed firstly with any speakers who were at the meeting, followed by the Chair

11.2 Minutes will be sent out to LTP members no later than 5 working days before the next meeting and will be submitted to the next meeting of LTP for approval.

12.0 **Decision Making**

12.1 Decisions will be voted on by a show of hands or by secret ballot if requested by a LTP member and a majority of LTP members in attendance at the meeting are in favour of a secret ballot. In order for a decision to be passed it will require a majority vote of the LTP members at the meeting.

12.2 The Chair will have the second and casting vote.

13.0 **Confidentiality**

13.1 The LTP may deal with “exempt information” including personal and commercially sensitive information, so discretion and care must be exercised during and after meetings. Any information about the personal circumstances of anyone must be treated in confidence and not be disclosed to anyone not on the panel. LTP members should refrain from mentioning specific individual cases that may cause embarrassment or identification of an individual.

13.2 LTP members will also be asked to sign a confidentiality agreement when they join.

13.3 Each LTP member shall not disclose any confidential information belonging to the council or any third party which it shall have obtained as a consequence of carrying out duties under this constitution unless the expressed written permission has been obtained by the third party or the council.

13.4 Each LTP member shall ensure they comply with the Data Protection Act 1998. Attached at Appendix 3 are the Data Protection Principles showing the framework of requirements under the Act.

14.0 **Personal interest**

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- 14.1 Members on the panel must not expect favourable treatment by housing staff or the panel itself, nor should they be treated any less favourably; for example in the completion of a repair or the allocation of a property.
- 14.2 Members must use the normal procedures for reporting repairs and other enquiries relating to their own tenancy or on behalf of other tenancies.
- 14.3 Members must notify the panel if they have any personal interest, financial or otherwise, in any matters it considers. Individual members may need to abstain from discussions and decisions on a particular item.

15.0 Discrimination

- 15.1 No member may be excluded or discriminated against for any reason by any other panel member.
- 15.2 Discriminatory language must not be used in meetings.
- 15.3 All those who attend meetings have the right to be treated with dignity and respect, regardless of their race, colour, ethnic or national origins, nationality, gender, marital status, age, sexuality, religion, or any other matter which causes people to be treated with injustice.

16.0 Election procedures

- 16.1 LTP members will be elected for a period of 4 years in accordance with the arrangements set out in paragraph 2.4 of the constitution.
- 16.2 Tenants eligible to stand for election to LTP must be nominated and seconded by at least two other tenants / leaseholders.
- 16.3 Invitations for the available LTP seats will be extended to all tenants living within the area covered by the vacant seat(s).
- 16.4 One seat on LTP will be reserved for a leaseholder representative.
- 16.5 Members of the Resident Involvement Team will facilitate this process and provide all necessary support for LTP members.
- 16.6 The Resident Involvement Team will ensure that there is an impartial observer to oversee the election process at the LTP Annual General Meeting.

16.7 Elections for LTP members and LTP committee positions are conducted on a majority basis and in the event of a tie the successful candidate will be selected by the drawing of lots by a council officer who is not part of the resident involvement team.

17.0 Amendments to the Constitution

- 17.1 Changes to the constitution may be made only by a two-thirds majority of the voting members attending an Annual General Meeting or an Extraordinary General Meeting called for this purpose. Any amendments proposed by the LTP are to be

referred to the Executive for consideration and approval.

17.2 Notice of the Annual General Meeting and any Extraordinary General Meeting and the purpose for which it was called shall be given to all members of the Panel not less than 21 days before the meeting.

17.3 The chair and vice-chair have authority to sign an amended constitution on behalf of the rest of the LTP members.

18.0 Dissolution of LTP

18.1 LTP may only be dissolved at an Annual General Meeting or an Extraordinary General Meeting called for this purpose. The dissolution of LTP will require a two-thirds majority voting at this meeting.

18.2 In the event of the dissolution of LTP any outstanding funds will be returned to the City Of Lincoln Council. Any assets (financial or otherwise) acquired independently of the Council will be disposed of in accordance with the aims of LTP by donating these to an organisation with similar objectives.

19.0 Resignations

19.1 All resignations should be made in writing to the Resident Involvement Team. Where a LTP member verbally indicates they wish to resign this should be confirmed in writing within two working days.

19.2 If confirmation of the resignation is not received in writing within 7 working days the Resident Involvement Team will contact the person who has verbally resigned to seek clarification.

19.3 LTP members can withdraw their resignation in writing within seven calendar days of submission.

19.4 If a written resignation is not received within 21 calendar days of the LTP member verbally stating they wish to resign the resignation will be automatically confirmed.

20.0 Signatories to the Constitution

On behalf of the Lincoln Tenants Panel

.....

Chair of the Lincoln Tenants Panel

Date.....

.....

Vice-chair of the Lincoln Tenants Panel

Date.....

On behalf of the City of Lincoln Council

.....

Mayor

Date.....

.....

Portfolio Holder for Housing

Date.....

.....

Director of Housing & Community Services

Date.....

Lincoln Tenants Panel Nomination/Application form

YOUR NOMINATION

IMPORTANT Nomination Forms must be completed and returned to the Housing Department. Your form will not be valid unless the information given is correct.

Your name (in full):

Address:

.....

Daytime telephone number:

Name & address of nominees. (Your nomination must be supported by at least 2 City of Lincoln tenants/leaseholders or a recognised tenants & residents association)

.....

.....

PLEASE TICK WHERE APPROPRIATE:

1. I am a City of Lincoln tenant ☐ **OR** leaseholder ☐
2. I am over 18 years of age ☐
3. I have held a tenancy with the City Council for at least 1 year ☐
4. I am not employed by the City Council or by a prospective housing management contractor ☐

I certify that the above information is correct and that I consent to my nomination.

Signature

Date

Please send your completed nomination form to the:

Resident Involvement Team
Housing Services Directorate
City Hall
Beaumont Fee
Lincoln
LN1 1DE

Lincoln Tenants Panel (LTP)

Confidentiality Agreement

From time to time, members of LTP may deal with difficult and sensitive issues. Discretion and care must be exercised during and after meetings. Information about the individual circumstances of anyone, including LTP members, must be treated in confidence and not be discussed outside of the meeting. Individual cases will not be discussed.

As a member of the Lincoln Tenants Panel of City Of Lincoln Council, I agree that I will not, without the written consent of City Of Lincoln Council, disclose to any other person or organisation, a copy of any document, or any information contained in such a document, that I have received during my work for the Lincoln Tenants Panel. I shall use such information only for the purposes of fulfilling my responsibility as a member of Lincoln Tenants Panel.

I will not use any information gained during my work for Lincoln Tenants Panel for individual, personal or financial gain.

I understand that any breach of this rule will result in exclusion from LTP.

Signed -----

Name -----

Address -----

Estate/Area Represented -----

Working group Group Represented -----

Accepted By (Officer) -----

LINCOLN TENANTS PANEL

MEDICAL INFORMATION FORM

Please provide details of any medical information which you feel will be relevant to the Resident Involvement Team. This information will be treated in the strictest of confidence and will be used solely for the purpose of risk assessments and effective Health and Safety planning for any meetings or events.

Name: _____

Address: _____

Signature: _____

Medical information

--

LINCOLN TENANTS PANEL

Expenses Claim

Name and Address:.....

Date	Receipt Number	Purpose of Claim (if travelling expense, please include method of transport)	Total Mileage or Fare	Amount Claimed (£)
			Total	

I Certify that the above is a true record

Signature

Date

You must attach receipts for all claims. Please return this to the Resident Involvement Team, Directorate of Housing and Community Services, City Hall, Beaumont Fee, Lincoln LN1 1DE.

Appendix 1

**Lincoln Tenants Panel's Training Protocol
Skills & Knowledge Matrix**

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	Abilities and skills	What does this include?	Essential or desirable
1.	To be able to work as a team member.	<ul style="list-style-type: none"> Develop and maintain constructive working relationships with all colleagues, including other tenant representatives, officers and elected members 	Essential
2.	To be able to plan and review activities, and assess options.	<ul style="list-style-type: none"> Critically assess information. Agree work objectives. Plan activities. Contribute to decision making. Monitor and review progress. 	Essential
3.	To be able to be an effective committee member.	<ul style="list-style-type: none"> Time and commitment to attend meetings. Commitment to read papers in advance and evaluate information provided with ability to provide constructive challenge and comment. Make effective contributions to the decision process. Able to articulate views clearly. 	Essential
4.	Understanding of and commitment to supporting equality and diversity	<ul style="list-style-type: none"> Understand and embrace the principles equality and diversity Support for maintaining and developing a diverse panel that adequately reflects the needs of the community. 	Essential
5.	To be able to contribute effectively to consultation processes.	<ul style="list-style-type: none"> Identify people and groups who need to be consulted. Identify appropriate methods of consultation. Ensure consultation is organised effectively. Evaluate and review outcomes. Suggest improvements. 	Essential
6.	Willingness to take up relevant training and development	<ul style="list-style-type: none"> Identify own training needs. 	Essential

Appendix B.

	opportunities.	<ul style="list-style-type: none"> Attend training when required. 	
7.	To be able to present information clearly	<ul style="list-style-type: none"> Organising and presenting written information. Presenting verbal information clearly. 	Desirable
8.	To be able to understand the framework of resident involvement structure	<ul style="list-style-type: none"> Operate within the standing orders and the constitution. Raise matters in an appropriate manner, in line with the code of conduct. 	Essential
9.	To be able to contribute to marketing and communication strategies aligned with the corporate plan.	<ul style="list-style-type: none"> Identify marketing opportunities and take part in marketing activities. 	Desirable
10.	Financial awareness	Evaluate and review basic financial information.	Desirable
11.	Ability to influence and monitor housing services.	<ul style="list-style-type: none"> Interpret performance data. Review performance and suggest additional improvements. 	Desirable
12.	To be able to establish and maintain working relationships with other organisations.	<ul style="list-style-type: none"> Ability to build effective community relations. Develop working relationships with officers and elected members Working collaboratively with partner agencies, local authorities and other housing associations. Ability and willingness to engage in public relations opportunities. 	Desirable

Appendix 2



DESIGNATED TENANT PANEL

TERMS OF REFERENCE FOR THE LINCOLN TENANTS PANEL ACTING AS A 'DESIGNATED PERSON' FOR THE PURPOSE OF LANDLORD SERVICES COMPLAINTS

Statement of Intent

The purpose of the Lincoln Designated Tenant Panel (the Panel) is to enable the Panel to play a role in helping to resolve complaints received from tenants of the City of Lincoln Council (the Landlord) locally, potentially using powers to refer complaints to the Housing Ombudsman Service where local resolution is not possible.

1 Aims, objectives and intended outcomes

1.1 The Panel's aims and objectives are:

- to use local knowledge and relationships to work with tenants¹ and the Landlord to find local solutions to complaints and problems raised by tenants
- to constructively challenge the Landlord and tenants so that they can sort things out for themselves wherever possible

¹ These terms of reference refers throughout to tenants as a collective term that applies to all persons who receive services from the Landlord, including tenants, leaseholders, shared homeowners and other services. The term could also apply to other members of the public who could potentially receive services or who are affected by services provided by the Landlord.

- to be part of a local democratic framework providing support to tenants

1.2 The intended outcomes of the work of the Panel include the following:

- tenants complaints, problems and issues will be resolved more effectively, quickly and locally, wherever possible without the need to involve the Housing Ombudsman Service (the Ombudsman), to the satisfaction of tenants and the Landlord
- greater local knowledge of tenant concerns and issues will help tenants to participate in improving services
- positive and empowering relationships will be developed between tenants and the Landlord that will help to raise the ability of tenants to shape their housing service
- positive relationships will develop between the Panel and other designated persons.

1.3 To achieve these aims, objectives and outcomes, the Panel will work in partnership with the Landlord. The Panel will also seek constructive relationships with local Councillors and MPs.

2 Remit and powers

2.1 The Panel has been recognised by the Landlord to act as a Designated Tenant Panel for purposes of referring complaints to the Ombudsman. The Panel's recognition was discussed and agreed with the Landlord's tenants. The Panel is listed on the Ombudsman's Register of Tenant Panels.

2.2 The Panel's formal legal power is to refer complaints to the Ombudsman, which it will do in the following circumstances:

- the Panel considers that a complaint cannot be resolved locally and the Panel considers that there is merit in referring the complaint to the Ombudsman
- the complaint falls within the Ombudsman's remit
- the Landlord's complaints procedure has been exhausted
- the complainant wishes the complaint to be referred to the Ombudsman

- 2.3 The Panel will make recommendations and suggestions to the Landlord regarding changes to the Landlord's service that may prevent complaints arising, and regarding how complaints are dealt with by the Landlord.
- 2.4 The Panel will negotiate with the Landlord regarding how it may be involved in complaints handling at earlier stages of complaints, although the Panel does not adopt its formal "designated" status until a complaint has exhausted the Landlord's complaints procedure. This links with paragraph 6 below.
- 2.5 The Panel will be publicised and accessible to all tenants of the Landlord. The Panel will respond to all enquiries from tenants with a view to resolving problems and issues at the earliest possible occasion working in partnership with the Landlord.

3 Delegated authority

- 3.1 For avoidance of doubt, the Panel will have no delegated authority and no decision-making powers in relation to the Landlord. The Panel will enable discussion between it and Landlord staff regarding complaints issues, who may have delegated authority to implement changes, or who will refer decision making matters to the level within the Landlord where delegated authority rests.
- 3.2 Staff members will be responsible for Landlord liaison with the Panel and for referring specific complaints matters as appropriate. They will also ensure that strategic matters raised by the Panel are referred appropriately within the Landlord.

4 Membership and remit of the Panel

- 4.1 The Panel are bound by their Constitution which outlines all roles and responsibilities.

5 Data Protection

- 5.1 The Panel are required under the Data Protection Act 1998 to follow the principles set out below:-
 - a) Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless certain circumstances apply

- b) Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- c) Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- d) Personal data shall be accurate and, where necessary, kept up to date.
- e) Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- f) Personal data shall be processed in accordance with the rights of data subjects under this Act.
- g) Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- h) Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

5.2 Personal data includes the names, addresses, dates of birth, family or medical history of individuals.

5.3 An individual will be required to sign an authority that they authorise the Landlord to release personal information them to the Designated Person.

5.4 City of Lincoln officers can further give advice regarding this.

6 Conflict of Interest

6.1 If the individual bringing the complaint to the Panel is known to a member of the Panel, that member should abstain from discussions and decisions on that particular item. An individual is known to a member if they have a personal association with them which a reasonable person would deem to prejudice the fair resolution or outcome of the complaint. This would include any involvement in an individual's formal complaints procedure.

6.2 Alternatively if the member has any financial interest in the individual or their business, then they should abstain from taking part in the discussions and decisions on that item

6.3 Members must notify the lead member of the Designated Tenant Panel as soon as possible if they have any personal interest, financial or otherwise in any matter considered.

Appendix 3



DATA PROTECTION ACT

PRINCIPLES

1. **Personal data shall be processed fairly and lawfully** and, in particular, shall not be processed unless –

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

2. Personal data **shall be obtained only for one or more specified and lawful purposes**, and **shall not be further processed in any manner incompatible with that purpose or those purposes**.
3. Personal data shall be **adequate, relevant and not excessive** in relation to the purpose or purposes for which they are processed.
4. Personal data shall be **accurate and, where necessary, kept up to date**.
5. Personal data processed for any purpose or purposes **shall not be kept for longer than is necessary for that purpose or those purposes**.
6. Personal data shall **be processed in accordance with the rights of data subjects under this Act**.
7. **Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data**.

8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

(Further information is available from Legal Services or <http://www.ico.org.uk/>)

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EXECUTIVE**11 JANUARY 2016**

SUBJECT: ALLOTMENTS – APPLICATION TO DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

DIRECTORATE: DIRECTOR OF HOUSING AND COMMUNITY SERVICES

LEAD OFFICER: BRUCE KELSEY, ALLOTMENTS DEVELOPMENT OFFICER

1. Purpose of Report

- 1.1 To consider the details of an application to the Department of Communities and Local Government (DCLG) for the de-statutorisation of the Ermine Allotment site.
- 1.2 To consult on, consider, and agree which parcel(s) of land will be included in the application as replacement land for the lost allotment provision resulting from the 'disposal'.

2. Executive Summary

- 2.1 The Council adopted an Allotment Strategy in 2013. The strategy, which comprehensively reviewed the current provision, included reference to many areas of development and improvement within the service, most of which were/are currently unfunded.
- 2.2 The strategy considered utilisation levels and identified the potential to dispose of one or more sites to raise capital funds so as to support the strategy. Ermine allotment site was specifically referenced as the most suitable for disposal.
- 2.3 The Ermine site is still considered to be the most suitable site for disposal owing to the following factors:
 - i) There has been only one active tenant at this site in recent years.
 - ii) The site as a whole is in relatively poor condition and the costs of returning it to viable allotment land are high,
 - iii) There is no waiting list for plots at this site, nor evidence of long term demand for this site,
 - iv) There are viable and suitable alternative sites in the locality within a 10 minute walk catchment area of the Ermine site.
- 2.4 The Executive, at its meeting on 13th July 2015, considered and agreed to pursue an application to the DCLG to de-statutorise the Ermine Allotment site. It agreed:
 - i) That the Secretary of State's consent for the de-statutorisation of the Ermine Allotment site be sought.
 - ii) That, subject to permission being granted by the Secretary of State, Property Services be requested to agree sale terms based on the achievement of best consideration and the disposal of the site in accordance with current statutory guidance and legal obligations.

- iii) That, subject to the Secretary of State giving consent for the sale of the site, as much of the capital receipt as was needed be re-invested to address all of the items recommended for action in the Allotments Strategy.
- iv) That officers be instructed to negotiate an acceptable solution with the only remaining tenant of the Ermine Allotment site regarding the ongoing use of his allotment plot, and to report back to the Executive if an agreement could not be reached.

2.5 This report discusses the preferred option(s) for new and alternative allotment sites across the city. Consultation and discussion with officials at the DCLG indicate that they currently seek replacement of areas like for like, and, in this specific instance, have also noted the case for additional alternative provision made, taking into account current and anticipated future demand identified by the recent strategy review. New land will be required to replace the overall loss of provision if the Ermine site is de-statutorised. This will form an essential element of the application to DCLG and will be a significant determinant of eventual success.

2.6 Since the executive sat, it should be noted that the only tenant on the site has now unfortunately past away, leaving the site untenanted.

3. Background

3.1 The City of Lincoln Council is currently responsible for the provision of 18 allotment sites across the City. Of these sites, 15 are deemed to be statutory sites, with 3 considered to be temporary sites.

3.2 Councils cannot dispose of statutory allotment land without the Secretary of State's consent. Section 8 of the Allotments Act 1925 states – *"Where a local authority has purchased or appropriated land for use as allotments the local authority shall not sell, appropriate, use or dispose of the land for any purpose other than use for allotments without the consent of the Secretary of State"*.

3.3 The Secretary of State's offices provide clear guidance on what it considers would constitute a reasonable application, and thereby what they would consider meets their requirements for de-statutorisation.

3.4 Additionally, Section 32 of the Small Holdings and Allotments Act 1908 provides the parameters for the sale of sites, and the uses for any income derived (please see the 'legal implications' section below).

3.5 The Ermine allotment site is deemed to be a statutory site. The site was given statutory status in March 1955. It has an area of approximately 0.92ha and nominally contains provision for 21 plots. At the time of drafting the proposal 20 plots on this site were not occupied, and this had been the position for a number of years. The last tenant has now unfortunately passed away, meaning the site is wholly untenanted.

3.6 The site, highlighted green on the plan (attached as **Appendix A**), is located adjacent to Riseholme Road, to the North of the Cathedral quarry site which extracts stone for use in the repair and upkeep of Lincoln Cathedral.

3.7 For the last several years, until only very recently, there has only been one active tenant whose plot backed onto his private garden. The overall condition of the site has therefore deteriorated as a result of the long term vacancies.

3.8 Currently, none of the plots, other than the one tenanted until recently, can be readily

identified, and significant labour and resources would be required to return the plots on this site to a workable condition. It has been estimated that it would cost the authority in the region of £30,000 to bring the site back to a useable condition.

3.9 The 2011 consultant's report, summarised at 4 below, also identified a lack of provision in two primary areas of the City. The SW quadrant – covering the Birchwood/Doddington Park area and the NE quadrant – covering the St Giles and Monks Road area. Of these, the SW quadrant is recognised as a priority given the current lack of provision and the density of population that an allotment site could serve.

3.10 Following approval by the Executive, a draft application to DCLG has been developed. In light of current and anticipated future demand, an essential aspect of the application, and a major determinant of permission being granted in this instance, is our ability to identify an alternative site(s) which replace the area of land lost by the disposal of the Ermine site. (ref: 2.5 above).

4. The Strategic Overview

4.1 In 2011, the Council engaged external consultants, Mott MacDonald, to carry out a strategic review of allotment provision. The primary aim of the review was:

“To provide strategic direction and a clear action plan that will deliver a financially sustainable allotment service that meets demand, has a satisfactory standard of infrastructure, and that operates in a transparent way that is fair and equitable.”

4.2 The objectives of the review were :

- a) To establish a baseline qualitative assessment of sites so as to provide a comprehensive picture of condition and investment needs.
- b) To estimate demand over the next 20 years, assess locality of provision against the forecast local demand, and to make recommendations as to how the Council might best structure its spatial provision.
- c) To consider current operational practices and to recommend changes that improve the efficiency of the service.
- d) To consider the capital investment required for the service, making recommendations as to how this might be achieved.
- e) To consider the revenue resources used in the provision of the service, and to make recommendations as to their suitability in meeting the aims.

4.3 In respect of the Ermine site, the consultants made the following observations:

Area: 0.92ha
Number of plots: 21
Number vacant: 20

The plots on this allotment site do not appear to be being used (although there is one tenant). It is understood that tenancy of this site has not been encouraged as the future of this site has been unclear. This site does have potential but there is a lot of work to be done to get it to the required standard. A proper access track and parking area must be considered and the boundary which is comprised of a hawthorn hedge, wooden gates and a fence needs to be repaired and enhanced. There is also a fair amount of litter on site, although no evidence of fly tipping. If it is agreed that this site is required it would need to be laid out anew.

9.4 Summary

It is therefore recommended that:

- *The Council uses developer contributions towards the funding of new allotment sites or to assist with refurbishing existing sites;*
- *The Council consider the sale of Ermine allotment site or alternatively identify at least 2 acres (0.81ha) of land in the north of the City which it can sell for housing (subject to planning policy) and use the proceeds to pay for improvements to allotments; and*
- *If an allotment site is chosen, that the Council then seek permission from the Secretary of State to formally declare the site redundant.*

5. **Alternative Allotment Sites**

- 5.1 In order to satisfy government departmental officials of the Secretary of State for Communities and Local Government that our application will not result in net reduction of allotment land, below that required to cater for current and anticipated future demand in accordance with statutory obligations, the application to be made by the City Council should identify alternative land for a replacement allotment site(s) which will then become a statutory allotment site/s in its own right.
- 5.2 The identification of alternative allotment sites, predominantly in areas of the city where there is currently little or no provision, both allows the service to reach new and potential allotment gardeners, and ensures a more equitable distribution of allotment gardening opportunities. This is consistent with the Council's strategic and allotment strategy aims.
- 5.3 Following consideration by the Asset Review Group on 17th November 2015, a number of possible scenarios have been identified to provide the required land. Any one, or combination of options (i) to (iv) below, will, if approved, yield the required amount of land to balance the land lost to allotment gardening by the removal of the Ermine site from the portfolio.
- 5.4 At the same time, each option, or combination of options, will retain a strategic fit with corporate and allotment strategy aims.
- 5.5 An analysis of each of the options and the location of the sites that constitute those options is attached as **Appendix B**, and should be read in conjunction with section 6 below.

6. **The Proposal**

- 6.1 The recommendation in terms of the specific land to be identified by the Executive is conditional upon a decision to be taken by the Executive relating to its support, or not, for the Birchwood BIG Local project, whose plans will be presented to and discussed by Executive on or after 25th January 2016.
- 6.2 If Executive choose to approve support for the Birchwood BIG Local project, the following is recommended:
- i) A half hectare of land at Melbourne Road Open Space plus

ii) A half hectare of land (to be identified) in the SW quadrant/Birchwood area of the City,

Or

iii) A half hectare of land at the former Wragby Road Allotment site.

If Executive choose not to approve support for the Birchwood BIG Local project, the following is recommended:

iv) A hectare of land at Melbourne Road Open Space,

Or

v) A hectare of land (to be identified) in the SW quadrant/Birchwood area of the City

Or

vi) A hectare of land at the former Wragby Road Allotment site,

Or

vii) A hectare of land comprising any combination of the above options.

6.3 It is proposed that the Executive support the above as suitable options, mindful of the decision yet to be taken in relation to Birchwood BIG, and that consent be given for the formal application to the Secretary of State for Communities and Local Government for the disposal of Ermine Allotment site to be submitted at the earliest opportunity. Subsequently, when the Executive has determined its position in relation to their support for, or rejection of, the BIG Local proposals, the agreed view of the Executive be communicated to the Secretary of State as an update.

6.4 It is further proposed that, should the council receive a supportive decision from the Secretary of State for Communities and Local Government, the Strategic Property Manager is authorised to progress the disposal of the Ermine allotment site.

7. Strategic Priorities

7.1 Growing the local economy

The disposal of the Ermine site has the potential to provide resources that can be re-invested to support the long term sustainability of Lincoln's allotments. This contributes to making Lincoln a better place to live and work, thus enhancing opportunities for the workforce, and encouraging valuable trades/skills sets to move to the city.

7.2 Protecting the poorest people in Lincoln

Allotments are highlighted in the Council's current strategic plan as a key contributor to its anti-poverty strategy. They are seen as one way to help people move out of

food poverty. They offer a more sustainable opportunity than continued reliance on food banks. It is considered that allotments permit access to gardening space to grow food and enjoy a healthy lifestyle where this might not otherwise be available.

7.3 Increasing the supply of affordable housing

The disposal of the Ermine site could ultimately contribute to increasing the supply of housing in the city by making land available for the building of new affordable dwellings.

8. **Organisational Impacts**

8.1 Finance

- 8.1.1 The Council's Executive has agreed that as much of the capital receipt generated from any successful sale of the former Ermine allotment site as needed will be reinvested into improvements on remaining allotment sites as per the allotment strategy.
- 8.1.2 An outline draft capital programme of works was constructed from the works and improvements identified in the Mott McDonald consultant's report. This will need updating in terms of costs and specific works once a capital sum has been received by the Council.
- 8.1.3 An estimated total cost for works in this outline draft programme, produced in 2012, was close to £900,000 before overheads, profits, contingencies and inflation.
- 8.1.4 Ongoing revenue implications associated with capital allotment improvements have not been calculated at this stage.
- 8.1.5 The Council will, as a result of a successful application, be responsible for preparing and potentially managing a new allotment site(s). There may be additional revenue implications incurred to ensure these sites are properly maintained and managed. This may, to a certain extent, be mitigated by the chosen management options adopted at each replacement site.
- 8.1.6 The Council is also due to review its fees and charges for allotments as part of the strategic overview of these services. Members will have opportunity to take account of any additional costs that may arise when determining a revised pricing strategy.
- 8.1.7 Any revenue implications which cannot be mitigated through the chosen management options, or through a review of the pricing strategy, will in the first instance be sought to be funded from within existing budgets or otherwise be considered as part of the annual budget setting process for future years.

8.2 Legal Implications

- 8.2.1 The authority must obtain the approval of the Secretary of State to remove the statutory status of an allotment site before disposal can take place.
- 8.2.2 Section 8 of the Allotments Act 1925 states – *"Where a local authority has purchased or appropriated land for use as allotments the local authority shall not sell, appropriate, use or dispose of the land for any purpose other than use for allotments without the consent of the Secretary of State"*.
- 8.2.3 Section 32 of the Small Holdings and Allotments act states:

(1) *'where the Council of any borough, urban district, or parish are of the opinion that any land acquired by them for allotments or any part thereof is not needed for the*

purpose of allotments, or that some more suitable land is available, they may, sell or let such land otherwise than under the provisions of this Act, or exchange the land for other land more suitable for allotments, and may pay or receive money for equality of exchange.

(2) The proceeds of sale under this Act of land acquired for allotments, and of any money received by the council on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the council in respect of the land acquired by the council for allotments, or in acquiring, adapting, and improving other land for allotments, and any surplus remaining may be applied for any purpose for which capital money may be applied, and the interest thereon (if any) any money received from the letting of land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable.

8.2.4 The Council has chosen to allocate all potential capital funding generated from the disposal of the Ermine allotment site to improvements of the remaining allotment sites.

8.2.5 The minute, from the Executive meeting on 13th July 2015 relating to this states:

“That, subject to the Secretary of State giving consent for the sale of the site, as much of the capital receipt as is needed be re-invested to address all of the items recommended for action in the Allotments Strategy”.

8.2.6 The Council must be prepared to accept that replacement sites identified and agreed as new allotment sites will become statutory allotment sites and will consequently be subject to the above legislation relating to allotment sites.

8.2.7 At its meeting on 13th July 2015, the Executive agreed to protect the on-going right of the sitting tenant to garden at the Ermine site. We have recently been informed by family members that the tenant passed away at the end of November and they have indicated that they now wish to relinquish the plot. As a result of this, the application to DCLG can now incorporate the whole site as a single ‘disposal’.

8.3 Human Resources

There are no HR implications arising directly from this report.

8.4 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required) – see **Appendix C**.

8.4.1 The adopted Allotment Strategy identified the positive ways that well run allotment services can contribute to the corporate objectives by supporting communities. In particular the aspiration to reduce poverty and disadvantage. This report supports that strategic ambition and identifies a way to release capital funds to deliver on stated objectives.

8.4.2 Any new allotment sites and plots created as a result of a successful application to the DCLG will be established after appropriate consultation with key bodies to ensure the new site is fully accessible to all sectors of the community. Additionally, and as far as is reasonably possible, steps will be taken to ensure that any new provision is appropriately publicised to all residents in the city, is located to encourage use from those who may be economically or socially disadvantaged, and/or from minority communities and groups who may have an interest in allotment gardening.

8.5 Significant Community Impact

New allotment sites, particularly in those areas where there is currently no provision will enhance access to low cost gardening for residents local to that area. Depending upon the site chosen, there may be some re-development work required that could impact upon residents most proximate to the site in question.

9. Risk Implications

9.1 (i) Options Explored

a) Preferred option.

Consider a range of potential alternative allotment sites to replace land lost through disposal, and seek to confirm which site(s) could be included in the application to the DCLG.

b) Alternative option.

Make the application to DCLG without ear-marking alternative provision:

- If, in the Council's application to the DCLG, no alternative land is identified or offered, or the authority choose to apply without identifying replacement land, it is possible that the application to dispose of the Ermine site could fail.
- The authority can claim exceptions to any or all of the assessment criteria by providing clear reasons and arguments for claiming special or unique circumstances which would explain why the statutory criteria should not apply in this case.
- DCLG officials have indicated that, as a result of recent cases where applications to dispose of statutory allotment land were poorly assessed and scrutinised, the case being made for all future applications will need to ensure that all criteria have been fully answered and that, as far as is reasonably possible, there should be no overall loss of allotment provision in the applicant's area.

9.2 (ii) Key risks associated with the preferred approach

- Dependent on the land in question, certain practical and / or legal processes would be needed in order to bring the land in to allotment use, for example the transfer of privately-owned land or ground survey work. These matters should ideally be resolved as far as reasonably possible ahead of the DCLG application, in order to provide assurance of the Council's commitment to replacing the land. An un-secured commitment may be challenged.

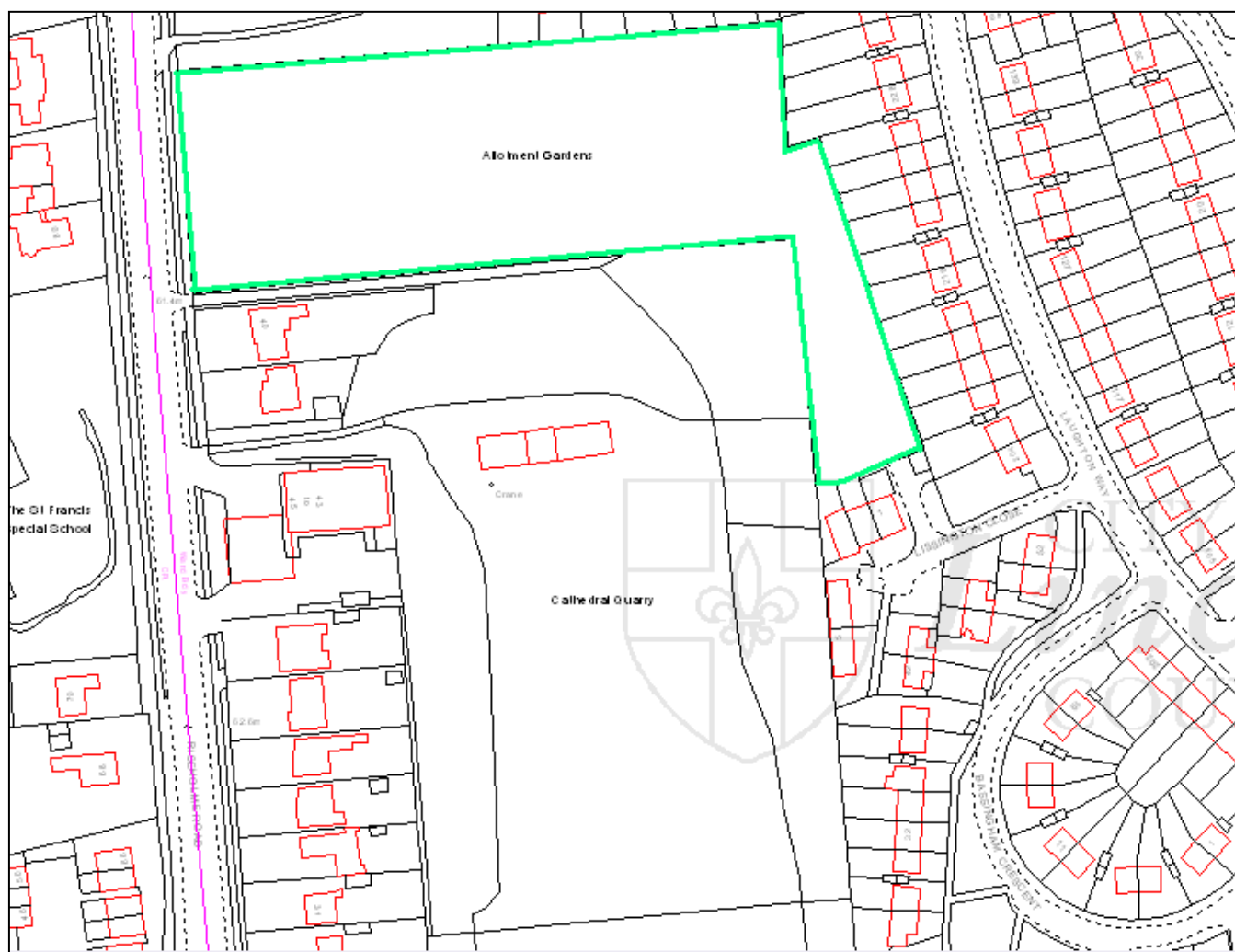
10. Recommendations

10.1 The Executive is asked to confirm the identification of, and commitment to, a suitable replacement site, or sites, to replace land lost by the disposal of Ermine allotment site on the basis set out in section 6 of the report.

10.2 That, subject to the final outcome in relation to 10.1, any requirements in respect of proposed changes of land use be referred back to the Executive for consideration.

Key Decision	Yes
Do the Exempt Information Categories Apply?	No
Call in and Urgency: Is the decision one to which Rule 15 of the Scrutiny Procedure Rules apply?	No
How many appendices does the report contain?	Three <ul style="list-style-type: none"> • <i>Appendix A – Ermine Allotment - Site Plan</i> • <i>Appendix B – Alternative Site Proposals</i> • <i>Appendix C – Equality with Human Rights Impact Assessment</i>
List of Background Papers:	None.
Lead Officer:	Bruce Kelsey Telephone 873706

ERMINE ALLOTMENT – SITE PLAN



ALTERNATIVE SITE PROPOSALS

1. Melbourne Road Open Space – half hectare

Area(s) of City:	Birchwood & Hartsholme wards
Quadrant:	SW
Area available:	3.15ha
Area required:	0.48ha
No. of potential plots:	approx. 32 @ 150sq/m per plot

- 1.1 From an allotment development perspective, the most advantageous location for new provision would be the Melbourne Road Open Space. This area of around 3 hectares is located reasonably centrally within the Birchwood residential development.
- 1.2 Access is good for both vehicles and pedestrians. Notwithstanding interest from other parties (outlined below), It would be feasible to identify sufficient land at this site which could be allocated to allotment land.
- 1.3 Before a decision is reached regarding this, it should be noted that there are other parties who are interested developing this space as a Community Park. Their aspirations, outlined below, suggested alternative uses for the site.
- 1.4 The Council will need to decide whether it wishes to support these aspirations or whether it wishes to press ahead with its own plans.

1.5 Birchwood BIG local Project

- 1.5.1 The Birchwood BIG Local project has developed some significant conceptual plans which seek to re-develop this space into a multi-use community park. These plans include some form of allotment gardens as well as 'community gardening space'. Officers have held informal discussions with members of the BIG local project.
- 1.5.2 Arising from these discussions the BIG Local project steering group has consulted with residents and has agreed to link our aspirations for a statutory allotments space into their BIG local project plans for this site.
- 1.5.3 Assuming this were approved, under their current plans, this would provide the authority with an area of approx. 0.48 hectares which would be identified as statutory allotment land and protected as such. This solution would leave a further 0.52ha to be found in other areas.
- 1.5.4 A schematic layout, developed by Hill Holt Wood (who are working with the BIG Local project group) has been presented to the Council and is reproduced below. The area of proposed allotments is incorporated in the area marked in red.

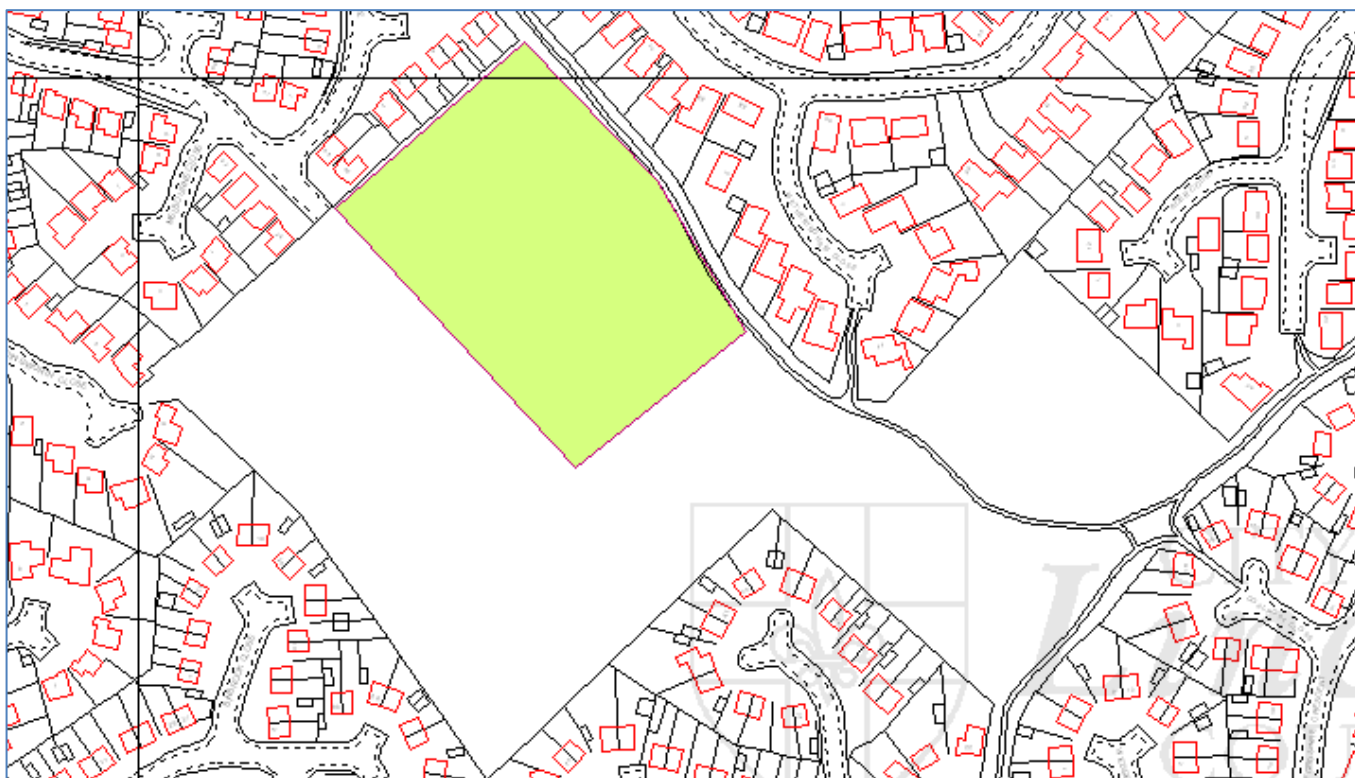


Indicative only – not to scale

2 **Melbourne Road Open Space – one hectare**

Area(s) of City:	Birchwood & Hartsholme wards
Quadrant:	SW
Area available:	3.15ha
Area required:	1.0ha
No. of potential plots:	approx.66 @ 150sq/m per plot

- 2.1 Should the BIG Local project plans fall, or fail to find appropriate support, our preference would be to allocate 1ha of this space as statutory allotment land. The outline above is indicative of the size of the space which would be allocated to allotments.



Indicative only – not to scale

3 **Wragby Road (Former Allotment site)**

Area(s) of City:	Abbey, Glebe & Park Wards
Quadrant:	NE
Area available:	approx.3.4ha
Area required:	approx.0.48ha – 3.4 ha
No. of potential plots:	approx. 40 – 220 @ 150sq/m per plot

- 3.1 The current Wragby Road Allotment site is bordered, to the North by former allotment land. In principle, this former allotment site, which was de-statutorised in the early 1980's could be returned to allotment use. Given its overall size, anything from a hectare to approx. 3.4 hectares could be utilised as part of the application.
- 3.2 The whole of the current and former allotment site sits over an extensive network of former ironstone mine workings. As a result of detailed engineering assessments undertaken on this site in the 1980's, the area is considered to be undevelopable for significant building projects. There has been no recent assessment as to whether the land would be considered to be safe for the resumption allotment gardening. However, given the low

impact use that allotment gardening will create, it is perhaps fair to recognise that this use would present the lowest risk and would return a piece of ground to formal use.

3.3 Two main options exist for this site.

- i) 0.5ha could be identified which along with 0.5 ha at Melbourne Road (outlined in 1 above), would provide the required amount of additional land.
- ii) If the Council chose not to allocate any land at Melbourne Road Open Space, a full hectare at the Wragby Road former allotment site could be allocated to allotment use. This would be additional to the existing Wragby Road allotment site. The Council could also choose to allocate an amount of this land in addition to any approval to utilise land at Melbourne Road Open Space.

3.4 The costs associated with reinstating allotment land would, depending upon the chosen layout and the amount of land required, need to include:

- The clearance of a number of mature trees adjoining the current allotment boundary fence
- The preparation of the ground to be cultivated
- Modifications and/or extensions to the existing trackways
- Possible provision of a car park
- Relocation of the existing border fencing to incorporate the new plots within the existing site.

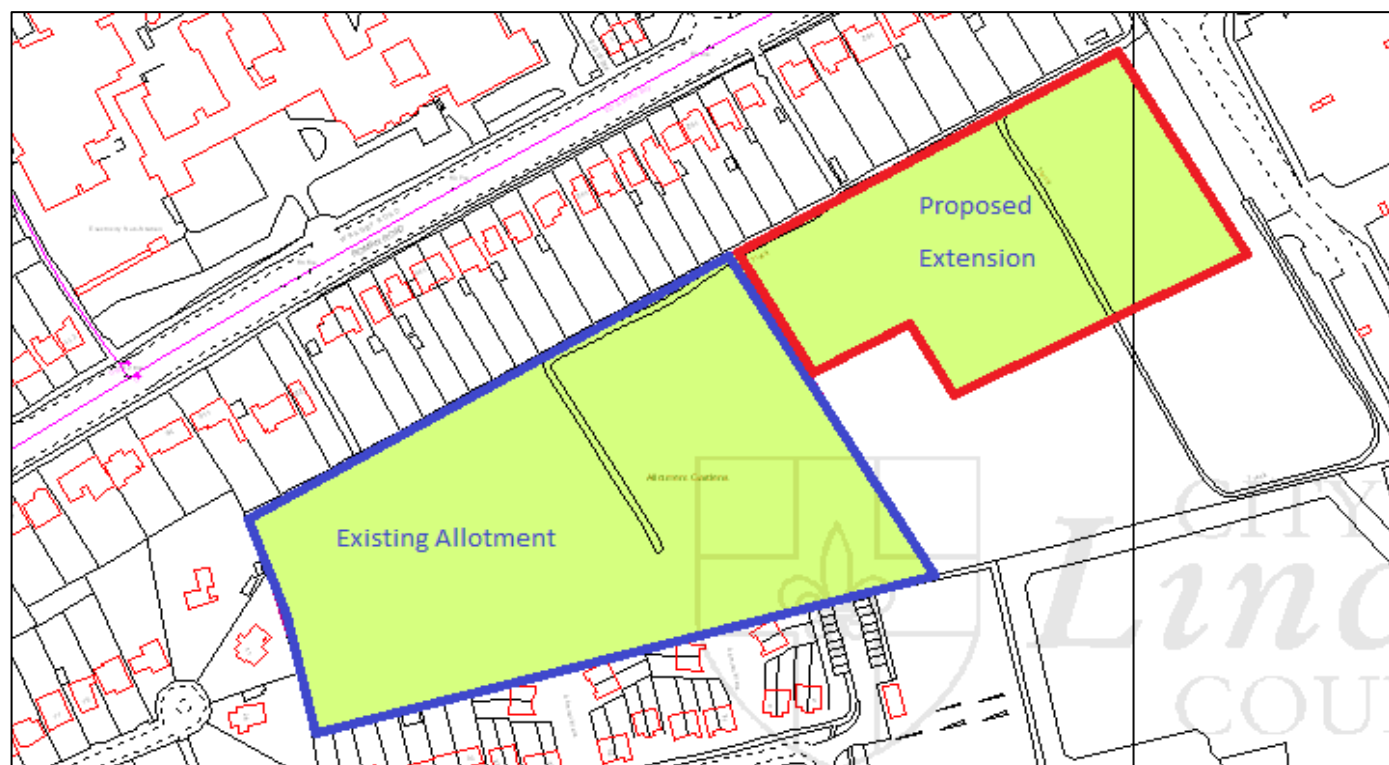
3.5 In addition, if incorporated in the application alongside the Melbourne Road site (1 above), this would allow the application to demonstrate that we are replacing lost land with sites in both highlighted areas and will be supportive of the aims of the allotment strategy.

3.6 This option may well stimulate resistance from local residents, particularly those aligned to the Darwin Wildlife Group and those whose properties back onto this site. In some cases these may be one in the same.

3.7 The map below shows the existing Wragby Road Allotment site with a nominal additional 0.5ha of allotment land within the area of interest, identified in red.



3.8 The map below shows the existing Wragby Road Allotment site with a nominal additional 1.0ha of allotment land within the area of interest, identified in red.



Indicative only – Not to scale

EQUALITY WITH HUMAN RIGHTS ANALYSIS

SECTION A

Name of policy / project / service	Ermine Allotment – Disposal of Site/allocation of alternative proposals	
Background and aims of policy / project / service at outset	<ul style="list-style-type: none"> • To consider the application to the Department of Communities & Local Government (DCLG) for the de-statutorisation of the Ermine Allotment site • To consult on, consider and agree which parcel(s) of land will be included in the application as replacement land for the lost allotment provision resulting from the disposal. 	
Person(s) responsible for policy or decision, or advising on decision, and also responsible for equality analysis	Bob Ledger – Director of Housing & Community Services	
Key people involved <i>i.e. decision-makers, staff implementing it</i>	Steve Bird	Assistant Director – Housing & Community Services
	Bruce Kelsey	Allotments Strategy Officer

SECTION B

This is to be completed and reviewed as policy / project / service development progresses

	Is the likely effect positive or negative? (please tick all that apply)			Please describe the effect and evidence that supports this?*	Is action possible to mitigate adverse impacts?	Details of action planned including dates, or why action is not possible
	Positive	Negative	None			
169	Age	✓		Disposal of this allotment site would have impacted upon the sole tenant who, in certain circumstances, could have been required to quit. The Council had taken appropriate steps to mitigate this risk.	Yes	The current tenant passed away at the end of November 2015 and his surviving family have indicated that they now wish to relinquish the plot. As a result of this, no further action to protect the rights of the sitting tenant now needs to be taken.
	Age	✓		The ultimate result of disposal would be the improvement of allotment provision elsewhere in the city, including in areas which are currently not served by allotments. This would benefit a number of city residents who currently have no allotment provision in their immediate area. This will positively impact current and prospective allotment tenants, many of whom are elderly	N/A	
	Disability	✓		The Council's allotment strategy identifies opportunities to develop allotments that offer opportunities for people with disabilities.	N/A	
	Gender re-assignment		✓		N/A	
	Pregnancy and maternity		✓		N/A	
	Race		✓		N/A	
	Religion or belief		✓		N/A	

	Is the likely effect positive or negative? (please tick all that apply)			Please describe the effect and evidence that supports this?*	Is action possible to mitigate adverse impacts?	Details of action planned including dates, or why action is not possible
	Positive	Negative	None			

Sex			✓		N/A	
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Sexual orientation			✓		N/A	
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Marriage / civil partnership			✓		N/A	
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Human Rights			✓		N/A	
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(see page 8)

* Evidence could include information from consultations; voluntary group feedback; satisfaction and usage data (i.e. complaints, surveys, and service data); and reviews of previous strategies

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Did any information gaps exist?	Y/N/NA	If so what were they and what will you do to fill these?
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Y	Consultation with sitting tenant confirms his wishes to continue allotment gardening. The Council will protect the tenant's wishes & ensure that these are considered and incorporated into relevant legal documents when these are drawn up.
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SECTION C

Decision Point - Outcome of Assessment so far:

Based on the information in section B, what is the decision of the responsible officer (please select one option below):

Tick here

- **No equality or human right Impact** (your analysis shows there is no impact) - sign assessment below ☒
- **No major change required** (your analysis shows no potential for discrimination, harassment)- sign assessment below ☐
- **Adverse Impact but continue** (record objective justification for continuing despite the impact)-complete sections below ☐
- **Adjust the policy** (Change the proposal to mitigate potential effect) -progress below only AFTER changes made ☐
- **Put Policy on hold** (seek advice from the E&D officer as adverse effects can't be justified or mitigated) -STOP progress ☐

**Conclusion of Equality
Analysis (describe objective
justification for continuing)**

**When and how will you review
and measure the impact after
implementation?***

The decision of the Secretary of State will be known within 16 weeks of the submission of the application.
If there are any issues relating to the sitting tenant, these will become known during this period.

**Checked and approved by
responsible officer(s)
(Sign and Print Name)**

Bruce Kelsey

Date 3rd December 2015

**Checked and approved by
Assistant Director
(Sign and Print Name)**

Steve Bird

Date 3rd December 2015

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SUBJECT:	EXCLUSION OF THE PRESS & PUBLIC
DIRECTORATE:	DIRECTORATE OF RESOURCES
REPORT AUTHOR:	CAROLYN WHEATER, MONITORING OFFICER

1. Purpose of Report

- 1.1 To advise members that any agenda items following this report are considered to contain exempt or confidential information for the reasons specified on the front page of the agenda for this meeting.

2. Recommendation

- 2.1 It is recommended that the press and public be excluded from the meeting at this point as it is likely that if members of the press or public were present there would be disclosure to them of exempt or confidential information.

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