

## POLICY SCRUTINY COMMITTEE

**Tuesday, 20 March 2018**

**6.00 pm**

**Committee Room 1, City Hall**

- Membership: Councillors Jackie Kirk (Chair), Jane Loffhagen (Vice-Chair), Andy Kerry, Liz Maxwell, Ralph Toofany, Pat Vaughan and Keith Weaver
- Substitute member(s): Councillors Bob Bushell
- Officers attending: Democratic Services, Legal Services, Daren Turner, Sara Boothright, Hannah Cann, Simon Colburn, Pat Jukes and Graham Rose

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### A G E N D A

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**Present:** Councillor Jackie Kirk (*in the Chair*),  
Councillor Andy Kerry, Councillor Liz Maxwell, Councillor  
Ralph Toofany, Councillor Pat Vaughan and Councillor  
Keith Weaver

**Apologies for Absence:** Councillor Jane Loffhagen

**34. Confirmation of Minutes - 28 November 2017**

RESOLVED that the minutes of the meeting held on 28 November 2017 be confirmed.

**35. Declarations of Interest**

Councillor Maxwell declared a Disclosable Pecuniary Interest in “ Regulation 7 Direction on Lettings Boards” as she was a landlord of a property in Lincoln. She left the room during the discussion of this item.

Councillor Toofany declared a Disclosable Pecuniary Interest in “ Regulation 7 Direction on Lettings Boards” as he was a landlord of a property in Lincoln. He left the room during the discussion of this item.

Councillor Kerry declared a Disclosable Pecuniary Interest in “Health Scrutiny Update” as he was employed by East Midlands Ambulance Service.

**36. Lincoln Social Responsibility Charter**

Heather Grover, Principal Planning Officer

- a. presented the proposed Lincoln Social Responsibility Charter for consideration prior to Executive approval.
- b. advised that the aim of the charter was to encourage organisations in Lincoln to undertake activities which benefited both their employees and also the local community in which they were located.
- c. gave an overview of the background of the report and advised that following discussion at the Living Wage Forum, the Corporate Policy Unit had been looking at a new approach recognising good employers in the city.
- d. referred to paragraph 4 of the report and highlighted examples of social responsibility activities and explained the benefits to the organisation, employees and the local community.
- e. advised that signatories to the charter would be published on the City of Lincoln Council's website and elsewhere such as a copy in City Hall reception.
- f. referred to the proposed sign up form at appendix B of the report and advised that there would be no cost to an organisation signing up to the charter.

- g. referred to paragraph 4.5 of the report and advised on what the organisations signing up to the charter would receive.
- h. advised on the key timescales for the approval of the charter and highlighted that the formal launch would be in May 2018.
- i. highlighted the estimated costs to set up and launch the charter, together with the estimated ongoing costs as detailed at paragraph 4.7 of the report.
- j. asked for members questions and comments

**Question** – Members referred to the examples of socially responsible activities within the Terms and Condition of Section 3 of the Social Responsibility Charter and asked if Bereavement Leave could be added?

**Response** – Yes this could be looked at.

**Comment** – Expressed concern that the charter would only benefit larger businesses as smaller businesses would not be able to afford to fulfil the criteria that needed to be met.

**Response** – Referred to page 5 of the Social Responsibility Charter and advised that small organisations should proactively undertake a minimum of 3 activities with at least one benefitting the employee and one benefitting the local community. This compared to large organisations who were required to undertake ten activities.

**Comment** – Suggested that no criteria be set for small businesses.

**Response** – There needed to be a balance, the aim was not to make it too easy to sign up otherwise the charter would have no value, or too difficult resulting in a very small number of signatories. The criteria would be reviewed in 1 years' time.

**Question** – How would the Charter impact on staff and resources?

**Response** – Some time would be spent initially developing the form, once the form was set up it could be administered by an apprentice under officer guidance.

**Comment** – Suggested that veterans could be added as a group to receive concessions and that there was some specific support for carers which could be added to the socially responsible activities examples.

**Response** – Veterans would be added to the examples for receipt of concessions and the support for carers mentioned would be looked at for adding in.

RESOLVED that

1. the Lincoln Social Responsibility Charter be noted and comments referred to Executive for consideration.
2. the Lincoln Social Responsibility Charter would be reviewed by Policy Scrutiny Committee 18 months from implementation.

### 37. Regulation 7 Direction on Lettings Boards

Donna Morris, Planning Enforcement Officer

- a. presented a report to summarise the results of the consultation undertaken on the options for the application to the Secretary of State to remove deemed consent for residential lettings boards in certain areas of Lincoln and to seek approval to publish a statement of the results.

- b. advised that 3 surveys had taken place to identify the number and type of boards being displayed in the City and by whom.
- c. highlighted the areas of concern as detailed at paragraph 2.2 of the report and advised that the areas were identified through enforcement complaints from residents and Councillors and those identified by officers of the Council.
- d. referred to paragraph 3 of the report and summarised the Town and Country Planning (Control of Advertisements) Regulation 2007, and advised that due to the proliferation of lettings boards in certain areas where there was a high number of houses in multiple occupation, it had become increasingly difficult to enforce.
- e. advised that if the application was successful the City Council would have to decide whether to have a full ban on lettings boards or to allow boards of a restricted style to be displayed during certain months of the year.
- f. referred to paragraph 4 of the report and summarised the responses that had been received from the consultation.
- g. invited members questions and comments.

**Comment** – Most Students would go to the Student Union to find a house to rent rather than walking around looking at lettings boards.

**Comment** – Lettings boards identified student houses and gave the impression that they could be empty.

**Question** - Would the lettings boards apply to empty shops?

**Response** – It would apply only to residential lettings, not commercial lettings or sales boards.

Overall members commented that they supported the full ban of lettings boards.

RESOLVED that

1. the application to the Secretary of State for a Regulation 7 Direction to remove deemed consent for the display of lettings boards in the Monks Road area, West End area, Sincil Bank area, Union Road and Waterloo Street with a view to implementing a ban on lettings boards in these areas be supported.
2. the proposal be referred to Executive for approval.
3. A review of progress be brought back to committee in 18 months' time.

### **38. Discretionary Rate Relief Policy**

Martin Walmsley, Head of Shared Revenues and Benefits

- a. presented a proposed Discretionary Rate Relief Policy for consideration prior to approval by Executive.
- b. advised that the new Discretionary Rate Relief Policy for the City of Lincoln Council was due to take effect on 1 April 2018.

- c. advised that the current Policy had not been reviewed since 15 September 2003, the new policy reflected changes in legislation, new reliefs etc. and to 'future proof' such a policy for potential future relief announcements.
- d. advised that there were no proposals to change the criteria used by officers when awarding discretionary relief. Organisations would not face an increase/decrease in the % of relief awarded.
- e. advised that once approved the policy would be available to print and download from the City of Lincoln Council website.
- f. advised that both North Kesteven and West Lindsey District Council were reviewing their Discretionary Relief Policies.
- g. asked for members questions and comments.

**Question** – What was the financial impact to the Council?

**Response** – The amount of the mandatory relief awarded in 2017/18 was just less than £5million , discretionary relief for 2017/18 was £101,000.

**Question** – Would the changes to the Policy have an effect on these figures?

**Response** – The Council accounts for mandatory relief awarded within returns to central government. The split of discretionary relief costs was set out in the financial impacts within the report.

**Question** – Whose responsibility was it to pay rates for empty properties?

**Response** – Empty properties would not have to pay rates for 3 months, after it expired, the landlord would be responsible for paying the rates.

**Question** – Referred to the guidelines for awarding relief and asked if the amount of relief awarded was ongoing?

**Response** – The amount of relief awarded would be reviewed each year.

**Question** – How would businesses qualify for hardship relief?

**Response** – It was a decision made by officers, they would view the full business accounts over a period of time to ensure that such an award was appropriate.

**Question** – Asked for clarification on State Aid?

**Response** – It was up to 200,000 Euros over a rolling 3 year period.

**Question** – How would the exiting the EU effect State Aid?

**Response** – As it stands there would be no changes, however, legal would keep watching for any changes.

**Question** – Referred to page 19 of the policy which set out the points system for the criteria for awarding discretionary relief and commented that the score was out of 18 or over, however, the maximum score achieved could be no more than 18 and suggested that this could be changed.

**Response** – It did not need changing as should the system need to change for any reason in the future it could result in a score of over 18.

RESOLVED that the Discretionary Rate Relief Policy be supported and referred to Executive for approval.

### 39. Repairs and Maintenance and Rechargeable Repairs Policy

Bob Ledger, Director of Housing and Regeneration

- a. presented the Repairs and Maintenance Policy and the Rechargeable Repairs Policy for comments.

- b. gave the background to the report and advised that the policies incorporated the terms and conditions approved by Executive in 2015.
- c. advised that both policies were considered by Housing Scrutiny Sub Committee in January 2017 to provide clarity for staff when processing repair requests.
- d. advised that overtime there had been a number of disputes about recharging for plastering work, these were predominantly where incoming tenants have been advised not to steam strip wallpaper but do so resulting in large areas of plastering work coming away from the walls.
- e. explained that the Chair of Policy Scrutiny Committee had requested that the Housing Management team reviewed and clarified the policies accordingly.
- f. highlighted the suggested changes to the Repairs and Maintenance Policy as detailed at paragraphs 3.6 and 3.7 of the report.
- g. advised that there were no changes proposed to the Rechargeable Repairs Policy.
- h. invited Members questions and comments.

**Question** – Asked for clarification of whether it was the responsibility of the tenant or the Council to redecorate a property after extensive plastering work had been completed at the Councils request.

**Response** – A balanced decision needed to be made by officers based on reasonableness for example was the property in a reasonable state of repair. A policy could not be written to cover every eventuality therefore a balanced decision needed to be made on individual circumstances. There were decoration vouchers available to help with the cost of decorating.

**Comment** – The plastering in some properties was poor.

**Response** – The housing stock dated to the 1950's, often tenants did not want the upheaval and mess of extensive plastering work, however, it was something that Officers could look at.

**Question** - Could bleeding radiators be added to the Councils responsibilities into the Repairs and Maintenance policy?

**Response** – Bleeding tenants radiators would not be a productive use of Council officer time, an article could be added to Home! magazine advising on how to bleed radiators also we could offer free bleeding keys, however this would be subject to cost.

**Question** – Could more time be spent with tenants when they move into a property to explain where the stop taps were etc. in the property.

**Comment** – Suggested that a list of contact numbers and emergency information be added to the inside of kitchen cupboards at the property.

**Response** – This was something that could be looked at.

**Question** – What was an emergency repair?

**Response** – Referred to page 8 of the Repairs and Maintenance Policy which explained what was considered an emergency repair. These would be attended to within 24 hours of being reported.

RESOLVED that the suggested amendments to the wording to the Repairs and Maintenance Policy detailed in paragraphs 3.6 and 3.7 of the report be supported.

**40. Policy Scrutiny Work Programme 2017-18 and Executive Work Programme Update**

The Democratic Services Officer:

- a. presented the report 'Policy Scrutiny Work Programme 2017-18 and Executive Work Programme Update'.
- b. presented the Executive Work Programme January 2018 – January 2019.
- c. requested councillors to submit what items they wished to scrutinise from the Executive Work Programme and policies of interest.
- d. invited members questions and comments.

Members made no further comments or suggestions regarding the Policy Scrutiny work programme.

RESOLVED that:

1. the work Policy Scrutiny work programme be noted.
2. the Executive work programme be noted.

**41. Health Scrutiny Update**

The Chair of Policy Scrutiny Committee updated members of the business that had been discussed at the Health Scrutiny meeting held on 13 December 2017, these were:

- Grantham A&E Department
- Walk in Centre
- Non-Emergency Patient Transport Service
- Winter Pressures

RESOLVED that the report be noted.



- Present:** Councillors Councillor Jackie Kirk (*in the Chair*), Jane Loffhagen, Liz Maxwell, Ralph Toofany and Pat Vaughan
- Apologies for Absence:** Councillor Andy Kerry and Councillor Keith Weaver
- Also in Attendance:** Inspector Patrick Coates and Inspector Steve Williams

**42. Declarations of Interest**

No declarations of interest were received.

**43. Proposals for the Review of Existing Public Space Protection Order**

Francesca Bell, Public Protection, Anti-Social Behaviour and Licensing Service Manager

- a. presented the proposals to review the existing Public Space Protection Order (PSPO) in the City Centre area of Lincoln.
- b. referred to paragraph 2 of the report and gave an overview of the background to the PSPO advising that it was a requirement to review the PSPO after 3 years.
- c. advised that the purpose of the review was to consider the following points:
  - Should the requirement not to consume alcohol remain as part of the PSPO.
  - Should the requirement not to ingest, inhale, smoke or otherwise use intoxicating substances remain as part of the PSPO.
  - Were there any other issues that could be considered for inclusion in the PSPO?
  - Was the area designated by the PSPO still appropriate?
- d. referred to paragraph 5 of the report and gave an overview of the public and partner consultation advising that seven responses had been received and all responses called for the existing PSPO to remain in place.
- e. referred to paragraph 6 of the report which detailed the evidence of the enforcement of the PSPO since 2015 and highlighted the number of issues relating to alcohol and legal highs.
- f. advised that whilst there had been an increase in the reporting of begging and vagrancy it was felt that it should not be included in the PSPO for the following reasons:
  - The Council and its partners had a well mapped enforcement plan in place already.
  - Begging was already a criminal offence and could be dealt with more appropriately in that way.

- Any inclusion in a PSPO could send a message that begging outside of that area was acceptable.
  - All local authorities across the UK that had gone down this route had faced enormous public backlash in respect of human rights.
- g. referred to appendix 3 of the report and advised that following consultation with partners it was felt that the geographical area of the map should remain the same, however, the map had been amended slightly to reflect the new road layout at the bus station and also to make the boundary clearer and more easily defined.
- h. advised that members would need to be satisfied that the legal conditions set out in paragraph 9 of the report had been met.
- i. referred to paragraph 12 of the report and explained the penalties for breaching the order and powers available to officers to deal with those identified as persistently breaching the order.
- j. referred to paragraph 15 of the report and outlined the options explored and the key risks associated with the preferred approach.
- k. invited members questions and comments

**Question** – What work had been done to tackle begging?

**Response from Lincolnshire Police** – There had been a multi-agency approach to tackle begging, in the longer term the aim was to enforce begging but also to provide support to help with wider issues.

**Question** – Had the multi-agency approach been successful?

**Response** – It was a relatively new approach and had been difficult to measure as the number of issues naturally reduced over the winter months and increased during the summer. It was hoped that over the coming months it would be easier to measure how the approach had helped individuals.

**Question** – Should the area of the PSPO be reduced as suggested in the report?

**Response from Lincolnshire Police** – The suggestion to reduce the area was made by a Police Analyst who had made the recommendation based on the figures, however, the Police did not want to reduce the area as they had the resources to enforce the area.

**Question** – Could Cannon Street be included in the PSPO area?

**Response from Lincolnshire Police** – It would be difficult to enforce that area as there were less police resources and CCTV coverage away from the City Centre.

**Comment** – Pleased to see that a holistic approach was being taken and that begging was not included in the PSPO.

**Response** – Enforcement has an important role but there also needed to be a balance to encourage people to address the root of the problem.

**Question** – Had the use of NPS declined over the last 3 years?

**Response from Lincolnshire Police** – The general usage of NPS had reduced, however, it was still a significant issue in a certain community. The PSPO has made a big difference to the City and the usage of NPS was not as widespread.

**Question** – Could a softer approach be used to tackle these issues, for example to keep moving people on?

**Response from Lincolnshire Police** – A dispersal order could be used and was a useful tool in certain situations, however, a lot of complaints were received from the public when it was used in this way. A multi-agency holistic approach was the best way to tackle these issues. The PSPO sent a clear message that the

behaviour was not acceptable and that it was not penalising the homeless and rough sleepers.

**Question –** Had any Criminal Behaviour Orders been used?

**Response from Lincolnshire Police –** There were a number of actions that could be taken for people who persistently breached the PSPO these included Community Protection Orders and Criminal Behaviour Orders. Positive conditions could be added to the orders for example that the individual must engage with the appropriate agency.

RESOLVED that the comments on the proposal to renew the PSPO in its current form be referred to Executive for consideration.

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**SUBJECT: LINCOLN COMMUNITY LOTTERY UPDATE**

**DIRECTORATE: CHIEF EXECUTIVE AND TOWN CLERK**

**REPORT AUTHOR: PAT JUKES, BUSINESS MANAGER CORPORATE POLICY**

## 1. Purpose of Report

- 1.1 To provide Policy Scrutiny Committee with an update on progress with implementation plans for the Lincoln Community Lottery (LCL).

To provide the proposed criteria for the acceptance of good causes

## 2. Executive Summary

- 2.1 Implementation of the lottery remains on track to meet the proposed launch event on 5<sup>th</sup> June and the initial draw on the 11<sup>th</sup> August 2018.
- 2.2 After due consideration, it is recommended that the council extends the remit of the lottery past the cities natural boundaries to a radius of 6 miles from the city centre.
- 2.3 Policies and terms have been put forward to cover all governance aspects of the lottery.

## 3. Progress to date

- 3.1 Following Executive approval on 8<sup>th</sup> January 2018, a project team led by Graham Rose (Project Manager) has been set up and is operational with weekly team meetings in place.

The following actions have been completed.

- Gatherwell appointed as External Lottery Manager on a two year (with a year's break) contract – contract currently being drawn up by Procurement and Legal Services.
- The set up period is 6 months with three key dates identified
  - Launch event for good causes – Tuesday 5<sup>th</sup> June 2018 at the Drill Hall
  - Live website available to the public – w/c 2<sup>nd</sup> July 2018
  - First Lottery draw – Saturday 11<sup>th</sup> August 2018
- Application for a gambling licence completed and the two named responsible officer posts – Financial Services Manager and Legal and Democratic Services Manager; have submitted their personal declarations
- A communications plan is in place covering inception to launch, including a new logo designed specifically for the Lottery web site

- 3.2 The next steps include:

- Approval of the “Good causes criteria”
- Internal validation and approval of the lottery policies

## 4. Areas to be agreed

### 4.1 Good cause criteria

4.2 The first aspect to be considered is how participating good causes are determined and how centered geographically to the city these good causes are.

A key factor in determining this comes from the mechanics of the lottery – For every £1 spent, the purchaser can allocate 50% towards their chosen good cause and a further 10% goes into a central pot that CoLC allocates. If a purchaser doesn't actually choose a good cause the central pot gets the full 60%. The Lincoln Community Lottery has been set up on the assumption that all of this central pot goes to good causes.

So effectively, **the more purchasers we attract – the larger the central pot will be and the more we would be able to offer in grant funding.**

4.3 To accomplish this we need to seek the widest number of participants and as such we need to consider:

- How far shall we set the boundaries around Lincoln for considering 'good causes' eligibility
- What other criteria shall we set for allowing a 'good cause' to join the lottery

Suggestions for the latter are to be found in **Appendix A**, these have been adapted from other existing Local Authority lotteries, where we found a high level of consistency. (Boundaries are considered in 4.4 below)

If an organisation applies to join the lottery, but it is felt that it may also be beneficial to refer them to other sources (such as the Dawber charity) then we may do so, as they also want to provide benefit for people in Lincoln, but offer more substantial grants for bigger needs.

### 4.4 Boundaries

Consideration has been given to three alternatives:

- A 'purely' Lincoln boundary – i.e. only those causes operating from within a Lincoln Post code. This would be extremely restrictive and would exclude many areas whose residents probably consider that they live in Lincoln – e.g. North Hykeham.
- 1 mile boundary – This starts to include some of the additional settlements, but even then does not capture all of North Hykeham, or Bracebridge Heath or similar areas.
- 6 mile boundary – this brings all of the local villages into play – including Saxilby, Skellingthorpe, Bransby, Washingborough etc. The attraction of this area is that many of the working population of Lincoln live in these villages, contribute towards the Lincoln economy and consider themselves part of the greater Lincoln area. Choosing this option loses the council nothing at all, but gains us at least 10% of every ticket bought for the central pot – which will be spent in Lincoln. It is proposed that this allocation will be decided by members and officers through a formal panel process (see section 4.5 below)

To help see the areas noted in a more visual way, **Appendices B and C** show maps with boundaries of 1 mile and 6 miles respectively.

It should be noted that in every case the good cause is likely to benefit from 50p per ticket, but the central pot will ALWAYS benefit from 10p and sometimes from 60p – so this is a

positive situation for all involved.

As this is the case the Lottery team recommend the wider 6 mile boundary for maximum effect.

#### **4.5 Member selection panel**

It is proposed that at least two members sit on a panel (supported by officers) convened to agree the good causes accepted onto the lottery. It is suggested that one of these positions should be the Portfolio Holder for Social Inclusion and Community Cohesion, with the other being either the chair of Audit or the chair of Performance Scrutiny.

Initially it is anticipated that there will be a good number of applications to work through and thus the panel would need to meet a few times to cover all applications, but once these slow down, it may be possible to process straight forward applications through via a virtual methodology, only meeting to discuss the less straight forward ones.

This panel would also be asked to provide views on the appropriate distribution of funds from the central pot on a quarterly basis.

#### **4.6 Policies**

Gatherwell have provided CoLC with a concise set of 5 policies, 1 draft policy (GDPR) and 3 'terms' to cover all aspects of implementation of the lottery, apart from the new GDPR policy, these are already in use in 35 other Local Authorities.

These have been reviewed by the relevant teams and small amendments made to make them Lincoln specific. Following this the Legal and Democratic Services Manager has reviewed all policies and terms, ensuring that they meet legal requirements for the council. These are attached as **Appendices D to L**.

Following CMT's agreement, these have come to Policy Scrutiny Committee for comment and will proceed to Executive on 26<sup>th</sup> March for approval.

### **5. Strategic Priorities**

#### **5.1 Let's reduce inequality**

All proceeds of the lottery will be directed towards good causes in Lincoln and any agreed surrounding areas. This could support any of the aspirations in Vision 2020, but is best summed up by the final one – Let's ensure the best quality of life for people living in Lincoln.

### **6. Organisational Impacts**

#### **6.1 Finance (including whole life costs where applicable)**

Finances are still as specified in the initial approval report - £7k set up, from the Policy Strategic budget. Any ongoing maintenance costs (such as licenses) will also come from the existing Policy budget.

#### **6.2 Legal Implications including Procurement Rules**

As part of this report, all proposed Lottery policies and terms are attached for approval, and which outline the Council and Gatherwell's responsibilities in the relevant legal frameworks

**6.3 Equality, Diversity & Human Rights** (including the outcome of the Equality Analysis)

There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998. A full Equality Analysis was attached as Appendix B of the initial approval report.

**6.4 Significant Community Impact**

This is a new service which is aimed at raising funds for the community including the voluntary sector. One of the report appendices covers how the council would ensure responsible gambling. The main impact on the community is expected to be positive in that smaller good causes could be able to access funding that they would normally not be able to achieve. However, there is also an opportunity to support larger charities which have been funded by the council in the past, but may be subject to funding reviews in the future.

**7. Risk Implications**

- 7.1 (i) Options Explored – All policies have been reviewed by the organisational expert, and then in full by the Legal Services Manager and seen by CMT
- 7.2 (ii) Key risks associated with the preferred approach – The policies were provided by the External Lottery Manager and are already in use elsewhere.

The good cause criteria is also mainly based on those in use by other local authorities.

**8. Recommendation**

- 8.1 Policy Scrutiny Committee is asked to comment on the attached policies and terms, comments will be taken to Executive on 26<sup>th</sup> March 2018
- 8.2 Policy Scrutiny Committee is asked to comment on the attached criteria for good causes, and proposals for the Panel membership - comments will be taken to Executive 26<sup>th</sup> March 2018.

<b>Is this a key decision?</b>	No
<b>Do the exempt information categories apply?</b>	No
<b>Does Rule 15 of the Scrutiny Procedure Rules</b>	No
<b>How many appendices does the report contain?</b>	Twelve
<b>List of Background Papers:</b>	None

**Lead Officer:** Graham Rose, Senior Policy Officer Ext 3658



## Appendix A

### Criteria for joining the Lincoln Community Lottery:

We want to enable as many organisations as possible to join the Lincoln Community Lottery which is for good causes that demonstrate their value to the local community.

As you will be joining under our overall gambling licence (Gambling Act 2005) we have to ensure that member organisations meet certain criteria. There is no application fee.

Your organisation must:

- Demonstrate that at least some of your community activities or services are of benefit to the residents of Lincoln
- Be located within a six mile radius of the city centre (see boundary map for guidance)
- Have a dedicated bank account for the organisation
- Operate with no undue restrictions on membership
- Be willing to provide evidence relating to the above

And be one of the following:

- A constituted group (e.g. a sports club, community group or food bank), with Terms of Reference, a volunteer management committee, with a minimum of three unrelated members, that meets on a regular basis (at least 3 times per year)
- A registered charity, with a board of trustees
- A registered Community Interest Company, and provide copies of your Community Interest Statement, details of the Asset Lock included in your Memorandum and Articles of Association, and a copy of your latest annual community interest report.

We will not permit applications to join the Lottery:

- from groups promoting or lobbying for particular religious or political beliefs or campaigns – although we would accept applications from places of worship where the purpose of the work is generic in nature (e.g. food banks, clothes swaps etc)
- from individuals
- from organisations which aim to distribute a profit
- from organisations with no established management committee/board of trustees (unless a Community Interest Company)
- that are incomplete

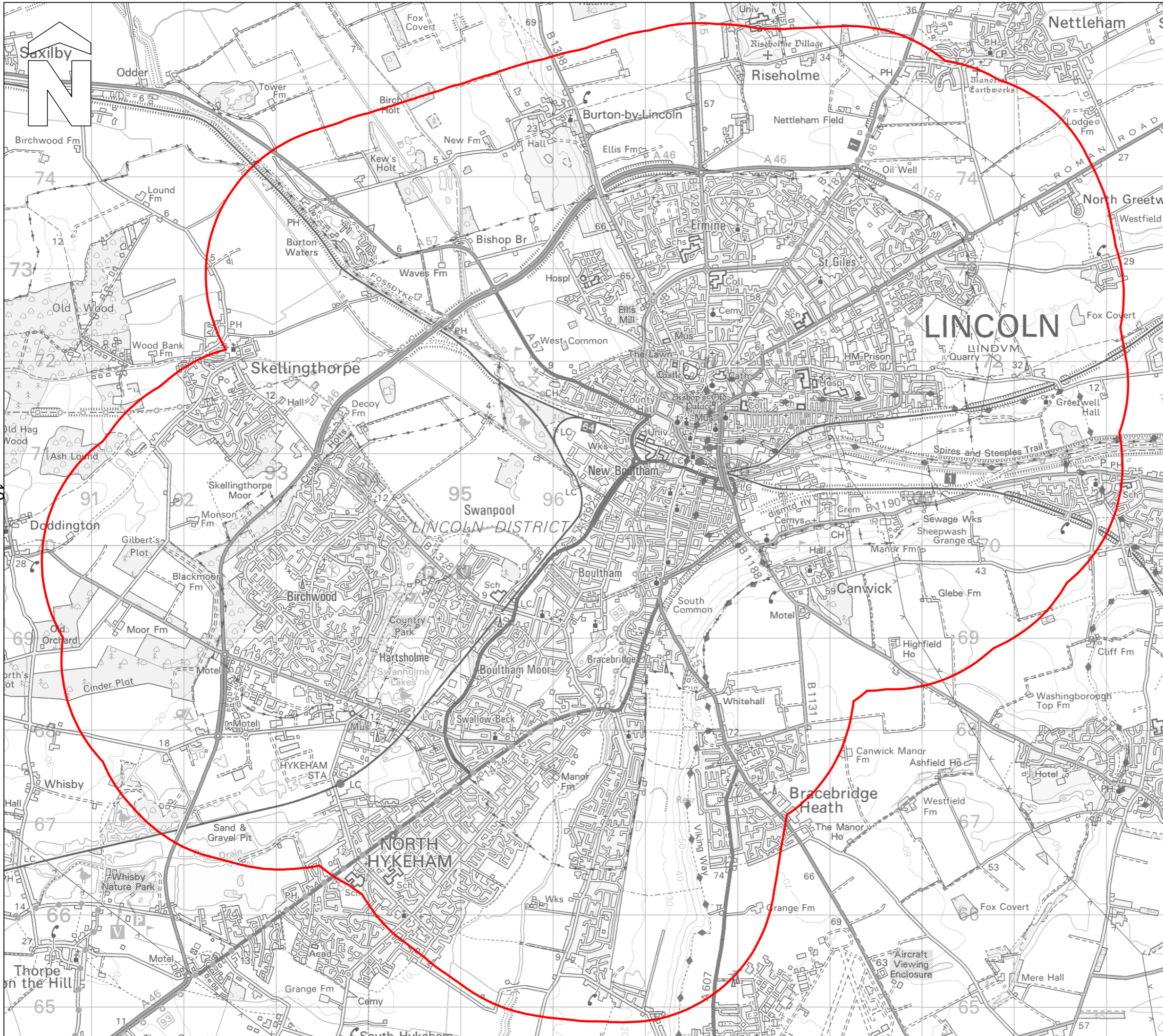
The council will create a panel of Members and officers to review applications and recommend spend from the central pot. The council reserves the right to reject any application for any reason. The council's decision is final.

The council reserves the right to cease to accept any organisation with a minimum of seven calendar days' notice for any reason. If fraudulent or illegal activity is suspected cessation will be immediate.

Each good cause will self-certify themselves on an annual basis to ensure they remain eligible to benefit from the lottery. The council will carry out random checks of good causes to ensure they are/remain compliant with the above criteria.

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City of Lincoln Boundary + 1 Mile Buffer

Version 1: 02-Feb-2018

Scale: 1:40000 at A3



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6 Miles Radius from Stonebow

Version 1: 02-Feb-2018

Scale: 1:75000 at A3

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Policy Name	Children and Vulnerable Persons Protection Policy
Policy Purpose	Ensuring that children and other vulnerable persons, will be protected from being harmed or exploited by gambling.
Policy Created By	City of Lincoln Council
Policy Created date	January 2018
Policy Validated and Checked By	Housing Solutions and Support Manager Legal & Democratic Services Manager
Policy Validated and Checked Date	22 <sup>nd</sup> February 2018
Policy Renewal Date	22 <sup>nd</sup> February 2019

## Policy Detail

1. CITY OF LINCOLN COUNCIL understands its requirements as part of the Licence Conditions and Codes of Practice (LCCP) and takes its responsibilities to the protection of Children and Vulnerable persons very seriously.
2. CITY OF LINCOLN COUNCIL understands that there is a legal requirement to prevent the sale of lottery tickets to under 16's.
  - 2.1. To ensure compliance with this requirement our External Lottery Manager (Gatherwell Ltd) spot checks new players of the lottery subjecting them to Age Verification checks via an industry recognised third party agency to ensure they are of a legal age to play.
  - 2.2. Age verification service providers can deliver positive results to ensure players are over 18 and therefore Gatherwell Ltd has opted to only accept these positive checks as a validation of age.
  - 2.3. As a final check before any jackpot prizes are issued, secondary age validation is also sought (passport, driving licence etc)
3. To ensure players are aware of the age limitations,
  - 3.1. clear statements will be displayed on the various websites relating to the required age to play, the age requirement is also highlighted in the terms and conditions that the player signs up to at registration
  - 3.2. In addition CITY OF LINCOLN COUNCIL have enabled their websites to permit filtering software to be used by adults (such as parents or within schools) in order to restrict access as relevant.
4. Should it come to pass that the age verification checks proved inaccurate and someone underage had gambled, then the user account would be suspended and monies returned.
5. Marketing falls into two areas:-
  - 5.1. firstly in encouraging good cause participation (where there is a low risk of exposure to children and vulnerable people) and
  - 5.2. Secondly in the development of materials that support participation of the individual lotteries.
    - 5.2.1. In this area generic marketing materials are used which can be tailored to deliver a marketing package to each individual good cause to help them market their lotteries
  - 5.3. To ensure compliance with the Advertising Codes of Practice advertising materials will regularly be submitted to the Committee of Advertising Practice (CAP) for approval
6. As recruitment is undertaken to fill vacancies, if exposed to the direct selling of tickets then
  - 6.1. Applicants will need to be of a legal age to do so. And educated on the legal requirement to not sell tickets to children under the age of 16.
7. Player Accounts require validation and set up.
  - 7.1. In the instances of direct debit the Direct Debit Guarantee ensures a time lag between ticket purchase and the first draw.
  - 7.2. As draws take place once per week, Ticket purchases are therefore not capable of being purchased for immediate play and
  - 7.3. for internal process reasons even credit & debit card payments cannot facilitate instant play into a draw for that week and a minimum of one days lag will be effective.

- 7.4. The combination of these factors does ensure it limits the capability to facilitate instant gambling and therefore significantly reduces the risk of gambling whilst under the influence of drink or other substances.





## Gambling commission questions:-

***Ensuring that children and other vulnerable persons will be protected from being harmed or exploited by gambling.***

- *What are your policies and procedures to prevent underage gambling?*
- *What information will you display relating to underage gambling?*
- *What age verification procedures will you have in place?*
- *What would you do if you discover someone underage had gambled?*
- *How will you prevent someone who is underage entering adult only areas?*
- *What are your procedures relating to the employment of young people?*
- *What steps will you take to ensure that any products and services you offer are not of particular appeal to children or young people?*
- *What marketing and advertising will you be carrying out? How will you ensure you are compliant with the Advertising Codes of Practice and the LCCP?*
- *What would you do if you felt someone was not capable of making an informed decision about gambling, for example, because of mental health problems, learning disabilities or substance misuse relating to alcohol or drugs?*
- *What age verification procedures will you have in place to prevent underage gambling online?*



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Policy Name	Fair and Open Gambling Policy
Policy Purpose	Ensuring that gambling will be conducted in a fair and open way.
Policy Created By	City of Lincoln Council
Policy Created date	January 2018
Policy Validated and Checked By	Public Protection, ASB and Licensing Service Manager Legal & Democratic Services Manager
Policy Validated and Checked Date	22 <sup>nd</sup> February 2018
Policy Renewal Date	22 <sup>nd</sup> February 2019

## Policy Detail

1. CITY OF LINCOLN COUNCIL is committed to complying with the Gambling Act 2005, The Gambling Commissions LCCP, Lotteries Council Code of Conduct and The CAP and BCAP code,
2. CITY OF LINCOLN COUNCIL utilises the services of Gatherwell Ltd who are an External Lottery Management company ensuring that the lottery is delivered on a financially sound basis as:-
  - 2.1. The financial structure of the lottery ensures that revenues are received prior to the running of any draw.
  - 2.2. Each draw is self funded in terms of the liabilities that then arise (prizes, good cause donations etc)
  - 2.3. No players' tickets will be included in the draw unless cleared funds have been secured.
  - 2.4. The prize fund and good cause donations are calculated on a % basis of the revenue pot therefore ensuring sufficient funds will always be in place.
  - 2.5. Jackpot prizes are funded through an underwritten insurance policy provided by a reputable underwriter established in the UK, again paid for as a % of each entry
3. All terms and conditions are available for participants on the various websites of the CITY OF LINCOLN COUNCIL lottery, including the main [www.lincolnlottery.co.uk](http://www.lincolnlottery.co.uk) website.
  - 3.1. As part of the sign up process for new participants, new participants are asked to agree acceptance of the terms and conditions at the time of signing up. New accounts cannot be created unless the terms and conditions are accepted.
  - 3.2. Participants will be advised of changes to the terms and conditions via pop ups on the website. In exceptional circumstances, all participants can be emailed a link to advise them of the new terms and conditions.
4. Our terms and conditions detail the complaints procedure should participants need to raise any issues or concern, both internally at CITY OF LINCOLN COUNCIL and externally though the use of an independent arbiter should resolution not be found.
5. No loyalty or reward schemes are being offered.
6. Section 257 of the Gambling act 2005 highlights that "A person acts as an external lottery manager for the purposes of this Act if he makes arrangements for a lottery on behalf of a society or authority of which he is not—
  - (a) a member,
  - (b) an officer, or
  - (c) an employee under a contract of employment."
  - 6.1. As such Gatherwell Ltd ask its board and staff to declare any conflict of interest in any potential target clients, in addition to the specific requirement to comply with the law as stated above for existing clients.
7. Gatherwell Ltd holds responsibility for ensuring that all technical solutions remain within scope of the law.
  - 7.1. These include testing procedures for both existing, upgraded and new software propositions



- 7.2. Ensuring that all servers are located in the UK
- 7.3. Software protocols and administrator access is limited to core personnel
- 7.4. All Contractors and Third Party suppliers are advised of our standards before they are allowed to deliver technical support. Access is limited to the scope of their work and monitored and logged accordingly.



## Gambling commission questions:-

### ***Ensuring that gambling will be conducted in a fair and open way.***

- *How will you ensure that you have sufficient resources to cover all your gambling transactions and financial obligations?*
- *How will you ensure that the rules and conditions of the gambling facilities you provide are available and understood, and that the terms offered are fair to all?*
- *How will you notify customers when your rules and conditions change?*
- *How will you deal with complaints or disputes? How is this information made available to customers?*
- *Will you use a third party arbiter for any unresolved complaints or disputes?*
- *Will you be offering loyalty and reward schemes? If so, how will you ensure they are compliant with the LCCP?*
- *How will you ensure you comply with any relevant technical standards (eg Section 240 of the Gambling Act 2005)?*
- *How will you ensure any third party providers comply with any relevant technical standards?*
- *How will you assess whether a new product needs testing and how do you ensure that you comply with the testing requirements set out in the technical standards?*
- *Will you comply with any codes of practice set by other organisations (eg Trade Associations)?*



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Policy Name	Implementation of Procedures Policy
Policy Purpose	The Process for Implementing City of Lincoln Council policies and procedures.
Policy Created By	City of Lincoln Council
Policy Created date	January 2018
Policy Validated and Checked By	Legal & Democratic Services Manager
Policy Validated and Checked Date	22 <sup>nd</sup> February 2018
Policy Renewal Date	22 <sup>nd</sup> February 2019

## Policy Detail

1. CITY OF LINCOLN COUNCIL takes its legal responsibilities very seriously and requires that all Officers and staff who are administering the Lottery (to be decided at the City of Lincoln Council's absolute discretion) are aware of their legal obligations in running a successful and legally compliant Lottery.
2. New Starters
  - 2.1. All new starters who will be administering the Lottery will be given legal training as part of the induction process. The level and depth is dependent on role but covers :
    - 2.1.1. The Gambling Act 2005
    - 2.1.2. LCCP (Licence Conditions and Codes of Practice)
    - 2.1.3. CAP (Committee of Advertising Practice) and BCAP (Broadcast Committee of Advertising Practice)
    - 2.1.4. Data Protection
    - 2.1.5. Plus the process for highlighting any evidence of non-compliance
3. Existing Staff
  - 3.1. All officers administering the Lottery are aware of their legal responsibilities and compliance is a regular agenda item at review meetings.
  - 3.2. Annual refresher courses for staff who are responsible for administering the Lottery will be run to maintain knowledge and compliance.
  - 3.3. Adhoc on the job training forms part of the development of staff and focus areas for development are identified during the annual appraisal process and regular review process.
4. Training records will be kept as part of the personnel record of individuals and a register of key training delivered and renewal dates kept.
5. Training will be delivered in conjunction with our ELM Gatherwell Ltd



Gambling commission questions:-

***Implementing your policies and procedures.***

- *What training will you provide to your members of staff?*
- *How will training be delivered, updated and evaluated?*
- *Will you keep a record of all training provided?*
- *How will you ensure any training provided is in line with the LCCP?*





Policy Name	Protection From Source of Crime & Disorder Policy
Policy Purpose	Ensuring that City of Lincoln Council will be protected from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
Policy Created By	City of Lincoln Council
Policy Created date	January 2018
Policy Validated and Checked By	Legal & Democratic Services Manager
Policy Validated and Checked Date	22 <sup>nd</sup> February 2018
Policy Renewal Date	22 <sup>nd</sup> February 2019

## Policy Detail

1. This Policy is beholden to the Proceeds of Crime Act 2002 (see <http://www.legislation.gov.uk/ukpga/2002/29/contents>) & The Anti Money Laundering (AML) Regulations
  - 1.1. Proceeds of Crime Act 2002 : - *“An Act to establish the Assets Recovery Agency and make provision about the appointment of its Director and his functions (including Revenue functions), to provide for confiscation orders in relation to persons who benefit from criminal conduct and for restraint orders to prohibit dealing with property, to allow the recovery of property which is or represents property obtained through unlawful conduct or which is intended to be used in unlawful conduct, to make provision about money laundering, to make provision about investigations relating to benefit from criminal conduct or to property which is or represents property obtained through unlawful conduct or to money laundering, to make provision to give effect to overseas requests and orders made where property is found or believed to be obtained through criminal conduct, and for connected purposes.”*
  - 1.2. The AML Regulations require relevant businesses to:
    - put in place procedures to verify the identity of customers on entering into a business relationship or transaction and to carry out ongoing monitoring during the business relationship
    - keep records obtained in establishing customers’ identities and of business relationships for five years
    - train employees in the relevant procedures and law
    - appoint a nominated officer whose role includes reporting to NCA, or its successor, suspicions of money laundering activity
    - put in place and maintain policies and procedures to cover the requirements listed above
2. City of Lincoln Council is a professional operation and takes its responsibilities to ensure all players of their society lottery are operating within the law.
3. City of Lincoln Council employ the services of Gatherwell Ltd a Remote External Lottery Management company and therefore mainly take transactions electronically though either Direct Debit, credit card & debit card. No cash payments can be used for payment, mitigating the chance for the passing of counterfeit money.
4. A number of safeguards are in place to validate players’ identities as part of the account verification process. Additionally, safeguards are in place to ensure that ticket purchases are not excessive, therefore mitigating the risk of money laundering. If players tried to purchase excessive tickets then the system controls built into the software algorithms will advise the player that they have exceeded the number of tickets possible and stop the transaction.
5. The software resides on secure servers. These reside behind encrypted firewalls and offer bank level security protocols in the transfer of electronic data. Additionally they are situated in a secure data centre managed by Disclosure and Baring checked staff.
6. All transactions for the software will have full audit trails of every transaction made including timestamps. These audit trails will ensure that should any suspicious activity be identified a full investigation by Gatherwell Ltd staff or law enforcement bodies can be undertaken.



7. In an effort to minimise the risk of fraudulent behaviour and demonstrate impartiality throughout, the main Lottery draw each week takes the results from an independently drawn lottery (currently identified as the Australian Super 66). This ensures no fraudulent activity can be taken in the generation of the winning set of numbers for the draw. To ensure compliance at an entry level into the system, these numbers will need to be entered separately by two of the directors of the business each week. The smaller local level prizes are generated based on a random ticket selection from existing purchased tickets by an algorithm within the software.
8. Whilst by its definition a lottery is a random game of chance and therefore offers little opportunity for collusion or cheating, any suspicion of malpractice will result in the immediate blocking of the users account.
9. Any evidence of illegal behaviour by staff will be managed in line with the Council's Disciplinary Policy.
10. All companies who provide fundamental services in the provision of the service (e.g. Direct Debit Bureaus, Age Verification service providers, Prize fund insurance etc) undergo rigorous validation in terms of their suitability, credibility and reputation. This includes full financial health checks and references where required.



## Gambling commission questions:-

***Ensuring that the applicants's business will be protected from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.***

- *Are you aware of the Proceeds of Crime Act (PoCA) and your responsibilities in relation to the Act?*
- *How will you ensure that you are not party to any illegal activities, for example, money laundering? What would you do if you suspect someone was attempting to use you as a way of laundering money? How would you try to detect if someone was attempting to pass counterfeit money and what would you do?*
- *How will you protect your equipment from crime and criminal misuse?*
- *Will you have CCTV or other crime prevention procedures in place?*
- *What security measures will be in place for cash handling?*
- *How will you monitor transactions and accounts for any suspicious activities?*
- *How will you ensure keys are kept securely (eg machine keys, keys for restricted access areas, money boxes)?*
- *Will you have steps in place to prevent money lending between customers?*
- *How will you ensure there is no collusion between customers and staff?*
- *How would you deal with someone if you felt they were trying to cheat in any way?*
- *How would you deal with someone who you felt was under the influence of alcohol or drugs?*
- *How will you ensure that other companies you deal with are trustworthy and reputable?*
- *If it came to your attention that another operator or a staff member was operating in an illegal manner, what would you do?*
- *For remote operators, how will you ensure there is no peer to peer collusion (eg in poker rooms)?*



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Policy Name	Social Responsibility in Gambling Policy
Policy Purpose	Ensuring the promotion of social responsibility in gambling.
Policy Created By	City of Lincoln Council
Policy Created date	January 2018
Policy Validated and Checked By	Principal Policy Officer Legal & Democratic Services Manager
Policy Validated and Checked Date	22 <sup>nd</sup> February 2018
Policy Renewal Date	22 <sup>nd</sup> February 2019

## Policy Detail

1. City of Lincoln Council is aware of its social responsibility to protect individuals from excessive and addictive gambling.
  
2. Limits are in place to ensure individuals cannot buy excessive numbers of tickets,
  - 2.1. This therefore restricts the capability for individuals to gamble beyond their means or gamble what they cannot afford.
  - 2.2. These limits will be monitored to see how many players reach them and may be reduced correspondingly if required.
  - 2.3. These limits are clearly highlighted at the point of purchase online.
  
3. Accounts require validation and set up.
  - 3.1. In the instances of direct debit the Direct Debit Guarantee ensures a time lag between ticket purchase and the first draw.
  - 3.2. As draws take place once per week, Ticket purchases are therefore not capable of being purchased for immediate play and
  - 3.3. for internal process reasons even credit & debit card payments cannot facilitate instant play into a draw for that week and a minimum of one days lag will be effective.
  - 3.4. The combination of these factors does ensure it limits the capability to facilitate instant gambling and therefore significantly reduces the risk of gambling whilst under the influence of drink or other substances.
  
4. It is not possible to borrow money or be entered for lottery draws unless cleared funds have been accepted. No exceptions will be made to this position.
  
5. The system data provides facilities to track major changes in the lottery participation. Any significant outliers in the numbers of tickets will be investigated as part of ongoing assessments on the correct levels for ticket participation.
  
6. A process for self exclusion from lottery participation exists to allow anyone to self exclude themselves from all propositions (existing or future)
  
7. Links to the support websites ([www.gamcare.org.uk](http://www.gamcare.org.uk) & [www.Gambleaware.co.uk](http://www.Gambleaware.co.uk)) plus the National Gambling Helpline are made available on the website to direct anyone to help and support should they need help from gambling addictions. City of Lincoln Council are also a contributing member to their research and support through membership of the lotteries council.



## Gambling commission questions:-

### ***Ensuring the promotion of social responsibility in gambling.***

- Are you aware of any organisations that can help problem gamblers? How will you make this information known to your customers?*
- What are your policies and procedures where you have concerns that a customer's behaviour may indicate problem gambling? What advice would you give?*
- Will you have procedures in place to prevent problem gambling arising? For example, are you aware of your regular customers, how much they usually spend, how often they usually gamble? Would you notice any drastic changes to their gambling behaviour and how would you deal with this?*
- What would you do if you felt someone was gambling beyond their means?*
- What are your procedures for self exclusion and how will you monitor this?*
- Will you set any limits on the size of bet/stake that you take? How will you make this information known to your customers?*
- What would you do if someone asked to borrow money from you in order to continue gambling, or if you knew someone was borrowing money in order to fund their gambling?*
- How do you intend to contribute to research and public education on the risks of gambling and how to gamble safely (eg contributions to Gambling Research Education and Treatment)?*





Policy Name	Data Protection (GDPR)
Policy Purpose	Ensuring that all data stored by Gatherwell complies with the new GDPR regulations
Policy Created By	Ben Speare
Policy Created date	December 2017
Policy Validated and Checked By	Wayne Chow
Policy Validated and Checked Date	December 2017
Policy Renewal Date	December 2020

## 1. Background

Gatherwell are an External Lottery Management Company, licenced by the UK Gambling Commission to run lotteries on behalf of our clients who consist of a range of organisations who represent good causes. Our lotteries are mainly delivered online and encourage the general public to raise money for good causes by playing lotteries that they benefit, with the chance to win prizes in return.

## 2. Statement of intent

Gatherwell is required to keep and process certain information about its staff members and players in accordance with its legal obligations under the General Data Protection Regulation (GDPR) and the Licence Conditions and Codes of Practice (LCCP) set out by the Gambling Commission

The Organisation may, from time to time, be required to share personal information about its staff or Players with other organisations,

This policy is in place to ensure all staff are aware of their responsibilities and outlines how The Organisation complies with the following core principles of the GDPR.

Organisational methods for keeping data secure are imperative, and Gatherwell believes that it is good practice to keep clear practical policies, backed up by written procedures.

This policy complies with the requirements set out in the GDPR, which will come into effect on 25 May 2018. The government have confirmed that the UK's decision to leave the EU will not affect the commencement of the GDPR.

## 3. Legal framework

This policy has due regard to legislation, including, but not limited to the following:

- The General Data Protection Regulation (GDPR)
- The Freedom of Information Act 2000
- The Education (Pupil Information) (England) Regulations 2005 (as amended in 2016)
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

This policy will also have regard to the following guidance:

- Information Commissioner's Office (2017) 'Overview of the General Data Protection Regulation (GDPR)'
- Information Commissioner's Office (2017) 'Preparing for the General Data Protection Regulation (GDPR) 12 steps to take now'

#### 4. Applicable data

For the purpose of this policy, personal data refers to information that relates to an identifiable, living individual, including information such as an online identifier, such as an IP address. The GDPR applies to both automated personal data and to manual filing systems, where personal data is accessible according to specific criteria, as well as to chronologically ordered data and pseudonymised data, e.g. key-coded.

Sensitive personal data is referred to in the GDPR as 'special categories of personal data', which are broadly the same as those in the Data Protection Act (DPA) 1998. These specifically include the processing of genetic data, biometric data and data concerning health matters.

#### 5. Principles

In accordance with the requirements outlined in the GDPR, personal data will be:

- Processed lawfully, fairly and in a transparent manner in relation to individuals.
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- Accurate and, where necessary, kept up-to-date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
- Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods, insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.
- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The GDPR also requires that "the controller shall be responsible for, and able to demonstrate, compliance with the principles".



## 6. Accountability

- Gatherwell will implement appropriate technical and organisational measures to demonstrate that data is processed in line with the principles set out in the GDPR.
- The Organisation will provide comprehensive, clear and transparent privacy policies.
- Records of activities relating to higher risk processing will be maintained, such as the processing of special categories data or that in relation to criminal convictions and offences.
- Internal records of processing activities will include the following:
  - Name and details of the organisation
  - Purpose(s) of the processing
  - Description of the categories of individuals and personal data
  - Retention schedules
  - Categories of recipients of personal data
  - Description of technical and organisational security measures
  - Details of transfers to third countries, including documentation of the transfer mechanism safeguards in place

The Organisation will implement measures that meet the principles of data protection by design and data protection by default, such as:

- Data minimisation.
- Pseudonymisation.
- Transparency.
- Allowing individuals to monitor processing.
- Continuously creating and improving security features.

Data protection impact assessments will be used, where appropriate.

## 7. Data protection officer (DPO)

The Managing Director has been appointed as the DPO in order to:

- Inform and advise The Organisation and its employees about their obligations to comply with the GDPR and other data protection laws.
- Monitor The Organisation's compliance with the GDPR and other laws, including managing internal data protection activities, advising on data protection impact assessments, conducting internal audits, and providing the required training to staff members.

The Managing Director has the professional experience and knowledge of data protection law, particularly that in relation to the requirements of the Gambling Commission.

The DPO will report to the highest level of management at The Organisation, which is the Board. The DPO will operate independently and will not be dismissed or penalised for performing their task. Sufficient resources will be provided to the DPO to enable them to meet their GDPR obligations.

## 8. Lawful processing

The legal basis for processing data will be identified and documented prior to data being processed.

Under the GDPR, data will be lawfully processed under the following conditions:

- The consent of the data subject has been obtained.
- Processing is necessary for:
  - Compliance with a legal obligation.
  - The performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
  - For the performance of a contract with the data subject or to take steps to enter into a contract.
  - Protecting the vital interests of a data subject or another person.
  - For the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

Sensitive data will only be processed under the following conditions:

- Explicit consent of the data subject, unless reliance on consent is prohibited by EU or Member State law.
- Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent.
- Processing relates to personal data manifestly made public by the data subject.
- Processing is necessary for:
  - Carrying out obligations under employment, social security or social protection law, or a collective agreement.
  - Protecting the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent.
  - The establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.
  - Reasons of substantial public interest on the basis of Union or Member State law which is proportionate to the aim pursued and which contains appropriate safeguards.
  - The purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional.
  - Reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.
  - Archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes in accordance with Article 89(1).

## 9. Consent

Consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes.

Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes.

Where consent is given, a record will be kept documenting how and when consent was given.

The Organisation ensures that consent mechanisms meet the standards of the GDPR. Where the standard of consent cannot be met, an alternative legal basis for processing the data must be found, or the processing must cease.

Consent accepted under the DPA will be reviewed to ensure it meets the standards of the GDPR; however, acceptable consent obtained under the DPA will not be reobtained.

Consent can be withdrawn by the individual at any time.

## 10. The right to be informed

The privacy notice supplied to individuals in regards to the processing of their personal data will be written in clear, plain language which is concise, transparent, easily accessible and free of charge.

In relation to data obtained both directly from the data subject and not obtained directly from the data subject, the following information will be supplied within the privacy notice:

- The identity and contact details of the controller, and where applicable, the controller's representative and the DPO.
- The purpose of, and the legal basis for, processing the data.
- The legitimate interests of the controller or third party.
- Any recipient or categories of recipients of the personal data.
- Details of transfers to third countries and the safeguards in place.
- The retention period of criteria used to determine the retention period.
- The existence of the data subject's rights, including the right to:
  - Withdraw consent at any time.
  - Lodge a complaint with a supervisory authority.
- The existence of automated decision making, including profiling, how decisions are made, the significance of the process and the consequences.

Where data is obtained directly from the data subject, information regarding whether the provision of personal data is part of a statutory or contractual requirement and the details of the categories of personal data, as well as any possible consequences of failing to provide the personal data, will be provided.

Where data is not obtained directly from the data subject, information regarding the source the personal data originates from and whether it came from publicly accessible sources, will be provided.

For data obtained directly from the data subject, this information will be supplied at the time the data is obtained.

## 11. The right of access

Individuals have the right to obtain confirmation that their data is being processed.

Individuals have the right to submit a subject access request (SAR) to gain access to their personal data in order to verify the lawfulness of the processing.

The Organisation will verify the identity of the person making the request before any information is supplied.

A copy of the information will be supplied to the individual free of charge; however, The Organisation may impose a 'reasonable fee' to comply with requests for further copies of the same information.

Where a SAR has been made electronically, the information will be provided in a commonly used electronic format.

Where a request is manifestly unfounded, excessive or repetitive, a reasonable fee will be charged.

All fees will be based on the administrative cost of providing the information.

All requests will be responded to without delay and at the latest, within one month of receipt.

In the event of numerous or complex requests, the period of compliance will be extended by a further two months. The individual will be informed of this extension, and will receive an explanation of why the extension is necessary, within one month of the receipt of the request.

Where a request is manifestly unfounded or excessive, The Organisation holds the right to refuse to respond to the request. The individual will be informed of this decision and the reasoning behind it, as well as their right to complain to the supervisory authority and to a judicial remedy, within one month of the refusal.

In the event that a large quantity of information is being processed about an individual, The Organisation will ask the individual to specify the information the request is in relation to.

## **12. The right to rectification**

Individuals are entitled to have any inaccurate or incomplete personal data rectified.

Where the personal data in question has been disclosed to third parties, The Organisation will inform them of the rectification where possible.

Where appropriate, The Organisation will inform the individual about the third parties that the data has been disclosed to.

Requests for rectification will be responded to within one month; this will be extended by two months where the request for rectification is complex.

Where no action is being taken in response to a request for rectification, The Organisation will explain the reason for this to the individual, and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

## **13. The right to erasure**

Individuals hold the right to request the deletion or removal of personal data where there is no compelling reason for its continued processing.

Individuals have the right to erasure in the following circumstances:

- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed
- When the individual withdraws their consent
- When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing
- The personal data was unlawfully processed
- The personal data is required to be erased in order to comply with a legal obligation

The Organisation has the right to refuse a request for erasure where the personal data is being processed for the following reasons:

- To exercise the right of freedom of expression and information
- To comply with a legal obligation for the performance of a public interest task or exercise of official authority
- For archiving purposes in the public interest, scientific research, historical research or statistical purposes
- The exercise or defence of legal claims

Where personal data has been disclosed to third parties, they will be informed about the erasure of the personal data, unless it is impossible or involves disproportionate effort to do so.

Where personal data has been made public within an online environment, The Organisation will inform other organisations who process the personal data to erase links to and copies of the personal data in question.

## **14. The right to restrict processing**

Individuals have the right to block or suppress The Organisation's processing of personal data.

In the event that processing is restricted, The Organisation will store the personal data, but not further process it, guaranteeing that just enough information about the individual has been retained to ensure that the restriction is respected in future.

The Organisation will restrict the processing of personal data in the following circumstances:

- Where an individual contests the accuracy of the personal data, processing will be restricted until The Organisation has verified the accuracy of the data
- Where an individual has objected to the processing and The Organisation is considering whether their legitimate grounds override those of the individual
- Where processing is unlawful and the individual opposes erasure and requests restriction instead
- Where The Organisation no longer needs the personal data but the individual requires the data to establish, exercise or defend a legal claim

If the personal data in question has been disclosed to third parties, The Organisation will inform them about the restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so.

The Organisation will inform individuals when a restriction on processing has been lifted.

## 15. The right to data portability

Individuals have the right to obtain and reuse their personal data for their own purposes across different services.

Personal data can be easily moved, copied or transferred from one IT environment to another in a safe and secure manner, without hindrance to usability. The right to data portability only applies in the following cases:

- To personal data that an individual has provided to a controller
- Where the processing is based on the individual's consent or for the performance of a contract
- When processing is carried out by automated means

Personal data will be provided in a structured, commonly used and machine-readable form.

The Organisation will provide the information free of charge.

Where feasible, data will be transmitted directly to another organisation at the request of the individual.

Gatherwell is not required to adopt or maintain processing systems which are technically compatible with other organisations.

In the event that the personal data concerns more than one individual, The Organisation will consider whether providing the information would prejudice the rights of any other individual.

The Organisation will respond to any requests for portability within one month.

Where the request is complex, or a number of requests have been received, the timeframe can be extended by two months, ensuring that the individual is informed of the extension and the reasoning behind it within one month of the receipt of the request.

Where no action is being taken in response to a request, The Organisation will, without delay and at the latest within one month, explain to the individual the reason for this and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

## 16. The right to object

The Organisation will inform individuals of their right to object at the first point of communication, and this information will be outlined in the privacy notice and explicitly brought to the attention of the data subject, ensuring that it is presented clearly and separately from any other information.

Individuals have the right to object to the following:

- Processing based on legitimate interests or the performance of a task in the public interest
- Direct marketing
- Processing for purposes of scientific or historical research and statistics.

Where personal data is processed for the performance of a legal task or legitimate interests:

- An individual's grounds for objecting must relate to his or her particular situation.
- The Organisation will stop processing the individual's personal data unless the processing is for the establishment, exercise or defence of legal claims, or, where The Organisation can

demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual.

Where personal data is processed for direct marketing purposes:

- The Organisation will stop processing personal data for direct marketing purposes as soon as an objection is received.
- The Organisation cannot refuse an individual's objection regarding data that is being processed for direct marketing purposes.

Where personal data is processed for research purposes:

- The individual must have grounds relating to their particular situation in order to exercise their right to object.
- Where the processing of personal data is necessary for the performance of a public interest task, The Organisation is not required to comply with an objection to the processing of the data.

Where the processing activity is outlined above, but is carried out online, The Organisation will offer a method for individuals to object online.

## **17. Privacy by design and privacy impact assessments**

The Organisation will act in accordance with the GDPR by adopting a privacy by design approach and implementing technical and organisational measures which demonstrate how The Organisation has considered and integrated data protection into processing activities.

Data protection impact assessments (DPIAs) will be used to identify the most effective method of complying with The Organisation's data protection obligations and meeting individuals' expectations of privacy.

DPIAs will allow The Organisation to identify and resolve problems at an early stage, thus reducing associated costs and preventing damage from being caused to Gatherwell's or our Client's reputation which might otherwise occur.

A DPIA will be used when using new technologies or when the processing is likely to result in a high risk to the rights and freedoms of individuals.

A DPIA will be used for more than one project, where necessary.

High risk processing includes, but is not limited to, the following:

- Systematic and extensive processing activities, such as profiling
- Large scale processing of special categories of data or personal data which is in relation to criminal convictions or offences

The Organisation will ensure that all DPIAs include the following information:

- A description of the processing operations and the purposes
- An assessment of the necessity and proportionality of the processing in relation to the purpose
- An outline of the risks to individuals
- The measures implemented in order to address risk

Where a DPIA indicates high risk data processing, The Organisation will consult the ICO to seek its opinion as to whether the processing operation complies with the GDPR.

## **18. Data breaches**

The term 'personal data breach' refers to a breach of security which has led to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.

The Principal will ensure that all staff members are made aware of, and understand, what constitutes as a data breach as part of their continuous development training.

Where a breach is likely to result in a risk to the rights and freedoms of individuals, the relevant supervisory authority will be informed.

All notifiable breaches will be reported to the relevant supervisory authority within 72 hours of The Organisation becoming aware of it.

The risk of the breach having a detrimental effect on the individual, and the need to notify the relevant supervisory authority, will be assessed on a case-by-case basis.

In the event that a breach is likely to result in a high risk to the rights and freedoms of an individual, The Organisation will notify those concerned directly.

A 'high risk' breach means that the threshold for notifying the individual is higher than that for notifying the relevant supervisory authority.

In the event that a breach is sufficiently serious, the public will be notified without undue delay.



Effective and robust breach detection, investigation and internal reporting procedures are in place at The Organisation, which facilitate decision-making in relation to whether the relevant supervisory authority or the public need to be notified.

Within a breach notification, the following information will be outlined:

- The nature of the personal data breach, including the categories and approximate number of individuals and records concerned
- The name and contact details of the DPO
- An explanation of the likely consequences of the personal data breach
- A description of the proposed measures to be taken to deal with the personal data breach
- Where appropriate, a description of the measures taken to mitigate any possible adverse effects

Failure to report a breach when required to do so will result in a fine, as well as a fine for the breach itself.

## **19. Data security**

Confidential paper records will be kept in a locked filing cabinet, drawer or safe, with restricted access.

Confidential paper records will not be left unattended or in clear view anywhere with general access.

Digital data is coded, encrypted or password-protected, both on local hard drives and on a network drive that is regularly backed up off-site.

Memory sticks will not be used

All electronic devices are password-protected to protect the information on the device in case of theft.

Where possible, The Organisation enables electronic devices to allow the remote blocking or deletion of data in case of theft.

All necessary members of staff are provided with their own secure login and password

Emails containing sensitive or confidential information are password-protected if there are unsecure servers between the sender and the recipient.

Circular emails utilise professional online services so email addresses are not disclosed to other recipients.

Where personal information that could be considered private or confidential is taken off the premises, either in electronic or paper format, staff will take extra care to follow the same procedures for security, e.g. keeping devices under lock and key. The person taking the information from The Organisation premises accepts full responsibility for the security of the data.

Before sharing data, all staff members will ensure:

- They are allowed to share it.
- That adequate security is in place to protect it.
- Who will receive the data has been outlined in a privacy notice.

Under no circumstances are visitors allowed access to confidential or personal information. Visitors to areas of The Organisation containing sensitive information are supervised at all times.

The physical security of The Organisation's buildings and storage systems, and access to them, is reviewed on an annual basis. If an increased risk in vandalism/burglary/theft is identified, extra measures to secure data storage will be put in place.

Gatherwell takes its duties under the GDPR seriously and any unauthorised disclosure may result in disciplinary action.

The Data Protection Officer is responsible for continuity and recovery measures are in place to ensure the security of protected data.

## **20. Publication of information**

Gatherwell will not publish any personal information, including photos, on its website without the permission of the affected individual.

When uploading information to The Organisation website, staff are considerate of any metadata or deletions which could be accessed in documents and images on the site.

## **21. CCTV and photography**

The Organisation understands that recording images of identifiable individuals constitutes as processing personal information, so it is done in line with data protection principles.

The Organisation does not collect CCTV images.

The Organisation will always indicate its intentions for taking photographs of Players and will retrieve permission before publishing them.

If The Organisation wishes to use images/video footage of Players in a publication, such as The Organisation website, written permission will be sought

## **22. Data retention**

Data will not be kept for longer than is necessary.

Unrequired data will be deleted as soon as practicable.

Paper documents will be shredded or pulped, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.

## **23. DBS data**

All data provided by the DBS will be handled in line with data protection legislation; this includes electronic communication.

Data provided by the DBS will never be duplicated.

Any third parties who access DBS information will be made aware of the data protection legislation, as well as their responsibilities as a data handler.



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## **Terms & Conditions**

### Disclaimer

Lincoln Community Lottery is diligent in ensuring that the information posted on this website is the most accurate and reliable information available. However, we do not guarantee the accuracy of any information on or accessed through this website.

We cannot accept any liability for loss or damage including, without limitation, any direct, indirect or consequential loss or damage or other losses of whatsoever nature arising out of or relating to the use of this site or its contents.

Every effort is made to keep the website up and running smoothly. However Gatherwell Ltd takes no responsibility for, and will not be liable for, the website being temporarily unavailable due to technical issues beyond our control.

Through this website you are able to link to other websites which are not under the control of Gatherwell Ltd. We have no control over the nature, content and availability of those sites. The inclusion of any links does not necessarily imply a recommendation or endorse the views expressed within them.

It should be noted that Lincoln Community Lottery, as operated by Gatherwell Ltd is in no way associated with Camelot Group plc - the National Lottery (Lotto), The Health Lottery or Peoples Post Code Lotteries.

### Copyright Notices

No part of this website may be republished, reproduced, downloaded, displayed, distributed, posted, transmitted or sold in any form or by any means in whole or in part without prior permission from us. Users of this website may not reproduce or reuse, for any commercial purpose whatsoever, any aspect of the website content.

All graphics on this site are the property of Gatherwell Ltd and may not be copied or replicated in any way without prior consent.

### Playing Responsibly

Lincoln Community Lottery makes every effort to behave in a socially responsible manner. It is illegal for anyone under 16 to play Lincoln Community Lottery and we have measures in place to ensure we do everything in our power to control underage playing. Lincoln Community Lottery is an incentivised means of supporting good causes. However, before entering into any scheme which involves speculative spending, you are advised to remember the following:

- Don't think of gambling as a way to make money
- Only gamble with money you can afford to lose
- Set a money limit in advance
- Never chase your losses
- Don't gamble when you're depressed or upset
- Balance gambling with other activities

If you think you may have a problem with gambling, contact the National Gambling Helpline confidentially on [0808 8020 133](tel:08088020133). Alternatively, visit the website at <http://www.gambleaware.co.uk/>.

#### Self Exclusion Policy

We offer a Self Exclusion facility specifically for those customers for whom gambling has become a serious problem and who wish to restrict their gambling with Lincoln Community Lottery.

By entering into a Self Exclusion agreement with Lincoln Community Lottery you will be prevented from using your account for a minimum period of 6 months up to 5 years (with the option of extending this if you wish). We will close your account and return any outstanding funds held in your name.

During this period of self-exclusion Lincoln Community Lottery will not distribute any promotional emails and do all we can to prevent new accounts being opened. When the exclusion period ends we won't contact you to ask if you would like to reinstate your account.

In order to facilitate gambling again, after the exclusion period you will need to contact the support team on **Telephone TBC** to begin the process of unlocking your account. There will be a 24 hour cooling off period at the end of which your account will be unlocked.

If you wish to proceed with our Self Exclusion Agreement, then please contact the support team either by telephoning **Telephone TBC** or by emailing **Email TBC** confirming the following details:

- Your account number/ username and or email address
- Your Full Name
- Your Date Of Birth
- Please title your email – SELF EXCLUSION

If you think you may have a problem with gambling, contact the National Gambling Helpline confidentially on [0808 8020 133](tel:08088020133). Alternatively, visit the website at [http://www.gambleaware.co.uk](http://www.gambleaware.co.uk/). Software is available to prevent an individual computer from accessing gambling internet sites more information can be found [here](#)

#### How We Use Cookies

Cookies are very small text files that are stored on your computer when you visit some websites.

We use cookies to help identify your computer so we can tailor your user experience, track shopping basket contents and remember where you are in the order process.

You can disable any cookies already stored on your computer, but these may stop our website from functioning properly.

**The following is strictly necessary in the operation of our website.**

This website will:

- Remember that you are logged in and that your session is secure. You need to be logged in to complete an order.

The following are not strictly necessary, but are required to provide you with the best user experience and also to tell us which pages you find most interesting (anonymously).

### **Functional Cookies**

This Website Will:

- Track the pages you visit via Google Analytics.

This website will not:

- Share any personal information with third parties.

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## **Complaint Procedure**

Your feedback is important to us

At Lincoln Community Lottery, we always aim to provide the highest possible standards of service. If you feel at any time that the service you have received is below the expected level, then we would like to hear from you. Please find details of our complaints procedure below:

You can contact Lincoln Community Lottery directly via the following methods:

By email

### **Email Address TBC**

By post

Lincoln Community Lottery  
Gatherwell Ltd  
PO Box 888  
Oxford  
OX1 9PS

We aim to respond to all written complaints within five working days of receipt.

By phone

Please call us on: **Telephone Number TBC**

In the unlikely event that you feel your complaint has not been resolved to your satisfaction; you can request that it be escalated to a Senior Manager for review. We aim to respond to escalated complaints within 10 working days.

As a final stage, we offer a process of Alternative Dispute Resolution (ADR) through an independent arbiter. All costs associated to this process are paid for by Lincoln Community Lottery.

The nominated independent ADR is:

Independent Betting Adjudication Service  
PO Box 62639  
London  
EC3P 3AS

Lincoln Community Lottery is regulated by the Gambling Commission Licence Number XXX-XXXXXX-X-XXXXXX-XXX.

If you feel that we have not dealt with your complaint properly or that we have not followed our own published complaints procedure, you can complain to the Gambling Commission about our failure to operate a proper complaints process.

The Gambling Commission is a regulator and not a complaint handling body and they will not investigate the facts of your complaint, nor will they alter the decision that we have made in our internal complaints process. The Commission reviews whether we have adhered to the terms of our operating licence. It does not investigate consumer complaints, rule on prize disputes, pay compensation or provide legal advice.

The contact details of the Commission are as follows:

Consumer Protection  
Gambling Commission  
4th Floor  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Telephone: [0121 230 6666](tel:01212306666)

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

## **The Rules of Lincoln Community Lottery**

### 1. Introduction

1.1 Lincoln Community Lottery ("the Lottery") will be operated as a Local Authority Lottery under the Gambling Act 2005 as amended

1.2 The Lottery is promoted by City of Lincoln Council and conducted for the benefit of the good causes listed from time to time as participating good causes.

1.3 The Lottery is administered by Gatherwell Ltd, PO Box 888 Oxford OX1 9PS, acting for City of Lincoln Council as the participating Society.

1.4 Gatherwell Ltd is certified as an External Lottery Manager ("ELM") by the Gambling Commission (000-036893-R-317859-002)

### 2. Definitions

"Act" The Gambling Act 2005, as amended

"Lottery" Lincoln Community Lottery

"Draw" The process by which winners are selected

"Gatherwell" Gatherwell Ltd

"Member" An individual who has registered with the Lottery

"Rules" The rules of the Lottery as set out below and amended from time to time

"Chance" The entry into the Lottery

"Society" City of Lincoln Council which participate and promote the Lottery from time to time

"Promoter" The registered promoter of the lottery for City of Lincoln Council

"Game Number" The six digit number unique to each Member used to identify individual Chances which are entered into the Lottery

"Winning Number" The number as explained in Rule 9.1

### 3. Entry into the Lottery

3.1 The Lottery is promoted in accordance with the Act. In order to comply with the Act, during the purchase of Lottery Chances you will be required to confirm that:

(a) You are at least 16 years of age

(b) You are resident in Great Britain

(c) You will not buy or claim to buy lottery chances on behalf of any other person

3.2 If, upon winning any prize in the Lottery, you are not able to prove that you have met the criteria specified in Rules 3.1 (a), (b) and (c) above then you will not be entitled to receive that prize.

3.3 In order to comply with the Act, lottery chances that have been purchased are prohibited from being subsequently refunded.

3.4 By entering into the Lottery, you agree to be bound by the Rules, and applicable provisions of the Act and any relevant regulations made there under from time to time. The Society shall not be liable for any loss or damage (including loss of the opportunity to enter the Lottery and / or the right to receive a prize) suffered by you if you have not complied with the Rules. The Rules may be amended by Gatherwell from time to time, such changes to be notified to the Society within 7 days.

### 4. Registration with the Lottery

4.1 You can only enter the Lottery by registering with the Lottery via the completion of an application form which will be published in a variety of forms from time to time.

4.2 Registration will require you to provide the following information:

(a) Your name and address, so that we can write to you to confirm your entry into the lottery and contact you if you have won a prize.

(b) Confirmation that you are over 16 years of age, in order to ensure compliance with the Act.

(c) The number of Chances in the Lottery you wish to purchase

4.3 You will also be asked to provide the following information:

(a) Your date of birth

(b) Your e-mail address

4.4 You will also be required to provide information relating to the purchase of your Chances. Payment may be made via the following methods and the relevant information will vary depending upon the payment method.

(a) Direct Debit - Information required will include your bank or building society details together with an instruction to such bank or building society to make payments by Direct Debit

(b) Credit Card - Information required will include card number, expiry date and card security number

(c) Debit Card - Information required will include card number, expiry date and card security number

(d) Any other method made available by Gatherwell from time to time - The information required will depend upon the payment method

4.5 Gatherwell shall be entitled to take any steps necessary to verify the above information and to process your registration. Gatherwell may (in its absolute discretion) refuse to accept an application for an individual to become a Member of the Lottery.

4.6 Following registration Gatherwell will send you confirmation of your entry. If you have chosen to pay by Direct Debit you will receive an Advance Notification Letter.

4.7 It is your responsibility to ensure that the personal information you provide to us is accurate.

4.8 If you discover any error in your name, address or any other details provided to Gatherwell as part of your registration, when you receive your confirmation, then you must correct this by notifying Gatherwell in writing or by e-mail. Gatherwell will make any required corrections as soon as reasonably possible. Gatherwell shall not be liable for any loss or damage (including loss of the opportunity to enter the Lottery and / or the right to receive a prize) suffered by you until such correction has been made. Any correction notified to Gatherwell shall only become effective once the correction has been made.

4.9 Each Game Number is unique to you. When registering for tickets, you will have the choice of selecting a 6 digit number yourself or allowing a randomly generated number to be allocated to you. You may subsequently amend this Game Number, if you wish, at any time.

## 5. Payment

5.1 Payment for Chances may be made by the following methods:

(a) Direct Debit

(b) Credit Card

(c) Debit Card

(d) Any other method made available by Gatherwell from time to time

5.2 Payment for Chances are made directly to Gatherwell. Therefore:

(a) Direct Debit payments will be referenced as either Gatherwell or Lincoln Community Lottery on your bank statement.

(b) Any other method made available by Gatherwell from time to time would also be referenced as or be payable to Gatherwell or Lincoln Community Lottery on any appropriate documentation.

5.3 The price for each Chance is £1 or such other sum as Gatherwell may from time to time notify to you.

5.4 Your Chances and therefore associated Game Number(s) will not be entered into the Draw unless Gatherwell has received all amounts payable (cleared funds) relating to your Game Numbers relating to your Chances by 23:59 on the Friday of that week's draw. If there is a dispute regarding whether Chances have been paid for, then such dispute shall be resolved by reference to details included in official statements from the bank with which the Gatherwell's bank accounts operate.

5.5 Direct Debit payments will be entered into the first available draw 3 working days after the collection has been made from your bank account. You will be notified of your first draw date by email.

5.6 You may cancel your entry into the Lottery by notifying Gatherwell in writing or by e-mail (or via any other methods specified by Gatherwell from time to time). Upon receipt of this notice Gatherwell will;

(a) Cancel future Direct Debit payments as soon as is reasonably practicable.

(b) In accordance with the Act and as described in Rule 3.3 any payments made prior to such cancellation taking effect but which have not been used to pay for Chances in previous Draws will be used to pay for entry for your Chances into future Draws.

5.7 Gatherwell may cancel your entry into the Lottery (in its absolute discretion) at any time. Gatherwell will notify you accordingly as soon as reasonably practicable and will reimburse any amounts which have been paid but relate to future Draws. Other than the reimbursement of any such amounts, Gatherwell shall not be liable for any loss or damage (including loss of the opportunity to enter the Lottery and / or the right to receive a prize) suffered by you in relation to such cancellation.

## 6. Protection of customer funds

6.1 Gatherwell transfer customer funds within 14 working days of receipt into a separate client account on behalf of the societies we act for and these funds are transferred to the Society on a regular basis. All remote operators licensed by the Gambling Commission have an obligation to hold separate accounts for proceeds. This is to protect the player in the event of an insolvency incident. Gatherwell have assessed that they offer a 'Medium' rated level of protection as classified by the gambling commission <http://www.gamblingcommission.gov.uk/for-the-public/Your-rights/Protection-of-customer-funds.aspx>

## 7. Ticket Numbers

7.1 Ticket numbers can be chosen at the time of purchase, either by self-selection or by a "Choose for me" option where a random combination will be selected.

7.2 Ticket Numbers can be amended at any time, however for the avoidance of doubt ticket numbers amended after 23.59 on the Friday prior to a draw will not become effective until after the next draw has concluded.

## 8. Changes to Member Details

8.1 Any changes to your details as provided by you upon registration should be notified to Gatherwell in writing or by e-mail. Changes to the bank or building society specified during registration will require the completion of a new Direct Debit Instruction. Further information regarding this can be obtained from Gatherwell upon request.

## 9. Draws

9.1 The Draw process is based upon the results of the Australian National Lottery Super66 game, as published on the Lottery West website ([www.lotterywest.wa.gov.au](http://www.lotterywest.wa.gov.au)). The Winning Number for each weekly draw shall be the six digit number generated as follows:

(a) the Winning Number shall be the six digits (in the same order) of the Australian National Lottery Super66 draw which takes place on the Saturday night of the same week.

9.2 In order to comply with the Act only those Chances for which payment has been received are eligible for entry into the Draw.

9.3 In the event that the Super66 draw as described in Rule 9.1 does not occur or is declared void on a single occasion then the Winning Number shall be determined in the same way but from an alternative lottery game. Details of such an occurrence will be published on the Lottery website.

9.4 In the event that the Draw process in Rule 9.1 ceases to occur or is subject to fundamental change which prevents a Winning Number being selected then Gatherwell reserves the right to select an alternative Draw process. Such an alternative Draw process would be selected on the basis that the basic principles of the Draw as described in Rule 9.1 would continue and the basic principles of how winners would be selected would continue as described in Rule 10. Such changes will be published on the Lottery website.



9.5 Gatherwell and the Lottery are not related in any way to the Australian National Lottery, the National Lottery, Camelot Group PLC or any other organisation involved in the operation of the National Lottery.

9.6 The winning probabilities for prizes are as follows:

Number of matches	Matching patterns*	Odds
6	NNNNNN	1,000,000:1
5	NNNNNn or nNNNNN	55,556:1
4	NNNNnn or nnNNNN	5,556:1
3	NNNnnn or nnnNNN	556:1
2	NNnnnn or nnnnNN	56:1

\*N is a match, n is not. So NNNNNN is 6 matches and nnnnnn is no matches

## 10. Prizes

10.1 Prize winners will be determined by whether a Members Game Number relating to a Chance in the Lottery matches the Winning Numbers as described in Rules 9.1 and 9.6 dependent that the Chance relating to the Game Number in question complies with Rules 9.2.

10.2 Prizes are issued as follows:

Number Of Matches	Prize
6	£25,000
5	£2,000
4	£250
3	£25
2	3 extra tickets

10.3 The promoter reserves the right to amend the prize structure at any time. Any such changes will be published on the Lottery website at least one month prior to a change being made.

10.4 Each Game Number shall only be entitled to win one prize in one Draw. The prize won will relate to the highest value prize.

10.5 The results of each Draw will be published on the Lottery website within one week of the date of the draw and may also be published in any other manner determined by Gatherwell Ltd from time to time.

10.6 Winners will be notified by email within two weeks of the date of the draw. Such notification will include a link to claim the prize to the value of the prize won by the Member.

10.7 Gatherwell reserves the right to withhold the payment of any prize until it is entirely satisfied that the Member who has won the prize has fully complied with the Rules.

10.8 If, upon winning any prize in the Lottery, you are not able to prove that you have met the criteria specified in Rules 3.1 (a), (b) and (c) above then you will not be entitled to receive that prize.

10.9 There are no alternatives to the prizes offered from time to time and no interest is payable.

10.10 Any unclaimed prizes will be re-credited to the Gatherwell main account after a period of six months has elapsed.

## 11. Suspension of the Lottery

11.1 The promoter may (at its absolute discretion) suspend the Lottery for any period of time. During such period, Gatherwell shall:

(a) Suspend Direct Debit payments from your bank or building society account as soon as reasonably practicable, and;

(b) Retain any amounts which were paid prior to such suspension taking effect that have not been used to pay for chances in previous Draws.

You will be notified of further details regarding the resumption of the lottery or otherwise as soon as reasonably practicable after the date of suspension in writing.

## 12. Liability

12.1 Neither Gatherwell nor any of the Societies participating in the lottery from time to time shall be liable to you for any loss or damage suffered by you arising from:

(a) Any delays or failures in the postal service or other delivery methods used by Gatherwell or you from time to time.

(b) Any delays or failures in any systems used by Gatherwell or you to transmit e-mails.

(c) Any failure in any software or other systems used by Gatherwell for the administration of the Lottery.

(d) Any delays or failures in the banking system used by Gatherwell or you.

(e) Any refusal by Gatherwell to accept registration of an individual as a Member or the cancellation of a Member by Gatherwell.

(f) Any failure to enter your Chance into the Draw.

(g) Any event beyond the reasonable control of Gatherwell.

12.2 Neither Gatherwell nor any of the Societies participating in the lottery from time to time shall be liable to you in contract, tort, negligence or otherwise for any indirect or consequential loss suffered by you in relation to your participation in the Lottery (including loss of the opportunity to enter the Lottery and / or the chance of winning a prize).

### 13. Complaints

13.1 Please see our Complaint Procedure.

### 14. Privacy

14.1 Gatherwell is committed to protecting your privacy. Data that we collect from you is used lawfully in accordance with the Data Protection Act 1998 and is used solely for the purpose of processing your purchase of Lottery chances, subsequent entry into the Lottery, and informing you if you have won a prize.

14.2 You have the right to access the information we hold about you. To obtain this information, please contact Gatherwell in writing. You may be asked to provide proof of your identity prior to personal information being disclosed to you.

14.3 Gatherwell will not sell, rent or grant access to any of the personal data we collect about you to any third parties without your express prior permission.

14.4 We may share aggregated information to third parties. This will not contain personal information that can identify any individual person.

14.5 We may be obliged to disclose your personal information if required to do so by law, for example to statutory bodies such as the Gambling Commission or other government bodies.

15. Contact Address

15.1 All correspondence should be sent to the following address:

Lincoln Community Lottery

Gatherwell Ltd

PO Box 888

Oxford

OX1 9PS

<b>SUBJECT:</b>	<b>PRIVATE HOUSING HEALTH ASSISTANCE POLICY</b>
<b>DIRECTORATE:</b>	<b>COMMUNITIES AND ENVIRONMENT</b>
<b>REPORT AUTHOR:</b>	<b>SARA BOOTHRIGHT – ENVIRONMENTAL HEALTH &amp; CORPORATE SAFETY MANAGER</b>

## 1. Purpose of Report

- 1.1 To present the final draft Private Housing Health Assistance Policy 2018 – 2022 for consultation which is to supersede the Private Sector Housing Assistance Policy which was suspended by Executive in 2015.

## 2. Executive Summary

- 2.1 The Housing Assistance Policy was suspended by Executive in March 2015, this 'new' policy has been refocused with an emphasis on health and prevention and is to enable independent living, by supporting those whose independence may be at risk either due to their vulnerability and/or they are suffering a health condition which is made worse by the home they live in.

- 2.2 In April 2015 the Government made significant changes to the funding mechanism for disabled facilities grants by making the allocation part of the Better Care Fund (BCF); a pooled budget between the NHS and upper tier councils. The aim of the fund is to provide more joined-up and customer focused services to reduce hospital and care admissions and enable people to return from hospital more quickly. Home adaptations and essential repairs for disabled and vulnerable people support these requirements as they can:

- Enable independence at home
- Speed up hospital discharge/reduce readmission
- Prevent escalation of need e.g. accidents and falls
- Support maintenance of physical and mental well-being

- 2.3 The intention is that this policy will provide the platform whereby the Council can seek to support a timely and streamlined service which aims to prevent, reduce or delay the need for interventions by health and social care services, and support vulnerable individuals to remain safe and well in their own homes.

## 3. Background

- 3.1 The suitability of the home is integral to meeting the needs of our residents. A home which enables them to live independently or supports others to provide safe and effective care contributes to the promotion of physical and emotional health

and wellbeing and supports a full and active life.

- 3.2 Helping residents to make the right housing choices for their needs and providing support to make the home safe can help reduce hospital admissions or re-admissions, reduce reliance on care and support, improve wellbeing and help maintain independence in the home. One of the ways of doing this is by providing financial assistance to support those choices or adapt the homes of disabled and vulnerable people enabling them to live safely.
- 3.3 The policy explains how the Council will use its resources, where available, to assist residents in need of support to maintain independence in the home, reduce the need for support from social care and health services and/or prevent further deterioration in their conditions. The assistance may be in the form of a mandatory Disabled Facilities Grants or discretionary assistance, which enables the Council to deal with immediate health and safety concerns swiftly and appropriately.

#### **4. Main Body of Report**

- 4.1 The policy sets out how the City of Lincoln Council will for dwellings within its area exercise firstly its statutory duty for the provision of mandatory Disabled Facilities Grants under the provisions of the Housing Grants, Construction & Regeneration Act 1996 and secondly its discretion to provide flexible assistance to help improve living conditions as determined by the Council in adopting Article 3 of the Regulatory Reform Order (Housing Assistance) (England & Wales) Order 2002.

#### **4.2 Policy aims**

The aims of the Private Housing Health Assistance policy are as follows:-

- To provide advice, information and support on repair, maintenance and adaptation of properties across the City.
- To offer a health based framework of assistance to vulnerable groups & households, including those with a long term health condition.
- Whilst it is recognised that it is the home owner's responsibility to maintain their own properties the Council will target limited resources to those that are most vulnerable or have a health condition and are not able to maintain their own properties which could impact on their independent living.
- Private landlords will not be eligible for any grants under this policy. Landlords have a duty to maintain their properties free from hazards and the Council will exercise their enforcement powers as appropriate to ensure that safe and healthy standards are attained in the private rented sector. In certain circumstances the tenant maybe eligible to apply for a grant under this policy, this will be considered on a case by case basis.
- To contribute to the aims of the *Better Care Fund*, principally to reduce delayed transfers of care, minimise avoidable hospital admission and

facilitate early or timely discharge from hospital by tackling housing related matters.

- To facilitate an increase in the number of vulnerable households able to heat their homes at reasonable cost.
- To assist disabled people with adaptations to facilitate their movement in and around their home thereby improving their quality of life.
- In offering assistance the Council will promote relevant services offered by other organisations.
- To treat individuals fairly as required by the Equality Act 2010 and ensure that an individual's rights under Data Protection and human rights legislation are protected.

4.3 Types of Assistance to be provided Appendix 1 (page 12) of policy which summarises the schemes proposed in a table.

**Mandatory** – Disabled Facilities Grants (DFG's) the Council have always provided this as it is a statutory function.

**Discretionary** - By adopting Article 3 of the Regulatory Reform (Housing Assistance)(England & Wales) Order it firstly provides greatly flexibility to the Council to provide assistance schemes which help people meet their needs without firstly going through the full DFG process, which can be lengthy and complex, in particular removing the rigorous formal means testing element. Secondly, considering wider health determinants other than disability, which can be made worse by housing conditions, for example the Council may consider the health impacts of housing conditions on vulnerable owner occupiers and consider schemes to undertake minor repairs to make homes safe and healthy or other preventative schemes which stop or delay conditions becoming worse.

4.4 What is different

This policy unlike before has clear links to health and wellbeing of the person living in their home and the condition of their home. In order to 'fast-track' grants the means testing element has been reviewed and the council has widened the scope of schemes available under the discretionary grants.

#### 4.41 Review of the existing means test for lower value work

The contribution a disabled person has to make towards an adaptation is determined by a prescribed means test. This is based on what the Government considers a person needs to live on per week, the income of the disabled person and their partner, and how much they could raise in a loan from a commercial bank. The majority of grant applicants are elderly and would be unable to access

most commercial finance options. In addition, as the means test does not take account of actual living costs, those with high mortgage or rent payments will be hugely affected and unlikely to be able to raise the funding. As a result, many disabled people who are not necessarily “well off” have a large contribution to make or do not qualify for a disabled facilities grant (DFG). This leaves them at continued risk as they are unable to fund any works themselves.

The proposal is to remove the formal means testing from the majority of the Discretionary Schemes. Where previously the Council would have required the formal means testing applicants will be able to self certify to the following criteria.

*There will be no formal means testing. The following criteria will be applied:-*

*Less than £16,000 capital, savings and investments, then either for single income no more than £13,400 per annum, Couple with or without children and single with children then income for customer and partner combined of no more than £20,000 per annum*

*The applicant will self-declare income & saving levels.*

This will reduce the time taken to process applications and assist in early intervention to prevent hospital admission/reduce reliance on carers.

#### **4.42. Broadening the scope of work**

Mandatory disabled facilities grants only address the needs of a person in respect of their disability. There is an opportunity to use the Better Care Fund to support wider social care outcomes meaning that additional works can be funded that support independent living, hospital discharge and health and safety issues in homes where prevention is key.

The draft policy proposes the introduction of several new forms of financial assistance which align with this:

- Hospital Discharge Assistance - Prevent delayed transfers of care associated with housing disrepair or access issues
- Safe, Warm & Well - Minor essential repairs to make homes safe for vulnerable owner occupiers
- Dementia Aids and Adaptations - Enable people with a diagnosis of dementia to manage their surroundings and retain their independence.

4.5 The draft policy has been consulted with are main external partner Lincolnshire County Council Adult Care and Community Wellbeing.

## **5. Strategic Priorities**

### **5.1 Let's reduce inequality**

The introduction of the policy will enable the Council to consider applications for assistance from those who are either considered to be vulnerable and/or have a



health condition which can be made worse from the conditions within their home. The assistance will often be supporting those who are in receipt of low income.

## 5.2 Let's deliver quality housing

This policy aligns with the council's Vision 2020 of 'Let's Deliver Quality Housing' and embedded within the council's Housing Strategy outcomes to improve and increase provision of specialist accommodation, improve property conditions and promote and increase sustainable living in the City which are central to delivering the vision.

## 6. **Organisational Impacts**

### 6.1 Finance (including whole life costs where applicable)

The Central Government allocation for City of Lincoln in 2017/18 was initially £641,018 with a further top up of £62,000 in December 2017, this being a 114% on the amount received in 2016/17 which was £328,239. This increase is in recognition of the rising need for adaptations and to encourage a more joined up approach. The same level of initial funding will be forthcoming in 2018/19.

With the exception of mandatory Disabled Facilities Grants, all other the assistance which may be provided under this policy is at the discretion of the Council and will subject to the availability of financial resources and how those resources may be directed by the Council's strategic priorities. If demand for discretionary assistance exceeds the available budget the assistance will be suspended. In these instances the Council does not undertake to maintain a waiting list.

In addition to the BCF the Council will exploit all possible opportunities of internal and external funding schemes or to work with other providers to improve housing conditions for the residents of the city.

The Council will add a 15% fee to the value of each grant application that it processes, where technical services have been supplied to administer the grant.

### 6.2 Legal Implications including Procurement Rules

The provision of a Disabled Facilities Grant (DFGs) is regulated by the Housing Grants, Construction and Regeneration Act 1996. This places a statutory duty on the Council to provide grant assistance to qualifying disabled people to undertake a range of adaptations to their homes which are deemed "necessary and appropriate" to meet their needs and it is "reasonable and practicable" to undertake the adaptations having regard to the age and condition of the dwelling. The grant is subject to a means test (except in the case of children) and works must be eligible as defined by the Act and Regulations.

The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 ("the RRO") gives the council the power to provide assistance (either directly or indirectly) to any person for the purpose of improving living conditions in the City of Lincoln area provided this is given in accordance with a published policy.

Once the policy is approved by Executive this will have the effect of adopting Article 3 of the RRO, the Council must publish and include details of:

- a. The types of assistance the Council may make available
- b. The eligibility conditions for the assistance
- c. The amount of assistance available
- d. The conditions that will apply to the provision of the assistance
- e. The circumstances when repayment may be required

### 6.3 Human Resources

The implementation and delivery of the policy will be within existing Private Housing Team.

### 6.4 Equality, Diversity & Human Rights

An Equality Impact Assessment has been undertaken and is attached. There are positive impacts for age, disability as well as human rights, and no negative impacts for any protected characteristic.

### 6.5 Significant Community Impact

The Policy when adopted will influence the way the service is provided as outlined in the main body of the report. The policy will apply across all ward areas of the City.

## 7. Risk Implications

### 7.1 (i) Options Explored

- a) **To lift the suspension of the existing policy.** The current policy was adopted in 2007 and no longer fully reflects the corporate priorities. The staffing resources currently available to the Council would prevent the effective delivery of the assistance.
- b) **To refocus the scope and delivery of the policy.** The current suspended policy made provision for grant aid in the form of Decent Homes Grants which were universally available and placed a considerable financial expenditure of the Council. This provision of grant assistance whilst helped to improve the condition of housing within the city, there is now a need to focus on those occupiers who cannot maintain their own properties due a health condition or that they are vulnerable in relation to the hazard that has been identified within their home. The 'new' policy has a significant link to health and housing it has reduced the need for means testing for the lower value works and has widen the scope of assistance that can be provided.
- c) **To make no financial provision for assistance.** Section 3 Housing Act 2004 places a statutory duty on local housing authorities to keep the housing conditions in their area under review with a view to identifying any

action that may need to be taken by them under various powers including Article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002. To make no provision under the Order and to have a policy of “no assistance” could expose the Council to a challenge of not having fully considered its statutory duty.

- 7.2 (ii) The preferred approach is b) above. The key risks associated with this preferred approach are the availability of resources to implement and deliver the schemes.

The financial risk is that the level of funding via the Better Care Fund cannot be guaranteed year on year. This has been mitigated within the policy by ensuring that available funds will be target at the statutory DFG’s in the first instance and should demand for discretionary schemes outstrip the resources than the discretionary schemes will be suspended.

In order for the policy to be implemented and delivered it will require Private Housing Team not to be carrying vacancies for prolonged periods of time. Two of the three Housing Standards and Enforcement Officer posts are vacant, one since 2015 and once since September 2017, and the in post officer is due to retire on 6 April 2018. There have been difficulties recruiting to these posts due to the number and quality of applications. The post is now being reviewed and the pay evaluated which is believed will alleviate the recruitment difficulty, but it is not yet known if the Council will be able to fill all three posts.

## 8. Recommendation

- 8.1 It is recommended that this Committee endorses the Private Housing Health Assistance Policy 2018 – 2022 and refers the policy on to the Executive for approval.

**Is this a key decision?**

No

All key decisions require 28 days’ public notice. If in doubt, please check with Democratic Services.

**Do the exempt information categories apply?**

Yes/No

28 days’ public notice must be given to Democratic Services before any Executive meeting held in private. If in doubt, please check with Democratic Services. Please also see the exempt paragraph provisions detailed at the end of this template

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

Yes/No

Rule 15 will only apply in exceptional circumstances and requires the Monitoring Officer’s permission.

**How many appendices does the report contain?**

**List of Background Papers:**

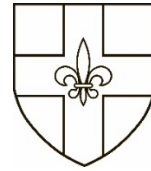
Private Housing Health Assistance Policy  
Equality Impact Assessment

Please note that any background papers must be provided to Democratic Services with your report for

publication. If in doubt as to the definition of a background paper, please contact Democratic Services.

**Lead Officer:**

Sara Boothright, Environmental Health & Corporate  
Safety Manager  
Telephone (01522) 873314



# Private Housing Health Assistance Policy 2018 – 2022

Draft for Consultation February 2018



Housing Grants, Construction & Regeneration Act 1996

The Regulatory Reform (Housing Assistance) (England & Wales) Order 2002

## **1.0 Policy Statement & Aims**

1.1 This policy aligns with the council's Vision 2020 of 'Let's Deliver Quality Housing' and embedded within the council's Housing Strategy outcomes to improve and increase provision of specialist accommodation, improve property conditions and promote and increase sustainable living in the City are central to delivering the vision.

1.2 The focus of the private housing health assistance policy is one of prevention and is to enable independent living, by supporting those whose independence may be at risk, to access housing (including their current home) which meets their needs.

This policy sets out how the City of Lincoln Council ("the Council") will for dwellings within its area exercise:-

- (i) its statutory duty for the provision of mandatory Disabled Facilities Grants under the provisions of the Housing Grants, Construction & Regeneration Act 1996
- (ii) its discretion to provide flexible assistance to help improve living conditions as determined by the Council in adopting Article 3 of the Regulatory Reform Order (Housing Assistance) (England & Wales) Order 2002.

With the exception of mandatory Disabled Facilities Grants, all other the assistance which may be provided under this policy is at the discretion of the Council and will subject to the availability of financial resources and how those resources may be directed by the Council's strategic priorities. Consideration will be given when the time has approached, when up to 75% of the available budget has been committed that the statutory demands for the grant monies will supersede discretionary grants. If demand for discretionary assistance exceeds the available budget this assistance will be suspended. In these instances the Council does not undertake to maintain a waiting list.

The Council may charge up to a 15% administration fee for any professional/technical services or charges incurred relating to the work for which the assistance is being sought e.g. obtaining proof of ownership, drawing of plans etc. This fee will be incorporated into the total assistance amount.

This policy will be reviewed every 4 years or sooner, as necessary to take into account changes to legislation, policies or strategies at local or national level.

1.3 The aims of the Private Housing Health Assistance policy are as follows:-

- To provide advice, information and support on repair, maintenance and adaptation of properties across the City.
- To offer a health based framework of assistance to vulnerable groups & households, including those with a long term health condition.
- Whilst it is recognised that it is the home owner's responsibility to maintain their own properties the Council will target limited resources to those that

are most vulnerable or have a health condition and are not able to maintain their own properties which could impact on their independent living.

- Private landlords will not be eligible for any grants under this policy. Landlords have a duty to maintain their properties free from hazards and the Council will exercise their enforcement powers as appropriate to ensure that safe and healthy standards are attained in the private rented sector. In certain circumstances the tenant maybe eligible to apply for a grant under this policy, this will be considered on a case by case basis.
- To contribute to the aims of the *Better Care Fund*, principally to reduce delayed transfers of care, minimise avoidable hospital admission and facilitate early or timely discharge from hospital by tackling housing related matters.
- To facilitate an increase in the number of vulnerable households able to heat their homes at reasonable cost.
- To assist disabled people with adaptations to facilitate their movement in and around their home thereby improving their quality of life.
- In offering assistance the Council will promote relevant services offered by other organisations.
- To treat individuals fairly as required by the Equality Act 2010 and ensure that an individual's rights under Data Protection and human rights legislation are protected.

## **2.0 Introduction**

The suitability of the home is integral to meeting the needs of our residents. A home which enables them to live independently or supports others to provide safe and effective care contributes to the promotion of physical and emotional health and wellbeing and supports a full and active life.

Helping residents to make the right housing choices for their needs and providing support to make the home safe can help reduce hospital admissions or re-admissions, reduce reliance on care and support, improve wellbeing and help maintain independence in the home. One of the ways of doing this is by providing financial assistance to support those choices or adapt the homes of disabled and vulnerable people enabling them to live safely.

This policy explains how the Council will use its resources, where available, to assist residents in need of support to maintain independence in the home, reduce the need for support from social care and health services and/or prevent further deterioration in

their conditions. The assistance may be in the form of a mandatory Disabled Facilities Grants or discretionary assistance, which enables the Council to deal with immediate health and safety concerns swiftly and appropriately.

### **3.0 Legal Framework**

The provision of a Disabled Facilities Grant (DFGs) is regulated by the Housing Grants, Construction and Regeneration Act 1996. This places a statutory duty on the Council to provide grant assistance to qualifying disabled people to undertake a range of adaptations to their homes which are deemed “necessary and appropriate” to meet their needs and it is “reasonable and practicable” to undertake the adaptations having regard to the age and condition of the dwelling. The grant is subject to a means test (except in the case of children) and works must be eligible as defined by the Act and Regulations.

The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (“the RRO”) gives the council the power to provide assistance (either directly or indirectly) to any person for the purpose of improving living conditions in the City of Lincoln area provided this is given in accordance with a published policy.

In accordance with the RRO, this policy has been adopted by the Council and includes details of:

- a. The types of assistance the Council may make available
- b. The eligibility conditions for the assistance
- c. The amount of assistance available
- d. The conditions that will apply to the provision of the assistance
- e. The circumstances when repayment may be required

### **4.0 National Strategic Context**

In April 2015 the Government made significant changes to the funding mechanism for disabled facilities grants by making the allocation part of the Better Care Fund (BCF); a pooled budget between the NHS and upper tier councils. The aim of the fund is to provide more joined-up and customer focused services to reduce hospital and care admissions and enable people to return from hospital more quickly.

The Care Act 2014 established a requirement that a needs assessment must be carried out where it appears to the social care authority that a person for whom they may provide or arrange community care services, may be in need of such services. The associated guidance states that the care and support system must actively promote



wellbeing and independence and aim to prevent need, not just wait to respond when people reach a crisis point.

Aligned to this, the NHS 5 Year Forward View (2014) noted that a key condition for transformation across local health economies is a strong primary and out-of-hospital care system, with well-developed planning about how to provide care in people's own homes, with a focus on prevention, promoting independence and support to stay well.

Home adaptations and essential repairs for disabled and vulnerable people support these requirements as they can:

- Enable independence at home
- Speed up hospital discharge/reduce readmission
- Prevent escalation of need e.g. accidents and falls
- Support maintenance of physical and mental well-being

It is clear that home adaptations can contribute to meeting a range of Public Health, NHS and Social Care outcomes. While the housing law relating to the provision of grants for disabled adaptations has not changed, there is scope for local innovation in delivery and opportunities to consider how home adaptations can better support housing, health and social care to achieve improved health and wellbeing outcomes for those with care and support needs.

## **5.0 National and Local Evidence**

- 5.1 Around 30% of people older than 65, and 50% of people older than 80, will fall at least once a year. Up to a quarter of people who fall will sustain a serious injury” - “Falls: assessment and prevention of falls in older people” - June 2013 - National Institute for Health and Care Excellence (NICE).

In Lincolnshire the population aged over 65 is likely to double by 2037, which would mean nearly 22,000 people could sustain a serious injury as a result of a fall. The human cost of falling includes distress, pain, injury, loss of confidence, loss of independence and mortality. Falling also affects family members and carers. The NICE guidance from June 2013 also tells us that falls are estimated to cost health and social care organisations more than £23.3 billion per year.

In addition, falls are one of the major reasons for people to move from their own home to residential care, again increasing social care costs and impacting on independence. The overall effect of increasing personal wellbeing, preventing accidents and reducing strain on carers means that the cost savings to health and social care of preventing falls are potentially extremely high. A package of relatively low cost adaptations could reduce falls and may delay hospital admissions.

Many chronic health conditions experienced by people, particularly older people, have a causal link to, or are exacerbated by poor housing. Frail and older people experience

poorer physical and mental health and higher risk of mortality, while babies and young children have an increased risk of respiratory problems. The BRE 'Cost of poor housing briefing paper' 2015 estimated that the annual cost to the NHS of treating disease due to cold private housing to be over £850 million. This does not include additional spending by social services, or economic losses through absences from work. Health risks associated with cold homes include; increased respiratory illness, worsening of asthma, chronic obstructive pulmonary disease, worsening of arthritis, increased blood pressure and risk of heart attacks and stroke. A cold home also increases the risk of falls and accidents as strength and dexterity decreases at lower temperatures. Making homes weather safe, wind and weather proof, alongside ensuring suitable indoor temperatures can be maintained could reduce symptoms or instances of illness.

5.2 Locally the condition of the private housing sector presents a number of challenges and the recent BRE Integrated Dwelling Level Housing Stock Modelling and Database for City of Lincoln Council (updated September 2017) provided the following:-

#### Headline results for Lincoln

- There are 45,869 dwellings in Lincoln, 49% are owner occupied, 32% private rented and 19% social rented.
- 5,515 dwellings in the private sector have category 1 Housing Health and Safety Rating System (HHSRS) hazards. This equates to 15% of properties.
- 2,726 dwellings in the private rented sector have category 1 HHSRS hazards. This equates to 18% of properties in the private rented sector.
- The highest concentrations of all HHSRS hazards in the private sector are found in the wards of Park, Carholme and Abbey.
- The highest concentrations of fuel poverty (Low Income High Costs definition) in the private sector are found in the wards of Park, Abbey and Castle and for excess cold the highest concentrations are in Park, Boultham and Carholme.
- The average Simple SAP rating for all private sector dwellings in Lincoln is 61, which is better than both England (60) and East Midlands (58).
- The total cost of mitigating category 1 hazards in Lincoln's private sector stock is estimated to be £12.6 million – with £6.4 million in the owner occupied sector, and £6.2 million in the private rented sector.
- 3.2% (1,180) of *private sector* dwellings and 4.1% (613) of *private rented* dwellings in Lincoln are estimated to have an EPC rating below band E.

## **6.0 Financing the Policy**

The Better Care Fund (BCF) is managed by Lincolnshire County Council. The Council receives a grant annually to provide housing solutions so that residents of the city can manage their own health and wellbeing, and live independently in their communities for as long as possible. The mandatory DFG's will have priority on the BCF monies. In addition to the BCF the Council will exploit all possible opportunities of internal and external funding schemes or to work with other providers to improve housing conditions for the residents of the city.

## **7.0 Types of Assistance**

### **7.1 Mandatory – Disabled Facilities Grants (DFG's)**

The Council will continue to provide assistance to those who qualify for a DFG as laid down in legislation. The adaptations funded will be considered as being the most appropriate, reasonable and cost effective way of meeting the assessed needs of the disabled person up to the maximum grant of £30,000.

Where the applicant/disabled person wishes to carry out works to the property which are over and above those assessed by the Occupational Therapist (OT), and the alternative works are defined by the Council as reasonable and practicable and will meet the assessed needs of the disabled person, the Council may offer financial assistance up to the value of the assessed need.

### **7.2 Discretionary – Housing Assistance Grants (HAG's)**

By adopting Article 3 of the RRO it provides greatly flexibility to the Council to provide assistance schemes which help people meet their needs without firstly going through the full DFG process, which can be lengthy and complex. We will for example, provide 'fast track' schemes for adaptations £10,000 or less, which do not require a formal means testing. The proviso to this, is that an application through the above mandatory DFG route is available to the individual if they request it.

Or secondly, considering wider health determinants other than disability, which can be made worse by housing conditions, for example we may consider the health impacts of housing conditions on vulnerable owner occupiers and consider schemes to undertake minor repairs to make homes safe and healthy or other preventative schemes which stop or delay conditions becoming worse.

The provision of assistance other than Mandatory Disabled Facilities Grants is subject to the availability of funding. An assessment of each case will be carried out to ensure that the right option for the household is being considered. This may include information about entitlement to benefits, third party funding options e.g. charities, energy efficiency and signposting to other services and agencies.

**APPENDIX 1 – INDIVIDUAL SCHEME DETAILS** – provides the range of mandatory and discretionary assistance that may be available. Appendix 1 to this policy will be updated as new schemes are agreed or existing schemes are removed.

## **8.0 Eligibility Criteria and Conditions**

- 8.1 In this policy the term “assistance” means any form of financial assistance approved for the purpose of housing renewal, maintenance, improvement or adaptation. “Condition” means any condition attached to any such assistance. Any reference to “owner” or “person responsible” is taken to mean any owner or other person who is responsible for the relevant conditions either singly or jointly. This includes the original person who applied for or received the assistance, as well as any other person who has subsequently become responsible for any condition as a result of acquiring the property or an interest in it.
- 8.2 The specific criteria for each form of assistance are detailed in appendix 1. However, the following conditions will apply in all cases:
- a. Where stated, any financial assistance and related conditions will be secured as a legal charge against the property. A breach of conditions requires the repayment of all or part of the assistance. This charge will not be removed until either the conditions expire or until the assistance is re-paid together with any interest or additional charges that may apply. The Council may demand that any grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such a reasonable rate as the Council may determine, but generally within a twelve months.
  - b. A charge against the property is binding on any person who is at the time being an owner of the premises concerned. Where a condition is broken, the Council has the usual powers and remedies in law to enforce the charge and secure payment of any amount due.
  - c. Where any condition is in force, the Council may require the responsible person to provide any information to satisfy the Council that the condition is being complied with. The Council can require this information in writing or in other reasonable form. It is a condition that this information is provided in the form required within a reasonable timescale as specified by the Council and as fully, accurately and honestly as reasonably practicable. Failure to comply with this requirement is a breach of conditions in itself and the assistance, or part of the assistance where specified, must be re-paid to the Council.
  - d. It is for the person responsible for complying with any condition to demonstrate to the Council’s satisfaction that the condition is being complied with. Failure to do so will be treated as failure to comply with the condition. The Council does not have the burden of having to prove that the condition is not being complied with.

- e. Conditions will be enforced in all cases, unless there is accepted exceptional circumstances which will be considered on a case by case basis. Money repaid or recovered will be recycled back into the private housing health assistance programme.
- f. The approval of assistance does not give or imply the Council's approval of any other consent that may be required, such as planning permission or building regulation consent. It is the responsibility of the applicant to obtain any such consent as may be required.

8.3 Any person making an application for assistance must:

- a. Be over the age of 18 years on the date of application
- b. Live in the dwelling which is subject to the application as their sole main residence
- c. Live within the City of Lincoln.

8.4 Persons will not be eligible for assistance in the following circumstances:

- a. Where ownership of the dwelling is disputed
- b. Where the owner of the property has a statutory duty to undertake the necessary works to the dwelling and it is reasonable for them to do so.
- c. Where the proposed works would normally be covered by buildings insurance. If before a grant is approved it is found that the applicant has submitted an insurance claim, the insurance company will be asked to confirm in writing the extent of the claim and their liability, if any. The value of any housing assistance will be reduced by the amount equivalent to the insurance company's liability.
- d. Where works have started before the formal approval of an application, except where in exceptional circumstances a defect may present a serious risk to health and safety.
- e. Where the proposed works are to repair any shed or outbuildings.
- f. Incomplete applications or applications lacking sufficient information will be refused.

8.5 All cases will be considered on a case by case basis. Incomplete applications or applications lacking sufficient information will be refused.

8.6 Enquiries about how the policy is operated should be referred to the Private Housing Team Leader in the first instance. Appeals must be made in writing and detail the specific grounds on which the appeal is based, the relevant Assistant Director will make the final decision.

## **9.0 Making an Application and Payment of Assistance**

Applications must be made in writing on the appropriate form and must include original documentation where requested. An application will only be considered complete once all of the relevant documentation has been provided.

The Council may charge up to a 15% administration fee for any professional/technical services or charges incurred relating to the work for which the assistance is being sought e.g. obtaining proof of ownership, drawing of plans etc. This fee will be incorporated into the total assistance amount.

The Council will make arrangements for contractors to undertake works, however, the contract agreement is between the applicant and contractor; the Council will not be liable for disputes arising between the parties. If the applicant elects to use their own contractor they must submit at least 2 written quotations from different contractors. The Council will evaluate each of the quotations taking into account price, quality and timescales for delivery to advise the applicant which contractor is preferred.

For larger and more complex grant applications such as, extensions, the Council may appoint an agent to manage the grant works, this is at the discretion of the Council. Having exercised this discretion the applicant will have to engage directly with the agent in order to complete the grant works.

In the event of any disputes between the applicant and the contractor the Council will help to resolve these, unless an agent has been appointed, in which case the agent will help to resolve these. However should this not be possible it may be necessary for the applicant to seek legal advice to remedy any dispute.

The Council will arrange for grant payments to be made directly to contractors upon completion of works.

## **10.0 Maintenance and Repair**

The quality of work undertaken by contractors appointed by the Council is guaranteed for a period of 12 months. Some of the individual items may have their own extended warranties that are provided by the manufacturer. It is the applicant's responsibility to ensure that they adhere to all conditions of a warranty and/or servicing. Any extended warranties are applied for in accordance with the manufacturer's guarantee. Copies of guarantees/warranties will be provided to the applicant after completion of the works.

The Council is not responsible for the ongoing maintenance or repair of any items.

### **11.0 Repayment where applicant not entitled to grant**

Where an application for a grant is approved but it subsequently appears to the Council that the applicant was not, at the time the application was approved, entitled to a grant of that description, the Council may demand that any grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Council may determine, but generally within a twelve months.

### **12.0 Data Protection**

All data will be held in accordance with the Data Protection Act 1998 and the General Data Protection Regulation (EU) 2016/679 (GDPR).

The Council may investigate or formally verify any of the information provided in connection with any application for assistance.

In order to progress an application it may be necessary to share information provided with internally with other services or other organisations that may assist with the grant process. These may include:

- City of Lincoln Council – Revenues & Benefits, Planning & Building Control
- Lincolnshire County Council – Adult Social Care or Children’s Services
- Lincolnshire Home Independence Agency or other Agencies appointed by applicants
- Relevant Government Departments

The Council is under a duty to protect public funds and may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.

The above information will need to be communicated with applicants at the time their personal information is obtained in the form of a Privacy Notice. This is necessary to comply with individual’s ‘Right to be Informed’ in accordance with GDPR.

Safeguards will ensure the security of the data and will comply with Article (1) (f) of the GDPR.

## APPENDIX 1 – Individual Scheme Details - February 2018

Table 1 – Summary of Scheme

Type of assistance	Means Test	Local Land Charge	Mandatory/ Discretionary	Key Outcome	Max. Funding
Disabled Facilities Grant (DFG)	Y	Y	Mandatory	Adaptations to enable independent living	£30,000
DFG top-up	Y	Y	Discretionary	Top up of mandatory DFG which exceeds grant limit	£10,000
Disabled Adaptation Assistance Fast – track adaptations	N	Y	Discretionary	Minor adaptations for those eligible for a DFG without means testing	£10,000
Moving on Assistance	Y	Y	Discretionary	Financial assistance to move to more suitable accommodation	£10,000
Hospital Discharge Assistance	N	Y	Discretionary	Prevent delayed transfers of care associated with housing disrepair or access issues	£10,000
Safe, Warm and Well	Y	Y	Discretionary	Minor essential repairs to make homes safe for vulnerable owner occupiers	£10,000
Gas Central Heating Scheme	Y	N	Discretionary	To provide a gas central heating system of suitable design and installation for owner occupiers who are either vulnerable or suffer a health condition exacerbated by cold.	£8,000
Emergency Housing Grant Scheme (Winter)	Y	N	Discretionary	To enable owner occupiers to manage the immediate repairs which are giving rise to conditions which directly impact upon health.	£2,000



Type of assistance	Means Test	Local Land Charge	Mandatory/ Discretionary	Key Outcome	Max. Funding
Dementia Aids and Adaptations	N	N	Discretionary	Enable people with a diagnosis of dementia to manage their surroundings and retain their independence.	£750
Sanctuary Scheme	N	N	Discretionary	This assistance will provide an occupier who are at risk of domestic abuse to improve the security arrangements of their home.	£400

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# 1. Mandatory Disabled Facilities Grants

**Purpose:** Local housing authorities have a statutory duty to provide grant aid to disabled people to undertake a range of adaptations to their homes.

Mandatory disabled facilities grants will be administered in accordance with the provisions of the Housing Grants, Construction and Regeneration Act 1996. The following provides a summary of these provisions, but should be read in conjunction with the full Act.

**Maximum amount:** The maximum amount is £30,000.

**Applicant eligibility:** All applicants must be eligible under the Act. Applications must be supported by a recommendation from an Occupational Therapist confirming that the person is disabled for the purposes of the Act and that the proposed works are necessary and appropriate to meet the needs of the disabled person.

**Eligible works:** The relevant works must be necessary and appropriate to meet the needs of the disabled occupant and it must be reasonable and practicable to carry out the works having regard to the age and condition of the property. The purposes for which a grant must be given are detailed in section 23 of the Housing Grants Construction and Regeneration Act 1996. Any associated fees e.g. technical surveys, obtaining proof of title etc. will be included in the total assistance amount.

**Financial assessment:** The grant is subject to a formal means test in accordance with the Housing Renewal Grants Regulations 1996, to determine the customer's contribution towards the cost of the works. The maximum grant including any contribution must not exceed £30,000.

**Application:** Applications must be made on the relevant form and supported by a referral from an Occupational Therapist. The Council will consult the Social Services Authority on all applications.

Applications may be made by owner occupiers, private tenants and Registered Providers of Social Housing (excluding City of Lincoln Council Tenants – who may be eligible separately for an aids and adaptations works via the Council as their landlord). In the case of tenants, the landlord may make an application on their behalf.

The Council will normally appoint a contractor, however, where the applicant chooses to use their own contractor, a minimum of two estimates must be submitted with the application.

Works must not commence until formal approval of the grant has been received by the applicant.

Payment:

Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices. In some instances payments may be made in instalments and the balance (no less than 10% of the total cost of the eligible works) paid on satisfactory completion.

The applicant must agree and sign that they are satisfied with the quality of the work prior to payment. If the applicant refuses, the Council will inspect the work and if it believes it is of sufficiently good standard the payment will be made.

Conditions:

Written consent from owner(s) of property must be obtained prior to works commencing.

The Council may remove items of equipment e.g. modular ramps and stair lifts from the property for re-use when they are no longer required by the disabled person. This will be considered on a case by case basis dependent on the age and condition of the item. Where the items are not considered appropriate for re-use it will be the responsibility of the householder/property owner to remove any items at their own cost.

Where the Council provides funding in excess of £5,000 that creates additional living space e.g. an extension or conversion of a garage or outbuilding, and where the applicant has an owner's interest in the property, this will be registered as a local land charge against the adapted property, subject to a maximum of £10,000. If the property is disposed of within 10 years of the completion of the works (as determined by the Council), re-payment of the amount will be required.

The Council will not pay for any additional works carried out without prior approval.

All works must be completed within 12 months of approval.

## 2. Top Up of Mandatory Disabled Facilities Grant

**Purpose:** To provide discretionary financial assistance to a disabled person who qualifies for a mandatory disabled facilities grant where the cost of the eligible works exceeds the mandatory grant maximum of £30,000.

**Maximum amount:** The maximum top up is £10,000.

**Applicant eligibility:** Applicants must have an owner's interest in the property and the disabled person (if different) must qualify for a mandatory disabled facilities grant where the value of the eligible works (including the client contribution and any fees if applicable) exceeds the mandatory grant maximum. However, Applicants who are in receipt of the discretionary 'Moving on assistance' grant will not be eligible for this grant.

**Eligible works:** Works funded by the top up must be eligible works which are necessary and appropriate to meet the disabled person's needs as defined by the Housing Grants Construction and Regeneration Act 1996.

**Financial assessment:** The top up will be subject to a formal means test using the prescribed test of resources applicable to mandatory disabled facilities grants. Where the disabled person is a child, the parents/guardians will be means tested.

**Applications:** Applications will be considered alongside an application for a mandatory disabled facilities grant.

**Payment:** The discretionary top up will be paid as an additional amount to the mandatory disabled facilities grant under the same payment conditions.

**Conditions:** The amount of the discretionary top up will be secured by attaching a local land charge on the adapted property. If the property is disposed of within 10 years of the completion of the works (as determined by the Council), re-payment of the amount will be required.

Works must not commence until formal approval of the discretionary assistance and mandatory grant have been received by the applicant.

### 3. Discretionary Disabled Adaptations Assistance

- Purpose:** To provide discretionary financial assistance for disabled occupants who do not have the financial resources to pay for necessary adaptations to help support them to remain independent in their home. The discretionary assistance will fund minor works for those eligible for a mandatory disabled facilities grant.
- Maximum amount:** The maximum amount of assistance is £10,000.
- Applicant eligibility:** The disabled occupant must be eligible under the provisions of the Housing Grants Construction and Regeneration Act 1996. Applications must be supported by a referral from a Lincolnshire County Council Occupational Therapist.
- Eligible works:** The relevant works must be necessary and appropriate to meet the needs of the disabled occupant and it must be reasonable and practicable to carry out the works having regard to the age and condition of the property. The purposes for which a grant may be given are those detailed in section 23 of the Housing Grants Construction and Regeneration Act 1996. Any associated fees e.g. technical surveys, obtaining proof of title etc. will be included in the total assistance amount.
- Financial assessment:** There will be no formal means testing. The following criteria will be applied:-
- Less than £16,000 capital, savings and investments
  - Then either for single income no more than £13,400 per annum
  - Couple with or without children and single with children then income for customer and partner combined of no more than £20,000 per annum
- The applicant will self-declare income & saving levels.
- Payment:** Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices. The applicant must agree and sign that they are satisfied with the quality of the work prior to payment. If the applicant refuses, the Council will inspect the

work and if it believes it is of sufficiently good standard the payment will be made.

Conditions:

Written consent from owner(s) of property must be obtained prior to works commencing.

The applicant will self-declare income & saving levels.

The Council may remove items of equipment e.g. modular ramps and stair lifts from the property when they are no longer required by the disabled person for re-use. This will be considered on a case by case basis dependent on the age and condition of the item. Where the items are not considered appropriate for re-use it will be the responsibility of the householder/property owner to remove any such items at their own cost.

Only one application for discretionary assistance will be considered in any 12 month period (taken from date of approval).

Where the applicant has an owner's interest in the property, the amount of the discretionary funding will be secured by attaching a local land charge on the adapted property. If the property is disposed of within 10 years of the completion of the works (as determined by the Council), repayment of the amount will be required. This will be reduced by 10% for each complete year.

The Council will not pay for any additional works carried out without prior approval.

Where the discretionary funding is no longer available, applications will be considered under the provisions of a mandatory disabled facilities grant.

## 4. Moving on Assistance

- Purpose:** This discretionary assistance enables disabled people who would be eligible for a mandatory disabled facilities grant to move to more suitable accommodation, where it is considered more appropriate than providing funding through a mandatory disabled facilities grant to adapt their existing home.
- Maximum amount:** The maximum amount is £10,000 and may be used in conjunction with a mandatory disabled facilities grant to undertake eligible works to the new property.
- Applicant eligibility:** Any disabled person who would be eligible for adaptation works under a mandatory disabled facilities grant
- Qualifying criteria:** A referral for adaptation of the existing property must have been received from an Occupational Therapist.
- In the Council's opinion, the existing property must be unsuitable for adaptation, in that it is not reasonably and practicably capable of being adapted to meet the needs of the disabled person.
- The applicant must have or propose to have an owner's interest in new property. The existing and new properties must be within City of Lincoln Council's area, and be the permanent, main residence of the disabled occupant.
- In the opinion of the Council and in conjunction with the Occupational Therapist, the new property must be considered suitable for the needs of the disabled person or must be reasonably and practicably capable of being adapted to meet the needs of the disabled person.
- The assistance can be used for the following eligible costs:
- Legal and ancillary fees
  - Estate agent fees
  - Removal costs
- Financial assessment:** The assistance is subject to the prescribed test of resources applicable to mandatory disabled facilities grants. Where the disabled person is a child, the parents/legal guardians will be means tested.

Payment: Payment will be made to the applicant's solicitor on exchange of contract so that funding is available for completion. Evidence of the fees will be required prior to payment.

Conditions: This discretionary assistance may only be awarded once.

Where an award has been made under this policy and prior to the exchange of contracts and the disabled person is no longer able to relocate to the new property e.g. they have moved into permanent care or deceased, the Council may decide to pay all, some or none of the assistance.

The amount of the discretionary funding will be secured by attaching a local land charge on the new property. If the property is disposed of within 10 years of the completion of the purchase (as determined by the Council), re-payment of the amount will be required.

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## 5. Hospital Discharge Assistance

- Purpose:** This assistance is for people in hospital whose discharge is delayed due to the condition of their home. The assistance may fund urgent adaptations that allow access in and around the person's home by providing stair lifts or ramps. Other minor works which are needed to facilitate their discharge from hospital will also be considered e.g. one off clearance of hoarded properties and works to heating systems.
- Maximum amount:** The maximum grant is £10,000
- Applicant eligibility:** The applicant must be in hospital and their discharge delayed.
- The application must be accompanied by a referral from a hospital Occupational Therapist or other suitably qualified professional confirming the urgent works that are required to the home to enable discharge.
- The property subject to the application must normally be occupied by the applicant on a permanent basis.
- Eligible works:** Eligible works can include, but not exclusively and works will be determined on a case by case basis which will facilitate the hospital discharge:
- Stair lifts
  - Ramps and door widening to the essential doorways
  - Heating repairs or improvements
  - Clearance and one off deep clean of hoarded goods
- Financial assessment:** This assistance is not subject to a means test.
- Payment:** The Council will appoint contractors to undertake the work and will pay them directly on production of satisfactory invoices. The applicant must agree and sign that they are satisfied with the quality of the work prior to payment. If the applicant refuses, the Council will inspect the work and if it believes it is of sufficiently good standard the payment will be made.

Conditions: Written consent from owner(s) of property should be obtained prior to works commencing, however if no structural works are being undertaken this will not be necessary, e.g. cleaning a property.

If the cost of the works exceeds the maximum financial assistance the Council will liaise with the Occupational Therapist and/or relevant professionals to determine the priority works.

The Council will not pay for any additional works carried out without prior approval.

Where the applicant has an owner's interest in the property, the amount of the discretionary funding will be secured by attaching a local land charge on the adapted property. If the property is disposed of within 10 years of the completion of the works (as determined by the Council), repayment of the amount will be required. This will be reduced by 10% for each complete year.

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## 6. Safe, Warm and Well

**Purpose:** This assistance is for owner occupiers over the age of 65, or those with chronic or severe health conditions affected by poor housing conditions who need to undertake essential repairs to their home in order to remain safe and healthy.

**Maximum amount:** The maximum amount is £10,000.

**Applicant eligibility:** The applicant must be an owner occupier or private tenant with a full repairing responsibility.

The applicant or a family member living with them must be an occupier over the age of 65 or have a chronic or severe condition exacerbated by the cold or poor housing conditions. Evidence of the condition will be required e.g. letter/referral from a General Practitioner or other relevant health professional. Examples of relevant conditions include:

- Arthritis (osteo and rheumatoid, requiring regular treatment and review)
- Cardiovascular disease (for example heart disease or stroke)
- Respiratory disease (for example chronic bronchitis, severe asthma, emphysema or chronic obstructive pulmonary disease)

**Eligible works:** Essential repairs are determined as a Category 1 (serious) or significant Category 2 (other) hazards as determined by the Housing Act 2004, which affects the ability of the property to be safe, wind and weather proof. Examples of works may include:

- Heating repairs or replacement
- Works to prevent falls
- Roof repairs

Any associated fees e.g. technical surveys, obtaining proof of title etc. will be included in the total assistance amount.

All properties will be subject to inspection and assessment by the Council or its agent.

**Financial assessment:** There will be no formal means testing. The following criteria will be applied:-  
Less than £16,000 capital, savings and investments

Then either for single income no more than £13,400 per annum

Couple with or without children and single with children then income for customer and partner combined of no more than £20,000 per annum

The applicant will self-declare income & saving levels.

**Payment:** The Council will appoint a contractor to undertake the eligible works. Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices. The applicant must agree and sign that they are satisfied with the quality of the work prior to payment. If the applicant refuses, the Council will inspect the work and if it believes it is of sufficiently good standard the payment will be made.

**Conditions:** The applicant must have lived in the property for a minimum of 12 months as their main residence. Written consent from owner(s) of property must be obtained prior to works commencing.

The applicant will self-declare income & saving levels.

Only one application for assistance will be considered within any 3 year period (further applications may be considered at the discretion of the Service Manager, Environmental Health in exceptional circumstances).

The Council will not consider applications in respect of dwellings which have been built or converted less than 10 years from the date of application.

Where works beyond the maximum assistance value are identified, the assistance will be prioritised based upon the hazard score and circumstances of the applicant. Works must be reasonable and practicable having regard to the age and condition of the property.

The amount of the discretionary funding will be secured by attaching a local land charge on the new property. If the property is disposed of within 10 years of the completion of the works (as determined by the Council), re-payment of the amount will be required.

The Council will not pay for any additional works carried out without prior approval.

## 7. Gas Central Heating Scheme

**Purpose:** The scheme will provide a Gas Central heating system of suitable design and installation a homeowner with vulnerable occupiers, where previously there has been no such system, or where the existing system, in the opinion of the contractor/surveyor, cannot be effectively repaired at reasonable cost or where it has been condemned by a suitable competent person.

**Maximum amount:** The maximum amount is £8,000.

**Applicant eligibility:** The applicant must be an owner occupier. The property must have an EPC rating of D or below and have an existing working gas supply.

The applicant must be over the age of 65 or the property have children 14 years or under or have an occupier with a chronic or severe condition exacerbated by the cold or poor housing conditions. Declaration of the condition will be required. Examples of relevant conditions include:

- Arthritis (osteo and rheumatoid, requiring regular treatment and review)
- Cardiovascular disease (for example heart disease or stroke)
- Respiratory disease (for example chronic bronchitis, severe asthma, emphysema or chronic obstructive pulmonary disease)

**Eligible works:** Due to the possible vulnerable nature of the recipients of the scheme it is proposed that the scheme will be a one stop shop that caters for but not limited to:

- Design and Installation and first annual service of a whole house Gas Central Heating System to meet the needs of the home owner/occupier
- Associated electrical check and upgrade to comply with Building Regulations and Manufacturer's instructions
- Associated building work/Access as required
- Where necessary the Moving/Storage of furniture, removal and relaying of carpets
- Where disturbed the making good of internal decoration in line with the works carried out

No alternative to a gas fueled Central Heating system will be considered.

Any associated fees e.g. technical surveys, obtaining proof of title etc. will be included in the total assistance amount.

All properties will be subject to inspection and assessment by the Council or its agent.

Financial  
assessment:

There will be no formal means testing. The following criteria will be applied:-

Less than £16,000 capital, savings and investments

Then either for single income no more than £13,400 per annum

Couple with or without children and single with children then income for customer and partner combined of no more than £20,000 per annum

The applicant will self-declare income & saving levels.

Payment:

The Council will appoint a contractor to undertake the eligible works. Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices. The applicant must agree and sign that they are satisfied with the quality of the work prior to payment. If the applicant refuses, the Council will inspect the work and if it believes it is of sufficiently good standard the payment will be made.

Conditions:

The applicant must have lived in the property for a minimum of 12 months as their main residence.

The applicant will self-declare income & saving levels.

Owner's written consent for the works to be carried out at the property will be obtained prior to works commencing on site

The Council will not pay for any additional works carried out without prior approval.

## 8. Emergency Housing Grant Scheme (Winter)

- Purpose:** This assistance will provide immediate assistance to owner occupiers where works are needed to make the dwelling wind and weatherproof or to reduce a hazard.
- Maximum amount:** The maximum funding is £2,000, except for houseboats and caravans where the limit is £750
- Applicant eligibility:** The applicant shall have an “owner’s interest” in the dwelling subject to the application, unless they are a lifelong tenant.  
No application will be considered where the applicant has lived in and owned the dwelling for a period of less than 5 years from the day of the application. However, where the applicant’s circumstances have changed since acquiring the dwelling then the Council may decide to set aside the 5 year requirement in cases of hardship.
- Eligible works:** Works eligible for assistance will be at the discretion of the council. As a general condition the works should help remedy defects or deficiencies which have a direct impact upon health. The purpose of the works will be to secure an immediate remedy and not necessarily for reducing long term maintenance costs. Building regulation or legitimate project management fees may be included (within the grant maximum).
- Financial assessment:** Grant aid is targeted to people who cannot afford to repair their own homes. There will be no formal means testing.
- Payment:** The Council will appoint a contractor or work with a third party to undertake the eligible works. One estimate of the cost of the works is required. Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices.
- Conditions:** It must be reasonable and practicable to undertake the works.
- No requirement is made for the written consent of all joint owners as a condition of grant approval.
- The applicant is not required to enter into a deed agreement with the Council.

There are no grant conditions concerning future occupation and repayment.

If the owner disposes of the property after the completion of the works there is no obligation to repay the grant.

Where an applicant makes more than one application for a grant in respect of the same dwelling then it will not be accepted unless the period between the completion of the previous grant and the application for the succeeding grant is at least 9 months.

No more than 2 applications will be accepted from the same applicant in respect of one address in any 5 year period.

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## 9. Dementia Aids and Adaptations

- Purpose:** This assistance will provide aids and adaptations in the home designed to enable people with a diagnosis of dementia to manage their surroundings and retain their independence.
- Maximum amount:** The maximum funding is £750
- Applicant eligibility:** Applicants must be owner occupiers or private tenants with a clinical diagnosis of dementia and referred by a General Practitioner, Dementia Support worker or other relevant health professional, confirming the works which are necessary and appropriate to support them to retain their independence.
- Eligible works:** The Council will work with the relevant health professional to determine appropriate works on a case by case basis. This may include: contrasting coloured hand rails, thermostatic taps, lighting and door signage etc.
- Financial assessment:** This assistance is not subject to a means test
- Payment:** The Council will appoint a contractor or work with a third party to undertake the eligible works. Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices.
- Conditions:** It must be reasonable and practicable to undertake the works.
- All works must relate to the applicants dementia needs and assist them to remain in their home independently for a longer period.
- Only one application will be considered within any 3 year period.

## 10. Sanctuary Scheme

- Purpose:** This assistance will provide an occupier who are at risk of domestic abuse to improve the security arrangements of their home.
- Maximum amount:** The maximum funding is up to £400
- Applicant eligibility:** Where an appropriate officer of the Council is satisfied that one or more persons has suffered from, or is threatened by domestic abuse.
- Eligible works:** The assistance provided will be in the form of security measures, such as, door and window locks, security lighting
- Financial assessment:** This assistance is not subject to a means test.
- Payment:** The Council will appoint a contractor or work with a third party to undertake the eligible works. Payment will be made directly to the contractor upon satisfactory completion of the eligible works and approval of invoices.
- Conditions:** It must be reasonable and practicable to undertake the works.

# Equality with Human Rights Analysis Toolkit



The Equality Act 2010 and Human Rights Act 1998 require us to consider the impact of our policies and practices in respect of equality and human rights.

We should consider potential impact before any decisions are made or policies or practices are implemented. This analysis toolkit provides the template to ensure you consider all aspects and have a written record that you have done this.

If you need any guidance or assistance completing your Equality and Human Rights Analysis contact:  
Heather Grover, Principal Policy Officer on (87)3326; email: [heather.grover@lincoln.gov.uk](mailto:heather.grover@lincoln.gov.uk) . Alternatively contact Legal Services on (87)3840

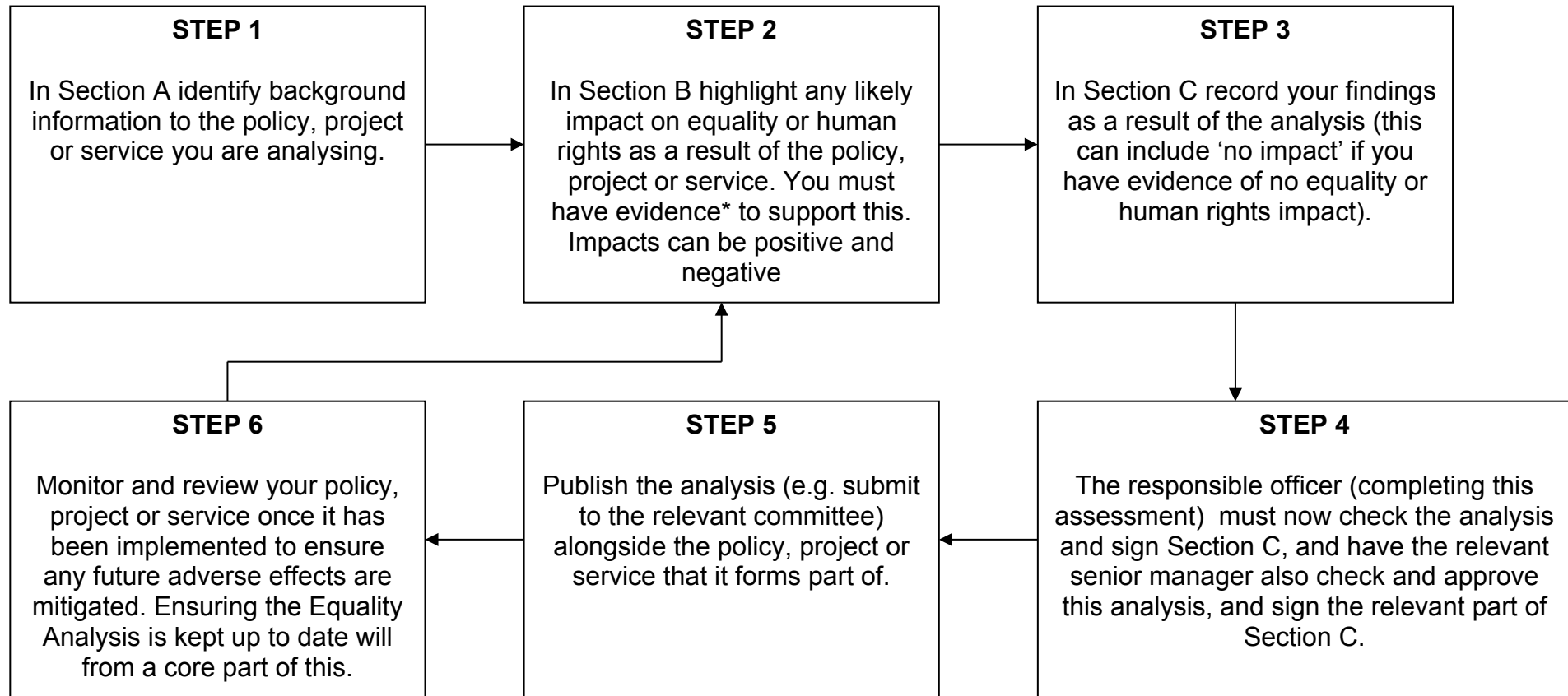
A diagram of the process you should follow is on page 2, and glossary and guidance to help you complete the toolkit can be found on pages 6-9.

107 Even after your policy, project or service has been implemented; it is recommended that analysis is undertaken every three years, and that this analysis is updated at any significant points in between. The purpose of any update is that the actual effects will only be known after the implementation of your policy, project or service. Additionally, area demographics could change, leading to different needs, alternative provision can become available, or new options to reduce an adverse effect could become apparent.

## Useful questions to consider when completing this toolkit

1. What is the current situation?
2. What are the drivers for change?
3. What difference will the proposal make?
4. What are the assumptions about the benefits?
5. How are you testing your assumptions about the benefits?
6. What are the assumptions about any adverse impacts?
7. How are you testing your assumptions about adverse impacts?
8. Who are the stakeholders and how will they be affected?
9. How are you assessing the risks and minimising the adverse impacts?
10. What changes will the Council need to make as a result of introducing this policy / project / service / change?
11. How will you undertake evaluation once the changes have been implemented?

## STEP BY STEP GUIDE TO EQUALITY ANALYSIS



\* 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

## SECTION A

Name of policy / project / service	Private Housing Health Assistance Policy 2018 – 2022
Background and aims of policy / project / service at outset	All local housing authorities are granted the power to provide “housing assistance”, and directed housing assistance can help achieve corporate aims. Lincoln’s current Housing Assistance Policy was adopted by the Council on 25 June 2007, amended on 10 March 2008 and again on the 31 March 2008. On 2 March 2015 it was suspended. The proposed refocused policy will provide greatly flexibility to the Council to provide assistance schemes which help people meet their needs without firstly going through the full Disabled Facilities Grant process, which can be lengthy and complex, in particular removing the rigorous formal means testing element. Secondly, considering wider health determinants other than disability, which can be made worse by housing conditions, for example the Council may consider the health impacts of housing conditions on vulnerable owner occupiers and consider schemes to undertake minor repairs to make homes safe and healthy or other preventative schemes which stop or delay conditions becoming worse.
Person(s) responsible for policy or decision, or advising on decision, and also responsible for equality analysis	Hannah Cann Private Housing Team Leader
Key people involved <i>i.e. decision-makers, staff implementing it</i>	Private Housing Team

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## 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			
Age	Y			The provision of grant aid for owner occupiers may positively impact older persons due to the age demographic of persons owning their home, without excluding younger persons and families. Of the 11 Minor Works Grants completed in 2015/16 and 2016/17, 73% of grant applicants were over 50 years old and 45% were over 60.	Yes/No/NA	
Disability including carers (See Glossary)	Y			There are a range of schemes available under the policy, the mandatory Disabled Facilities grant is there to enable independent living. A number of the discretionary schemes will assist private homeowners and seek to reduce accident risk by funding essential works in their homes, it has a straightforward application process, and will not negatively impact disabled persons.	Yes/No/NA	
Gender re-assignment			Y	The provision of grant aid is gender neutral	Yes/No/NA	
Pregnancy and maternity			Y	The criteria for grant aid are based on property condition and income and there is no impact on pregnancy or maternity. There is a positive impact on low income families by providing a range of schemes that will help the vulnerable or those with a health condition carry out essential repairs that they could not otherwise afford.	Yes/No/NA	

Race			Y	The provision of grant aid is equal for all racial groups. The application forms are not complex for someone who does not have English as a first language and assistance can be given in completing the application.	Yes/No/NA	
Religion or belief			Y	There is no particular effect on any religious or belief group.	Yes/No/NA	
Sex			Y	The provision of grant aid is equal for people regardless of sex.	Yes/No/NA	
Sexual orientation			Y	There is no effect on persons of different sexual orientations and this is not considered in the application for grant aid.	Yes/No/NA	
Marriage/civil partnership			Y	The means test is simple based on household income and the provision of grant aid does not significantly affect any person based on their marital status.	Yes/No/NA	
Human Rights (see page 8)	Y			Respect for your private and family life, home and correspondence – the grant schemes have eligibility criteria and works to proprietors are not undertaken without the permission of the owner occupier or owner and helps people on low incomes with health conditions to stay in their own homes.	Yes/No/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?
Age range of persons likely to benefit from Minor Works Grant	N	

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

Conclusion of Equality Analysis (describe objective justification for continuing)	
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When and how will you review and measure the impact after implementation?*	
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Checked and approved by responsible officer(s) (Sign and Print Name)	Sara Boothright – Environmental Health & Corporate Safety Manager	Date	5 March 2018
Checked and approved by Assistant Director (Sign and Print Name)	Simon Colburn – AD for Health & Environment	Date	5 March 2018

When completed, please send to [policy@lincoln.gov.uk](mailto:policy@lincoln.gov.uk) and include in Committee Reports which are to be sent to the relevant officer in Democratic Services

The Equality and Human Rights Commission guidance to the Public Sector Equality Duty is available via: [www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/](http://www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/)



## City of Lincoln Council Equality and Human Rights Analysis Toolkit: Glossary of Terms

**Adult at Risk** - an adult at risk is a person aged 18 years or over who is or may be in need of community care services by reason of mental health, age or illness, and who is or may be unable to take care of themselves, or protect themselves against significant harm or exploitation.

**Adverse Impact.** Identified where the Council's operations has a less favourable effect on one or more groups covered by the Equality Act 2010 than it has on other groups (or a section of a group)

**Carer - see also disability by association.** A carer is a person who is unpaid and looks after or supports someone else who needs help with their day-to-day life, because of their age, long-term illness, disability, mental health problems, substance misuse

**Disability by association.** Non disabled people are also protected from discrimination by association to a disabled person. This might be a friend, partner, colleague or relative. This applies to carers who have a caring responsibility to a disabled person.

**Differential Impact.** Identified where a policy or practice affects a given group or groups in a different way to other groups. Unlike adverse impact, differential impact can be positive or negative.

**Disability.** It is defined under the Equality Act 2010 as 'having a physical or mental impairment which has a substantial and adverse long term effect on a person's ability to carry out normal day to day activities'.

*Physical impairment* is a condition affecting the body, perhaps through sight or hearing loss, a mobility difficulty or a health condition.

*Mental impairment* is a condition affecting 'mental functioning', for example a learning disability or mental health condition such as manic depression

**Diversity.** Diversity is about respecting and valuing the differences between people. It is also recognising and understanding the mix of people and communities who use services and their different needs.

**Discrimination.** Discrimination has been defined as 'the unequal treatment of individuals or groups based on less because of a protected characteristic – see protected characteristic. This includes discrimination by association, perception, direct and indirect discrimination.

*Example of discrimination:* An employer does not offer a training opportunity to an older member of staff because they assume that they would not be interested, and the opportunity is given to a younger worker

**Equality.** The right of different groups of people to have a similar social position and receive the same treatment:

**Equality Analysis.** This is a detailed and systematic analysis of how a policy, practice, procedure or service potentially or actually has differential impact on people of different Protected Characteristics

**Equality Objectives.** There are specific strategic objectives in the area of equalities and should set out what services are seeking to achieve in each area of service in terms of Equality.

**Equality of Opportunity.** Equality of opportunity or equality opportunities may be defined as ensuring that everyone is entitled to freedom from discrimination. There are two main types of equality encompassed in equal opportunities:

1. Equality of treatment is concerned with treating everyone the same. Thus, in an organisational context it recognises that institutional discrimination may exist in the form of unfair procedures and practices that favour those with some personal attributes, over others without them. The task of equal opportunities is therefore concerned with the elimination of these barriers.

2. Equality of outcome focuses on policies that either have an equal impact on different groups or intend the same outcomes for different groups.

**Evidence.** Information or data that shows proof of the impact or non impact - evidence may include consultations, documented discussions, complaints, surveys, usage data, and customer and employee feedback.

**Foster good relations.** This is explicitly linked to tackling prejudice and promoting understanding.

**General Equality Duty.** The public sector equality duty on a public authority when carrying out its functions to have 'due regard' to the need to eliminate unlawful discrimination and harassment, foster good relations and advance equality of opportunity.

**Gender reassignment.** The process of changing or transitioning from one gender to another – for example male to trans-female or female.

**Harassment.** This is unwanted behaviour that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment.

**Human Rights –** Human rights are the basic rights and freedoms that belong to every person in the world - **see below**

**Marriage and Civil Partnership.** Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. Single people are not protected. Discrimination on grounds of marriage or civil partnership is prohibited under the Act. The prohibition applies only in relation to employment and not the provision of goods and services.

**Pregnancy and Maternity.** Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

**Protected Characteristics.** These are the grounds upon which discrimination is unlawful. The characteristics are:

- Age
- Disability
- Gender reassignment
- Race
- Religion and belief (including lack of belief)
- Sex/gender
- Marriage and civil partnership
- Pregnancy and maternity
- Sexual orientation

**Public functions.** These are any act or activity undertaken by a public authority in relation to delivery of a public service or carrying out duties or functions of a public nature e.g. the provision of policing and prison services, healthcare, including residential care of the elderly, government policy making or local authority services.

**Race.** This refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

**Religion or belief.** Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Section 11 of the Children Act.** This duty is a duty under the Children Act 2004 that requires all agencies with responsibilities towards children to discharge their functions with regard to the need to safeguard and promote the welfare of children. They must also ensure that any body providing services on their behalf must do the same. The purpose of this duty is that agencies give appropriate priority to safeguarding children and share concerns at an early stage to encourage preventative action.

**Sex.** It refers to whether a person is a man or a woman (of any age).

**Sexual Orientation.** A person's sexual attraction is towards their own sex; the opposite sex; or to both sexes: *Lesbian, Gay or Bisexual*

**Victimisation.** Victimisation takes place where one person treats another less favourably because he or she has exercised their legal rights in line with the Equality Act 2010 or helped someone else to do so.

**Vulnerable Adult.** A Vulnerable Adult is defined as someone over 16 who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him/herself or unable to protect him/herself against significant harm or exploitation'

## Human Rights

Human rights are the basic rights and freedoms that belong to every person in the world. They help you to flourish and fulfill your potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- living the life you choose
- taking an active part in your community and wider society.

The Human Rights Act 1998 (also known as the Act or the HRA) came into force in the United Kingdom in October 2000. It is composed of a series of sections that have the effect of codifying the protections in the European Convention on Human Rights into UK law.

The Act sets out the fundamental rights and freedoms that individuals in the UK have access to. They include:

- Right to life
- Freedom from torture and inhuman or degrading treatment
- Right to liberty and security
- Freedom from slavery and forced labour
- Right to a fair trial
- No punishment without law
- Respect for your private and family life, home and correspondence
- Freedom of thought, belief and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry and start a family
- Protection from discrimination in respect of these these rights and freedoms
- Right to peaceful enjoyment of your property
- Right to education
- Right to participate in free elections

Many every day decisions taken in the workplace have no human rights implications. However, by understanding human rights properly you are more likely to know when human rights are relevant and when they are not. This should help you make decisions more confidently, and ensure that your decisions are sound and fair.

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**SUBJECT:                   EMPTY HOMES STRATEGY**

**DIRECTORATE:         COMMUNITIES AND ENVIRONMENT**

**REPORT AUTHOR: HANNAH CANN PRIVATE HOUSING TEAM LEADER**

## **1. Purpose of Report**

- 1.1 To propose a new Empty Homes Strategy for Lincoln 2017-2022 to deliver the Vision 2020 and Housing Strategy objectives.

## **2. Executive Summary**

- 2.1 The strategy proposes a change in the focus of the Private Housing Team to target empty home owners much earlier, from 6 months empty, and to prioritise long term empty homes in the Sincil Bank area. The strategy includes ambitious actions to work across council teams and with strategic partners to build a range of voluntary and enforcement solutions to bring many more homes back to use.
- 2.2 As of 1<sup>st</sup> January 2018 there were 419 long term empty privately owned homes in the City. 104 of these properties had been empty for two years or more.
- 2.3 On 30 September 2017 there were 1681 households on the City of Lincoln Council housing register. 164 of these households are in Band 1, meaning they are homeless or unable to live in the housing that they have.
- 2.4 Long term empty homes have a negative impact on communities, causing a blight to the street scene and attracting antisocial behaviour. In the priority neighbourhood of Sincil Bank, a Community Land Trust is being developed to bring empty homes back to use.
- 2.5 The council and its partner organisations can offer a range of voluntary solutions to empty home owners, including advice and assistance. Where this fails, the council will use its statutory enforcement powers to improve the condition of nuisance empty homes and to bring homes back to use.
- 2.6 Bringing empty homes back to use offers income opportunities to the council, both through receipt of New Homes Bonus, and the potential to acquire and develop properties for resale or letting.

## **3. Background**

- 3.1 Various initiatives have been used in the last few years to reduce the number of long term empty homes. Having a dedicated Empty Homes Officer to offer advice and assistance to owners, the use of statutory enforcement powers, and a government funded lease and repair scheme partnering with a Registered Provider have all been successful, and the Empty Homes Strategy will build on these successes.

*Number of empty homes in Lincoln brought back to use through local authority Intervention 2010/11-2016/17, classified according to action used.*

Year	2010/11	2011/12	2012/13	2013/14	2014/5	2015/16	2016/17
Grants	0	0	2	0	1	0	0
Advice	5	15	25	17	15	12	16
Partner / leasing	0	0	1	6	9	0	0
Enforcement	7	8	0	0	0	1	2
Establish ownership	0	0	0	0	0	0	0
Rent Deposit Scheme	0	0	0	0	0	0	1
<b>No. brought back to use</b>	<b>12</b>	<b>23</b>	<b>28</b>	<b>23</b>	<b>25</b>	<b>13</b>	<b>19</b>

- 3.2 The use of empty homes enforcement powers including Empty Dwelling Management Orders, Enforced Sale, and Compulsory Purchase can be developed further to make better use of these initiatives.

#### 4. Main Body of Report

- 4.1 The Housing Strategy under the Vision 2020 corporate plan identifies two targets around empty homes:
- An annual target to *“Bring 50 empty homes back through council intervention.”*
  - To *“Develop action plans for all homes over 2 years to enable/support it being brought back into use”*

These aspirational targets will require the council to work differently to before, targeting empty home owners at an earlier stage and using new tools and powers.

- 4.2 The Empty Homes Strategy identifies 4 main aims:
- AIM 1. The council will do all within its means to identify and return to use long term empty homes
- AIM 2. No residential property shall be empty longer than 2 years without a clear and defined plan to return it to use.
- AIM 3. Reducing the impact of empty homes on their way to re-occupation
- AIM 4. There will be effective communication with individuals and groups affected by long term empty homes
- 4.3 The council’s Empty Homes Officer will work with other departments in the council through the Empty Property Working Group, to identify long term empty homes, in particular those causing a problem, and bring them back to use.
- 4.4 There will be resource needs including a capital budget for the acquisition and renovation of empty homes which will be identified on a case by case basis. Staff resources will be needed in the private housing team in addition to the shared empty homes officer, which may be difficult to resource due to conflicting enforcement priorities.
- 4.5 The council has a range of tools and powers available including voluntary and enforcement options. These involve teams from across the council and some of the options will involve building effective partnerships with external organisations. These tools and powers will be further explored and developed and barriers to their use challenged.

- 4.6 The council will do more to build partnerships with the Community Land Trust and other strategic partners, and improve links between the private housing team and our Housing investment and management teams, working together to bring empty homes back to use to regenerate Sincil Bank and reduce homelessness.
- 4.7 An action plan appended to the Strategy covers the first two years. These actions centre around exploring and improving the options available to the council, on its own or in partnership, to encourage and enforce owners to bring their homes back to use, and to acquire, develop and manage or dispose of long term empty homes.
- 4.8 Delivery against the strategy will be evaluated and reported through IMPS and the Empty Property Working Group

## **5. Strategic Priorities**

### **5.1 Let's drive economic growth**

Resources will be targeted to tackle empty homes in the Sincil Bank priority neighbourhood as part of the wider regeneration of this area of the City.

### **5.2 Let's reduce inequality**

The council will explore community led approaches to empty homes, working with the Community Land Trust in Sincil Bank to consider models to bring empty homes back to use that offer employment and skills training.

### **5.3 Let's deliver quality housing**

The strategy will deliver against the objective to bring empty homes back to use, developing schemes to ensure that the number of empty homes does not increase and completing action plans for all homes over two years empty.

Securing the renovation and occupation of empty homes makes use of a wasted housing resource, providing quality private sector housing. There are opportunities for empty homes to be used to provide units of temporary or permanent housing through acquisition or EDMOs, using private sector housing to reduce homelessness.

### **5.4 Let's enhance our remarkable place**

Long term empty homes are targets for crime and antisocial behaviour including fly-tipping, drug-taking, metal theft and vandalism, becoming a blight to the local street scene. Effective use of the council's enforcement powers to tidy up and bring back to use these empty homes will improve the visual amenity.

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

The capital resource need can be illustrated as follows.

- Where a property is acquired through CPO then the market value plus compensation has to be paid to the owner, and surveying and legal costs are incurred. A notional Compulsory Purchase Order budget would be at least £130,000 per building, not including renovation costs. Requirements for CPO

budgets will be brought back to the committee on a case by case basis. There is no capital resource identified for these costs, and each CPO will be subject to a separate report, to outline the capital requirement.

- For leasehold schemes and management orders, a provisional budget of £15,000 per home is needed. If 10 buildings are targeted per year that represents a further £150,000. These budgetary requirements will be brought back to the committee on a case by case basis when the properties suitable for this intervention are identified.
- The legal costs of enforced sale can be recovered from the sale of the subject Property. These legal costs are currently paid by the department leading on the action, either Council Tax or the regulatory service recovering the debt. The legal costs recovered through enforced sale must be paid back into these departmental budgets so that enforced sale action is sustainable.

## 6.2 Legal Implications including Procurement Rules

There are a range of enforcement powers that will be used to improve the condition of empty homes and ultimately bring them back to use. These are detailed in the Tools and Powers section and Appendix 3 of the Empty Homes Strategy. An increase in use of these powers, particularly CPO, Enforced Sale and EDMO, will require a resource in the legal team, or the use of external legal specialists where required due to a lack of internal capacity.

Where the council intervenes in arranging the renovation works on one or more long term empty homes, if it chooses not to use its direct labour force, a contract will be needed for the works to be carried out. Whether or not these works are arranged on a case by case basis, or properties are bundled into a larger contract, will affect the procurement thresholds.

Procurement of a managing agent may be required for properties subject to an Empty Dwelling Management Order, if these cannot be managed by the council's Housing Department.

## 6.3 Land, property and accommodation

The options for bringing empty homes back to use include models for the council to acquire properties through compulsory purchase, lease, Empty Dwelling Management Order or voluntary acquisition.

## 6.4 Human Resources

The increase in focus on long term empty homes, and increased use of formal enforcement powers, will add to the workload of the Housing Standards and Enforcement Officers.

## 6.5 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required) –

An Equality impact toolkit has been completed by the Private Housing Team Leader, attached. This will be signed off by the AD and if a full EIA is deemed necessary this will be completed before the strategy goes to Executive Committee for approval.



There are both negative impacts in relation to enforcement, and positive impacts from advice and assistance, on older persons and people with physical and mental disability. The policies and procedures under the strategy are applied equally to all home owners. The vulnerability of the owner is considered before proceeding with enforcement options.

The owner's human rights under Articles 1,6, 8 and 14 of the European Convention are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate.

#### 6.6 Significant Community Impact

The effects of bringing empty homes back to use are positive for the local community, improving the street scene, reducing ASB and protecting house values. Resources will be targeted towards empty homes in Sincil Bank to contribute to neighbourhood regeneration.

#### 6.7 Corporate Health and Safety implications

There are no changes to the current ways of working that have a health and safety implication.

### 7. Risk Implications

#### 7.1 (i) Options Explored

a. To continue working as before, focusing on the longest empty, worst empty homes, with the same volume of resources, to achieve similar results of around 19 homes per year back to use

b. An aspirational housing strategy for Lincoln, aiming to bring 50 homes per year back to use, increasing resources to target homes from 6 months empty and allocating empty homes enforcement work to the Housing Standards and Enforcement Officers. This is the preferred approach outlined in the strategy.

#### 7.2 (ii) Key risks associated with the preferred approach

##### **Staffing**

The Empty Homes Officer has left the authority and although the new post holder has been recruited, he cannot start until May 2018 and will require a period of training and development in the role.

Two of the three Housing Standards and Enforcement Officer posts are vacant, one since 2015 and once since September 2017, and the third is due to retire on 6 April 2018. There have been difficulties recruiting to these posts due to the number and quality of applications. The post is now being reviewed and the pay evaluated which is believed will alleviate the recruitment difficulty, but it is not yet known if we will be able to fill all three posts.

The regulations for mandatory licensing of Houses in Multiple Occupation have been changed so that from October 2018, the minimum three storey rule for a property to need a licence will be removed. This will mean that Lincoln needs to licence around 1100 HMOs, a large increase from the current 300, over 5 years. There will be demand nationwide for experienced Housing Standards officers to deal with the increased HMO licensing, which may make it difficult for us to recruit to these posts.

Work in the private housing team is prioritised and allocated depending on risk. Resources are focussed on high risk enforcement cases such as severe disrepair and overcrowding, on licensing of larger HMOs which may be a fire risk, and on Disabled Facilities Grants to allow vulnerable persons access to and within the home and to bathing / WC facilities. To reallocate the staff resources of the Private Housing Team onto unoccupied premises could result in health and wellbeing risks to occupiers of private sector homes, including vulnerable persons, which is contrary to the statutory HHSRS Enforcement Guidance.

This risk may be mitigated by investing in software systems to streamline the HMO Licensing process and by increasing staff levels in the team, which are being explored currently.

## 8. Recommendation

- 8.1 That the Empty Homes Strategy proceeds to Executive Committee for approval.
- 8.2 To note that there will be additional financial resources, including a capital fund, needed for CPO and EDMO which will be brought back to the Executive committee on a case by case basis to seek authority for the expenditure.

**Is this a key decision?**

No

All key decisions require 28 days' public notice. If in doubt, please check with Democratic Services.

**Do the exempt information categories apply?**

No

28 days' public notice must be given to Democratic Services before any Executive meeting held in private. If in doubt, please check with Democratic Services. Please also see the exempt paragraph provisions detailed at the end of this template

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

No

Rule 15 will only apply in exceptional circumstances and requires the Monitoring Officer's permission.

**How many appendices does the report contain?**

Two – Empty Homes Strategy 2017-22  
Equality Analysis toolkit

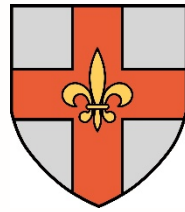
**List of Background Papers:**

None

Please note that any background papers must be provided to Democratic Services with your report for publication. If in doubt as to the definition of a background paper, please contact Democratic Services.

**Lead Officer:**

Hannah Cann, Private Housing Team Leader  
Telephone (01522) 873873



CITY OF  
*Lincoln*  
COUNCIL

## Empty Homes Strategy

### Implementation of actions under the Lincoln Housing Strategy 2017-22

Let's deliver  
quality  
housing



**Document control**

<b>Organisation</b>	<b>City of Lincoln Council</b>
<b>Title</b>	<b>Empty Homes Strategy 2017-22</b>
<b>Author - name and title</b>	Hannah Cann – Private Housing Team Leader
<b>Owner - name and title</b>	
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## 1. Introduction

- 1.1 The City of Lincoln has a large private housing sector, with 77% of the housing stock (33,205 homes) being either owner occupied or privately rented (BRE Dwelling Level Housing Stock Modelling and Database for City of Lincoln Council, 2014).
- 1.2 Most of the city's long term empty homes are privately owned. As of 1<sup>st</sup> January 2018 there were 419 long term empty privately owned homes in the City. This figure is taken from council tax data and is the number of residential dwellings which are subject to an exemption, discount or premium on the council tax relevant to the property being unoccupied, showing they have been empty for six months or more.
- 1.3 105, or 25%, of these properties had been empty for two years or more.

## The Need for Intervention

- 1.4 As of 1<sup>st</sup> January 2018, council tax records showed 419 homes were empty for more than six months, representing 1.26% of the private housing stock. This is higher than the 2014 figure of 0.92%, comparing with 0.95% across England and 0.99% in Lincolnshire. This figure does not include properties that are derelict and so deleted from council tax, or those used as second homes.
- 1.5 On 30 September 2017 there were 1681 households on the City of Lincoln Council housing register, with 1050 in Bands 1 to 3 on the Choice Based Lettings system representing those households who are in need of rehousing. 164 of these households are in Band 1, meaning they are homeless or unable to live in the housing that they have for example due to medical need. No specific areas or types of property are identified as a higher need.
- 1.6 The Sincil Bank revitalisation programme has identified an area of Park Ward with high levels of deprivation where community led, area based, targeted improvements are needed. The *Sincil Bank, Revisited area shaping strategy 2017* identifies concentrations of long term empty homes as a depressing blight and wasted resource, as well as an opportunity to provide skills training to young people and the long term unemployed. A Community Land Trust is being developed in the area which aims to take a community led approach to Empty Homes and other housing development for the benefit of the neighbourhood.
- 1.7 New Homes Bonus is a payment made to a local authority equivalent to the annual council tax charge. It is paid for every net addition to the housing stock, and includes homes brought back into use which have been vacant for more than 6 months. The payment is calculated from the average Band D property, and proportioned up or down depending on the actual band. The payment is received each year for 4 years. New Homes Bonus provides an economic benefit to the community of bringing homes back to use by funding local services.
- 1.8 Empty homes present problems to communities and place a strain on public services. They can present a visual blight, and become a focal point for fly tipping, anti-social behaviour and other criminal activities. They can provide harbourage for vermin. Their neglect can cause structural damage to adjoining properties. A water leak can go unnoticed causing extensive damage. Neglect of drainage, roofing and boundary structure can present hazards and dangers to the public. This all places extensive demands on

public services such as the council, Police, Fire and Rescue and local residents.



## 2. Strategic Background

- 2.1 The City partnered with Boston, East Lindsey, North Kesteven, South Holland and West Lindsey district councils to deliver the Lincolnshire Empty Homes Strategy 2010 to 2013.
- 2.2 The Lincolnshire Empty Homes Strategy had five aims:
- Reduce the number of long term empty homes by district specific targets each year
  - Establish a positive relationship with owners of empty properties to facilitate bringing them back into viable use
  - Increase public and organisational understanding of empty properties across the districts
  - Help to increase the supply of affordable housing, and reduce homelessness
  - Add to the number of good quality, energy efficient properties within each district
- 2.3 Two project officers developed a website, correspondence and advice leaflets, explored enforcement options such as enforced sale, empty dwelling management orders and compulsory purchase, researched the reasons why homes were left empty, and investigated the feasibility of delivering a social lettings agency. The project co-ordinated strategy development, raised the profile of empty homes work in the county, and developed a shared approach to investigation and enforcement.
- 2.4 The City of Lincoln offered grant aid to landlords and first time buyers to bring long term empty homes back into use. These had very limited uptake due to complex criteria, and reduction in mortgage availability in the case of the first time buyer grant.
- 2.5 From 2012 City of Lincoln and North Kesteven District Councils entered into a new partnership, sharing a full time empty property officer. The focus of work in Lincoln was to develop an action plan of assistance and enforcement for properties that had been empty for 2 years or more, and homes empty for shorter periods were investigated if they gave rise to complaint, or targeted if appropriate funding became available.
- 2.6 The 2011 government strategy 'Laying the Foundations, A Housing Strategy for England' identified long term empty homes as a priority. It introduced New Homes Bonus payments for bringing empty homes back into use, provided grant funding from 2012-15 to bring properties back into use mostly as affordable housing through the Homes and Communities Agency (HCA), and allowed councils to introduce an empty homes premium on council tax charges.

### 3. Previous Initiatives

- 3.1 Actions to bring empty homes back to us have been focussed on those homes empty for two years or longer, to make the best use of limited resources as these homes are considered to have the greatest impact on the community.
- 3.2 The City of Lincoln Council partnered with Waterloo Housing Association to access HCA Empty Homes Programme 2012-15 funding for a lease and repair scheme, which was successful in bringing 15 long term empty homes back to use under 5 to 6 year leases with nomination rights. Homes were selected that required a small amount of renovation work, but a barrier was identified in the unwillingness of mortgage companies to agree to the lease and second charge.
- 3.3 A National Empty Homes Loan Fund was proposed and supported by City of Lincoln, but difficulties in delivery and in particular mortgage criteria led to withdrawal of the national scheme.
- 3.4 The City amended its Council Tax charges from January 2013, replacing a 50% discount for the first six months empty with a full discount for the first two months, full charge from 2 to 24 months, and a 150% charge when a property became two years empty. This financial disincentive to home owners to leave a property empty was effective and from April 2017 the first 2 months discount has been reduced to 50%.
- 3.5 City of Lincoln Council engaged a contractor Capacity Grid to verify council tax information on empty homes, identifying a number of homes that had become occupied and so maximising the new homes bonus paid to the council by government.
- 3.6 Persistent use of the authority's statutory enforcement powers not only reduced the impact of long term empty homes on their environment, but also nudged owners to bring 18 long term empty homes back into use.
- 3.7 The Council's Executive Committee in 2013 approved the making of Compulsory Purchase Orders on two long term empty homes. The threat of CPO pushed one owner to sell privately, and the second case file is now being reviewed, having not been progressed through the legal procedures. Some procedural changes to the use of Compulsory Purchase Order were introduced in the Housing and Planning Act 2016.

- 3.8 Close working relationships between the Empty Homes Officer, council tax recovery officers and legal services brought about enforced sale of two properties by auction and recovery of Council debts for council tax or works in default. However in some cases debts were repaid before the process could be completed, or the new owner failed to bring the empty home back to use. The departmental budget for legal costs was not refreshed from the recovered funds, rendering the enforcement action unsustainable.
- 3.9 Empty Dwelling Management Orders have not been used in Lincoln due to the complexities of engaging a suitable organisation to manage the homes. EDMOs have been used in North Kesteven, and work has been done to identify a pilot with the City's Directorate of Housing and Regeneration managing homes subject to an EDMO.
- 3.10 The following table shows that over the period 2010 to 2017, the most successful tools to bring empty homes in Lincoln back to use have been advice, referral to a partner such as the Waterloo Housing lease and repair scheme, and the use of statutory enforcement powers. The number of empty homes varied from 12 to 28 homes per year with a mean average of 19.

*Number of empty homes in Lincoln brought back to use through local authority intervention 2010/11-2016/17, classified according to action used.*

Year	2010/11	2011/12	2012/13	2013/14	2014/5	2015/16	2016/17
Grants	0	0	2	0	1	0	0
Advice	5	15	25	17	15	12	16
Partner / leasing	0	0	1	6	9	0	0
Enforcement	7	8	0	0	0	1	2
Establish ownership	0	0	0	0	0	0	0
Rent Deposit Scheme	0	0	0	0	0	0	1
<b>No. brought back to use</b>	<b>12</b>	<b>23</b>	<b>28</b>	<b>23</b>	<b>25</b>	<b>13</b>	<b>19</b>

4.11 The successes that could be built upon were:

- The lease and repair scheme
- The persistent engagement with owners
- The persistent use of enforcement powers
- The use of punitive council tax measures.

The areas which could be improved upon were:

- The use of enforced sale powers
- The delivery of compulsory purchase
- The suitability of grant aid.

The powers yet to be exploited were:

- Empty Dwelling Management Orders.

## 4. Aims

- 4.1 The Lincoln Housing Strategy 2017-2022 under the Vision 2020 corporate plan "...directly tackles the key issues within Lincoln's housing provision. It ...provide[s] a framework for those endeavouring to build or assist in improving housing conditions in the city."
- 4.2 Homes become vacant as part of the natural cycle of the housing market, whether for sale or between lettings. A policy of "no vacant homes" would be both unreasonable and unrealistic, but the council does not want to tolerate long term empty homes when there is an unmet demand for housing, nor does it want to tolerate the impact that problematic empty homes have on the community.
- 4.3 In the housing strategy's action plan at Outcome 4 there are two agreed actions in respect of empty homes:
- An annual target to *"Bring 50 empty homes back through council intervention."*
  - To *"Develop action plans for all homes over 2 years to enable/support it being brought back into use"*
- 4.4 The purpose of the Empty Homes Strategy is to explore the options available to the Council to enable it to deliver these Lincoln Housing Strategy actions. Four main aims of the Empty Homes Strategy are identified:
- 4.5 **AIM 1. The council will do all within its means to identify and return to use long term empty homes**

The council is committed to reducing the number of homes that are classified as long term empty. The council will assist owners and take appropriate enforcement action in respect of a property empty for any length of time. Officers will engage with owners of homes earlier than they have before, once the home reaches 6 months empty, to find reasons why the property has not been returned to use, to provide support and enable the owner to reach a satisfactory conclusion. As 75% of the long term empty homes have been unoccupied for less than two years, this is a real opportunity to bring a higher number of empty homes back to use.

The council will consider the use of empty private sector housing to meet housing need, considering acquisition and management where appropriate.

Empty commercial property is outside the scope of this strategy.

**AIM 2. No residential property shall be empty longer than 2 years without a clear and defined plan to return it to use.**

- 4.6 The Council will focus resources on those dwellings that are most likely to present the biggest impact on public disquiet and officer time. Support and enabling will not always work for the most difficult cases. Once a home becomes two years empty, the impact of the empty home will be assessed, and officers will consider the range of tools and powers available to determine the most appropriate course of action to bring the home back to use and avoid long term blight. These powers are outlined in Section 7 of this document.
- 4.7 The Empty Property Working Group will then lead in the development of a clear and defined plan that identifies a legislative or project framework, timescale, and resource needs for the property to be brought back to use. At any one time availability of resources may limit use of some powers, although from time to time they may be supplemented by government or other funding opportunities.

**AIM 3. Reducing the impact of empty homes on their way to re-occupation**

- 4.8 The long term aim is to return empty homes back to use. During the time that properties are unoccupied they can generate problems for immediate neighbours, the wider community and for statutory agencies. There is a need to deal with those immediate problems.
- 4.9 The powers available include the tidying of land, the removal of hazards, securing of buildings against unauthorised entry, and the eradication of pests. These matters can be co-ordinated through the Empty Property Working Group. This work will be recorded and may be regarded as the capture of 'journey targets' in the progression of a property to full occupation.

**AIM 4. There will be effective communication with individuals and groups affected by long term empty homes**

- 4.10 Problematic empty properties can be very visual and used by the public as an indicator of how well the council is performing. Many actions may be undertaken but with no obvious progression, sometimes due to limitations on how much information can be shared with complainants regarding individual casework and enforcement. Some empty properties may be unknown to the council and this could be because the full council tax continues to be paid, but the local community may know the true circumstance.

- 4.11 The authority already utilises its web site to allow members of the public to lodge a complaint, and there is communication with individual complainants. Officers attend the Sincil Bank Homes Working Group to update on Empty Homes. Regular briefings including empty homes are given to the Portfolio Holder for Housing.

## 5. Implementation and Resources

- 5.1 The Private Housing Team and in particular the Empty Homes Officer will lead on the implementation of this strategy. The team will engage with owners to encourage, advise and assist at an earlier stage than they have done before, once homes are six months empty, with the aim of bringing a larger number of empty homes back to use. Of the 419 long term empty homes in Lincoln, three quarters have been empty for less than two years, and one quarter for two years or longer.
- 5.2 The Empty Homes Officer will exploit existing successes such as informal persuasion and the provision of advice and guidance, partnership working and voluntary leasing.
- 5.3 Once properties are two years empty, or earlier if they are having a significant impact, enforcement options will be considered by the Empty Homes Officer in conjunction with other Council teams whose involvement will be co-ordinated through the work of the Empty Property Working Group. Legal Services, Planning Enforcement, Building Control, Public Protection and Anti-Social Behaviour, Neighbourhood officers and Council Tax are represented in the group, which enables the co-ordinated and consistent use of all of the council's information, resources and enforcement powers to tackle long term empty homes.
- 5.4 Membership, processes and governance of the Empty Property Working Group will be in accordance with the Terms of Reference (appendix 5).
- 5.5 The council will engage more effectively with external services and partners, including but not limited to:
1. Registered providers and Community Land Trusts
  2. Government offices
  3. Homes England
  4. Tracing agents
  5. Practitioner resources such as the Empty Homes charity, the Empty Homes Network, and the East Midlands Empty Property Forum.
  6. Charities and other organisations interested in funding empty homes work
- 6.6 Council officers attend regular meetings of the Sincil Bank Homes Working Group, working with the local community and strategic partners with an area based approach to regeneration of this area of the city, and the council will target its resources to prioritise empty homes in this area. Supporting the newly formed Community Land Trust is an innovative and



community led approach to bring problem empty homes back to use in this priority neighbourhood.

- 6.7 The pathways used to bring an empty home back to use are shown in appendix 2. To achieve the target of returning 50 empty homes to use annually, officers will work with those properties which have been empty for 6-24 months, in addition to the problematic longer term empty homes.
- 6.8 The initial actions required to implement the strategy are outlined in Appendix 1. Further actions will be developed for 2019-22 to take account of the initial options appraisal and implementation actions.

## Finance

- 6.9 The capital resource need can be illustrated as follows.
- A notional Compulsory Purchase Order budget would be at least £130,000 per building. If 5 buildings are targeted for CPO per year that represents a figure of £650,000. This does not include any renovation costs.
  - The compulsory purchase budget at 1 April 2017 was £155,835. Where a property is acquired through CPO then the market value plus compensation has to be paid to the owner, or if the owner does not come forward it is held in reserve. There are additional costs associated with the CPO such as surveying and legal costs. The CPO budget will only be partly refreshed through a resale of the acquired property and will need to be topped up to remain viable. For leasehold schemes and management orders whereby the council improves empty homes and recovers the cost from rental income, a provisional budget of £15,000 per home is needed. If 10 buildings are targeted per year that represents a further £150,000. Properties needing major renovation would require a larger budget.
- 6.10 To successfully deliver on projects the Private Housing Team would need the following support from other teams:
- CPOs. Capacity within Legal Services to make sure submissions to the minister are made promptly.
  - Empty Dwelling Management Orders. The support of the Housing and Regeneration Directorate to manage tenancies and refurbishment and maintenance works or to identify a partner organisation.
  - Enforced sale. Action by recovery services, with associated Legal resources, to recover debts to the council that accrue in respect of

empty homes. A legal budget is needed which should be refreshed from the debt recovered.

- 6.11 There is no specific empty homes budget other than for the Empty Homes Officer post funded jointly with NKDC. Additional funds may be required to carry out specific survey work, to engage consultants, or for legal costs. The increased work needed to target a larger number of homes empty from six months onwards, and to allocate the time of the Housing Standards and Enforcement Officers to follow through with the more complex enforcement actions such as CPO, may lead to a need for additional staff resources in the Private Housing Team which will have a revenue implication.
- 6.12 It may be appropriate to allocate the New Homes Bonus receipts to meet these financial needs. Individual case budgets will be requested through the committee process on a case by case basis.

## **7. Tools and Powers**

- 7.1 The council's Empty Homes Project Officer attempts to engage with the owner of each empty home from 6 months empty, offering advice, assistance and voluntary options for occupation, and assessing the background, condition and impact of each property. At the two years empty stage, or from 6 months empty if complaints are received that an empty home is causing problems, the officer will determine the most appropriate way forward from the following tools and powers, to create an action plan to bring back to use each long term empty home.
- 7.2 The impact of each two-year long empty home is assessed using a scoring matrix. Those properties with the highest scores, together with those in the priority area of Sincil Bank, are those most likely to be identified for enforcement action if the initial options are unsuccessful.

### **Initial Options**

#### **Advice & Guidance**

- 7.3 In the first instance, owners will be given advice and assistance on how to bring their property back into use. These options could be renting out the property, selling the property or advice on becoming a landlord. The aim is to encourage owners to bring the property back into use through voluntary action. This action will commence from six months empty, but the length of time it takes to bring a property back into use will depend on the owner's personal and financial circumstances.

#### **Financial assistance**

- 7.4 The Council directs owners to advice on VAT reductions which may be available when renovating an empty property and discounts from local building merchants and estate agents. However, the Council does not currently offer any loans or grants to assist owners lacking the resources to bring their properties back into use. This means certain properties remain empty for long periods of time, requiring the Council to take enforcement action. The council will look for future funding sources to enable it to offer financial assistance itself, or in partnership with other organisations, and may set conditions on such assistance around rent levels, nominations of tenants to reduce homelessness, or the management of a let property.

#### **Voluntary Arrangement**

- 7.5 The Council may facilitate the introduction of the owner to a Registered Provider, Community Land Trust or private individual(s) to sell or lease the

empty property. The Council, in this instance, will not be acting as an estate agent or providing advice or recommendation to either party. Any negotiation and sales processes would take place between the owners, interested party and their legal representatives.

- 7.6 Alternatively, the council may directly approach an owner to acquire an empty home itself.
- 7.7 It is useful to have the option to offer a voluntary lease and repair agreement to owners prior to EDMO, and necessary to offer a voluntary acquisition of the property prior to proceeding to Compulsory Purchase, in a staged approach to enforcement. Where the local authority lease homes there are legal restrictions on the tenancy type and allocation of the property. Models for voluntary acquisition need to be developed, whether for COLC housing stock, a housing company, or in partnership with a Registered Provider or Community Land Trust. Funding sources need to be identified, and the barrier of mortgage companies refusing second charges on leased properties remains a national issue.

### **Statutory enforcement**

- 7.8 Where owners show reluctance to engage with the Council officers and continue to ignore their responsibilities in respect of the property the officers will use relevant enforcement powers to reduce the impact the property is having on the area and abate any statutory nuisance being caused to neighbouring properties. Persistent enforcement of this type can result in the owner bringing the property back into use to prevent further notices being served. A co-ordinated approach is planned by the Empty Property Working Group, and the powers available across the authority are listed in appendix 3. Non-compliance with a statutory notice can reduce the compensation costs of compulsory purchase, or lead to works in default and an enforced sale.
- 7.9 Where these initial options are unsuccessful in bringing the empty home back to use, specific empty home enforcement powers will be considered as outlined below.
- 7.10 Of the Top 50 long term empty homes that have been scored as having the most significant impact, the following most appropriate courses of action have been identified:

Most appropriate course of action identified by Empty Property Working Group for Top 50 empty homes, January 2018

<u>Action</u>	<u>No of properties</u>
Compulsory purchase Order	4
EDMO	6
Assistance	1
Enforced Sale	6
Watching Brief	23
Voluntary Solution	6
Most Appropriate Course of Action yet to be agreed	4
Top 50 highest impact empty homes	50

### **Enforced sale**

#### **Purpose:**

- 7.10 Many statutes allow the Council to serve a notice requiring the owner of a property to carry out works, for example to deal with the dangerous or untidy condition of the property. Non-compliance of a statutory notice can lead to the council carrying works in default, which create a land charge against the property. Enforced Sale is a procedure to recover such a debt owed to the Council, and a similar procedure can be used to recover unpaid Council Tax.
- 7.11 Enforced Sale is not in itself a procedure to deal with problematic properties, but the enforced sale of empty properties brings two main benefits: a debt owed to the Council is recovered; and a change of ownership is secured with the expectation that the new owner will bring it back to use.
- 7.12 Legal costs are recouped from the sale of the property, and any surplus is paid to the owner or mortgagee.

#### **Legislation:**

- 7.13 The power to enforce the sale of a property to recover a local land charge is in the Law of Property Act 1925 Section 103. Once an initial notice is served, owners have 3 months to pay the debt before the sale is enforced.
- 7.14 Council tax debts are personal debts and not charged against a property. The process to recover a council tax debt requires an application to court for a charging order followed by an order for sale.

### 7.15 Considerations:

- a) The owner may pay the debt and the property remains vacant and unsold:
  - The threat of an Enforced Sale will usually be sufficient to encourage an owner to dispose of the property or return it to use voluntarily, if not other enforcement options can be explored.
  - The council is unable to recover its costs to date and these need to be offset against the recovered debt. It is recommended that the minimum debt level prior to commencing action is £1000.
- b) There is not sufficient equity in the property to recoup the costs owed to the council:
  - Where the charge is binding on the “premises and on all estates and interests therein” it is a priority charge (over mortgages etc.). In the case of those charges stated to be a “charge on the premises” there is case law to suggest the wording is sufficient to create a priority charge. Performing an Enforced Sale due to non-compliance of a S215 Town and Country Planning Notice would only be suitable if there is equity after any other registered charge.
- c) The property is sold but the new owner does not return the property to use.
  - This will remain a risk, but in most cases people purchase as they have an intention to utilise the property for income or occupation. The usual process for sale is through auction however a preferred purchaser can be used. Other enforcement options can be considered against the new owner.

### Costs:

- 7.16 Relative to Compulsory Purchase Orders, Enforced Sales are swift, less complicated and economical. There is no requirement as with the compulsory purchase order to pay market value or any compensation.
- 7.17 The typical costs for the Enforced Sale Procedure are listed below. These sums are indicative as the costs will vary depending on the property itself. When the Council’s debt is a priority charge, all costs incurred by the Council in the sale process as listed below are recoverable before any third party charges on the property are repaid. As such, the procedure should be cost neutral to the Council.

7.18 An initial budget is needed to cover these costs, which should be recycled from the recovered funds.

<b>Expense</b>	<b>Cost (£)</b>
Auction fees	1,500
Local search fee	80
Land registry fee on sale	6
County Court fees	275
Land registry fees for charging order	86
Land registry fees for enforced sale	11
Legal costs on sale including attendance at auction (no VAT)	700
Property Services costs on sale (no VAT)	250
Private Housing Costs on sale (no VAT)	250
Legal costs for applications	311
Energy Performance Certificate	65
Securing property	230
Law Gazette Fee	24
<b>Total Recoverable</b>	<b>3,788</b>

## **Empty Dwelling Management Order (EDMO)**

### **Purpose:**

- 7.19 The intention of EDMOs is to bridge the gap between voluntary measures and existing compulsory purchase powers in order to provide better management of a property deliberately left vacant for at least two years that is having a negative impact on the community.
- 7.20 The threat of an EDMO can put pressure on the owner to engage with the authority and agree the best course of action to secure occupation of the dwelling, thereby avoiding the need for an interim EDMO or, as the case may be, a final EDMO, to be made.
- 7.21 EDMO is intended to operate alongside existing measures such as voluntary leasing schemes explored above. It will provide an effective back-up to such arrangements where owners turn down offers of assistance and do not have plans of their own to bring the property back into use. Properties subject to EDMO can be used to meet housing need without the upfront cost of acquisition, subject to risk assessment.
- 7.22 A management scheme sets out in detail how the Council intends to manage the property, to include the works it intends to undertake, Capital and Revenue estimates for the costs of these works, how much rent the Council will seek from tenants, and provisions for paying any surplus to the owner.

**Legislation:** Housing Act 2004 Part 4, S132–138 & Schedule 7.

- 7.23 The Council must give the owner at least 3 months' notice of their intention to make an application for an EDMO.
- 7.24 The Council applies to the First Tier Tribunal (Property Chamber) for an Interim EDMO, which lasts for one year. During this time the Council can enter the property to determine works required and make arrangements for the property's management. If the property is in reasonable condition occupation can be secured with the consent of the owner.
- 7.25 If voluntary measures fail to bring the property back into use during this interim period the Council then makes a Final EDMO to take control of the property for up to seven years, carrying out improvement works prior to renting the property out.

### **Costs:**

- 7.26 The rental income is used to pay for any works and management costs, therefore the condition of the property is a critical consideration when



determining whether or not this is a viable financial option. A budget of £10,000 to £15,000 is needed up front for the refurbishment works.

<b>EDMO Predictions: 2 bed flat Birchwood</b>			
	Market rent	Affordable rent 80%	LHA rate
<b>Income</b>			
Market Rent pcm	575.00		
Affordable Rent pcm		460.00	
LHA rate*			434.00
<b>Annual income (80% market rent)</b>	6900.00	<b>5520.00</b>	5208.00
Gross Income 7 years	48300.00	38640.00	36456.00
<b>Expenses (over 7 years)</b>			
Renovation	15811.00	15811.00	15811.00
Repairs and maintenance £500/year	3500.00	3500.00	3500.00
Management 15%	7245.00	5796.00	5468.40
Void period / arrears 2 month/year	8050.00	6440.00	6076.00
Total costs over 7 years	34606.00	31547.00	30855.40
<b>Annual expense</b>	4943.71	<b>4506.71</b>	4407.91
<b>Annual payments to owner</b>	1956.29	<b>1013.29</b>	800.09
<i>*Local Housing Allowance = £100.22 pw = £434.29 pcm</i>			

### 7.27 Considerations:

- Property must have been vacant for 2 years, be having a negative impact, and it is useful to show community support for the EDMO.
- The council may be unable to recover the cost of the initial works from the rental income, if the home is in very poor condition or rent is unpaid.
- The owner or mortgage lender can appeal against the application for an EDMO
- Arrangements for the management of the property need to be made, through the Council's housing directorate, housing company, Community Land Trust or procurement of a private firm.
- A budget is needed for the initial capital works.
- There are a number of exemptions in the Act which make properties unsuitable for EDMO, including the home being for sale, awaiting or recently granted probate, or the owner being cared for elsewhere.

## Compulsory Purchase Orders (CPO)

### Purpose:

- 7.28 Many empty homes are in poor condition and an eyesore. A CPO both secures an improvement in the local environment and brings a wasted housing asset back into use. This power allows the Council to purchase a property from the owners and, depending on the specific power used, retain it as housing stock, dispose of it to a housing partner, or sell it on the open market before or after renovation.
- 7.29 The initial decision to progress with compulsory purchase arises out of exhausting all other voluntary and statutory powers and is agreed by the Empty Property Working Group. The decision in principle is conveyed to the owner and efforts continue to seek a voluntary solution throughout the process.
- 7.30 The end use will be considered for each case, but where the property is sold at auction or to a preferred partner then the funds can be recycled for further empty homes work.

### Legislation:

- 7.31 The primary powers to acquire property land compulsorily, where an owner is uncooperative or untraceable, are as follows:

Statute	Purpose
Section 226(1)(a) of the Town and Country Planning Act 1990  <i>(amended by Planning &amp; Compulsory Act 2004)</i>	<ul style="list-style-type: none"> <li>• A local authority can CPO any land and buildings if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land and buildings.</li> <li>• The development, redevelopment or improvement must contribute to the promotion or improvement of economic, social or environmental well-being.</li> <li>• Where the empty home requires improvement, perhaps because of its poor external appearance or because of its poor condition inside, this power is available.</li> </ul>
Section 17 of the Housing Act 1985	<ul style="list-style-type: none"> <li>• A local authority can acquire a house, or houses, for the provision or improvement of housing accommodation (whether by itself or someone else).</li> </ul>

	<ul style="list-style-type: none"> <li>• If an empty property is in good condition and not in need of improvement, then only the housing power will be available for the CPO.</li> </ul>
Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990	<ul style="list-style-type: none"> <li>• This power is available when the empty home is a listed building in poor condition.</li> <li>• It is a pre requisite to a listed building CPO that a repairs notice under section 48 of the Act has been served at least two months before the CPO is made.</li> </ul>
Section 93 Local Government & Housing Act 1989	<ul style="list-style-type: none"> <li>• This power is rarely used</li> </ul>

7.32 If compulsory purchase is identified as the most satisfactory course of action, then from that point on legal process is followed.

**Risks:**

7.33 The decision to compulsorily purchase an empty property must be shown to be in the public interest, and CPO is a costly and lengthy process. This power is usually limited to where persuasion and statutory notices have failed and the owner refuses to co-operate with the voluntary measures offered by the Council to bring the property back into use; or if the owner is untraceable.

7.34 Objections may be heard resulting in a potentially costly public enquiry and the Secretary of State may or may not support the action.

**Costs:**

7.35 The council is required to pay compensation, comprising of the market value of the property plus, if there are no outstanding legal notices on the property, basic loss value. If the property is sold back to back to a new owner, these costs may be paid from the onward sale, but a considerable budget is needed for legal and other costs:

7.36 A summary of the estimated costs are as follows:

	Estimated Voluntary Acquisition £	Estimated Compulsory Purchase £
a) <u>Legal &amp; Admin Costs *</u>		
Legal costs / fees	1,500	20,000 <i>estimate</i>
Advertising costs (notices in paper)	n/a	1,500
SDLT payable on acquisition (0-15% of value)	0	0
Land Registry Fees	200	200
	<b>1,700</b>	<b>21,700</b>
b) <u>Property value</u>		
Market Value of the property (assumed)	100,000	100,000
Basic Loss Payment (7.5%)	n/a	7,500
Other Compensation Costs	n/a	1,000
Council Fees and Negotiating Compensation	n/a	1,000
<b>TOTAL COSTS</b>	<b>101,900</b>	<b>131,200</b>
* Indicative amounts		

## 8. Performance and Evaluation

- 8.1 Performance will be reported through the Directorate of Communities and Environment, and where action plans have been created they will be monitored for progress. Feedback will be given to members through regular briefings to the Portfolio Holder for Housing.
- 8.2 The number of empty homes brought back into use is a corporate measure reported through IMPS. To be included within the count there has to be a significant local authority involvement. The guidelines for Monitoring Empty Homes Interventions, provided by the Empty Homes Network, and the City of Lincoln Council interpretation of these measures, are included at appendix 4 to this strategy. Although reported monthly, the properties brought back to use are mostly identified quarterly when the empty homes lists are received from council tax.
- 8.3 During the term of an empty property the council may make one or more interventions to ameliorate a problem. These events may be statutory or non-statutory. All will be recorded as part of the "empty home journey" measure.
- 8.4 There will be an annual report on the impact of empty properties and the successful interventions. The report will include
- a) The changes in the number of empty properties year on year
  - b) The number of complaints received in respect of empty homes;
  - c) Any local authority expenditure incurred in the management of neglected empty properties
  - d) The number of properties brought back to use through council involvement
  - e) The number of affordable units created
  - f) The number of interventions to reduce impact of an empty property
  - g) The amount of New Homes Bonus achieved through empty homes.
  - h) The amount of debt recovered through interventions such as negotiation and enforced sale,
  - i) External finance levered in through challenge fund bids etc.
  - j) Rental income achieved through leased or managed properties
  - k) The progress, and current circumstances of any homes vacant for over 2 years and any barriers or hold ups to identify where resources are needed.

<b>Report detail</b>	<b>Frequency/ Date</b>	<b>Compiled By</b>	<b>Reported to</b>
Monthly IMPS report. Properties brought back into use Properties improved	Monthly	Empty Homes Officer	IMPS
Number of Empty Properties	Quarterly	Empty Homes Officer	Empty Property Working Group
Progress against open case list	Quarterly	Empty Homes Officer	Empty Property Working Group
Annual impact report	Annually	Empty Homes Officer	IMPS

## Appendix 1: Action Plan 2018-19

No.	Action	Baseline	Target milestone / measure	Timescale for completion	Responsible Person	Other Key contacts
1	Review the terms of reference of the Empty Property Working Group to make best use of statutory enforcement powers and other tools across the authority	Empty Property Working Group meeting at least twice yearly to share information	Terms of reference agreed by the group	Apr-18	Private Housing Team Leader	Empty Property Working Group
2	Develop procedures to prompt and record contacts with owners and interested parties, reasons empty and property data, and actions leading to occupation	Spreadsheet of addresses updated quarterly from council tax data, to include 6-24 month empty homes. Civica APP used from 2 years empty. Staged suite of template letters in place (manual input)	6 months empty: Spreadsheet and/ or IT system configured for recording initial 3 staged letters and owner responses in a reportable format, and prompting feedback to any complainant or community representative. Cross reference brought back to use list against Housing Options private sector housing scheme. 2 years empty: template for individual property action plan	Jul-18	Empty Homes Officer	Business Development and IT Team Technical Officers Technical Assistant Private Housing Liaison Officer

			developed with measurable milestones			
3	Explore community led approaches to bringing empty homes back to use including wider benefits for sustainable regeneration	Community Land Trust steering group formed. Report on CLT's formation to be funded by Esme Fairburn Foundation.	Agreed COLC's role in identifying suitable empty homes for referral into the CLT and identify models for bringing them back to use. Including opportunities for employment and skills etc.	Oct-18	Private Housing Team Leader	Empty Homes Officer Neighbourhood Manager Lincolnshire CLT
4	Develop reporting systems to notify enforcement teams of unpaid work in default debt, and procedures across authority for registering local land charged debts.	Debtor invoices raised following works in default. Issues in tracing owner mean some debts not demanded. Lack of consistency in registering local land charges for unpaid debts. Lack of feedback from finance to originating officer to know if debts has been paid or not.	Reporting mechanism in place between debtors and enforcement teams for unpaid Work in Default invoices. Procedures in place for registering a local land charge for all unpaid debts. Protocol in place for applying for statutory charge on land registry - amount of debt and time owed.	Oct-18	Empty Homes Officer	Debtors Local Land Charges Legal Empty Property Working Group
5	Action Plans in place for all homes empty for two years or longer	Properties impact scored at 2 years empty and most appropriate course of action for the top 50 highest scoring agreed by Empty Property Working Group. Milestones not necessarily proposed to owner. Timescales and budgets for enforcement action not defined.	Template action plan populated for each home in conjunction with lead enforcement team, communicated to owner including consequences for failure to act. Resource needs for proposed enforcement action identified	Jan-19	Empty Homes Officer	Empty Property Working Group Legal Finance



6	Update and re-brand Empty Homes Information Pack for owners - discounts, agents etc.	Lincolnshire Empty Homes Project information pack developed in 2009/10 and discounts agreed with agents and builders merchants.	Legal accuracy of advice pages checked and updated. Discounting organisations contacted and reviewed. Trusted Landlord Scheme, Housing Options private sector landlord scheme and any other local schemes and national good practice included. COLC info pack completed.	Jan-19	Empty Homes Officer	Private Housing Liaison Officer
7	Engage with Sincil Bank Homes Working Group to identify problematic empty homes and suggest solutions	Private Housing Team Leader attends Sincil Bank Homes Working Group to update on numbers of empty homes.	Most problematic five empty homes in Sincil Bank identified and action plans in place	January 2019 and ongoing six-monthly	Private Housing Team Leader	Empty Homes Officer Neighbourhood Manager
8	Explore options for management of properties subject to EDMO	EDMO not yet used in COLC. Some discussions taken place with Housing. Housing Company in place. Community Land Trust proposed in Sincil Bank. Trusted Landlord Scheme in place. Basic costings estimated based on elementary market knowledge.	Options appraisal prepared for the different options. Template management scheme prepared to include works, housing demand, rental income etc. Procurement framework in place for one or more organisations to manage properties subject to EDMO in future. Procurement considered for renovation works.	Jan-19	Empty Homes Officer	Director of Housing and Regeneration Client Procurement Officer

9	Explore funding options for initial works on properties subject to EDMO	No capital or legal budget identified, although it is expected that the initial outlay is recoverable over the 7 year EDMO term	Develop business case for initial investment on a repayable basis - any surpluses must be paid to owner. Investigate if income from Civil Penalties / Rent Repayment Orders can be used to fund works under Part 4 Housing Act.	Jan-19	Private Housing Team Leader	Empty Homes Officer
10	Develop knowledge of Empty Homes Officer and Housing Standards and Enforcement Officers to apply for and manage an EDMO	Some officers have undertaken high level EDMO training. Experience of EDMO in NKDC who share Empty Homes Officer.	EDMO manual developed for key officers to understand legislation, exemptions, and steps to an EDMO. Understanding or experience of attending a First Tier Tribunal for EDMO or wider PHT functions	Apr-19	Private Housing Team Leader	Empty Homes Officer Housing Standards and Enforcement Officers
11	Develop skills and capacity of Technical Officers to inspect empty homes and prepare costed work schedules	All empty homes casework carried out by Empty Homes Officer resulting in average 19 empty homes / year brought to use. Technical Officers inspecting private rented homes and preparing schedules for grant work. Schedule of rates in place for DFG only.	Technical Officers understand outline law and practice relating to empty homes enforcement. Needlestick training up to date. Template schedule phrases available and specification guided by Housing maintenance team. Schedule of rates in place to estimate general renovation work.	Apr-19	Private Housing Team Leader	Empty Homes Officer Technical Officers "Hamilton House"

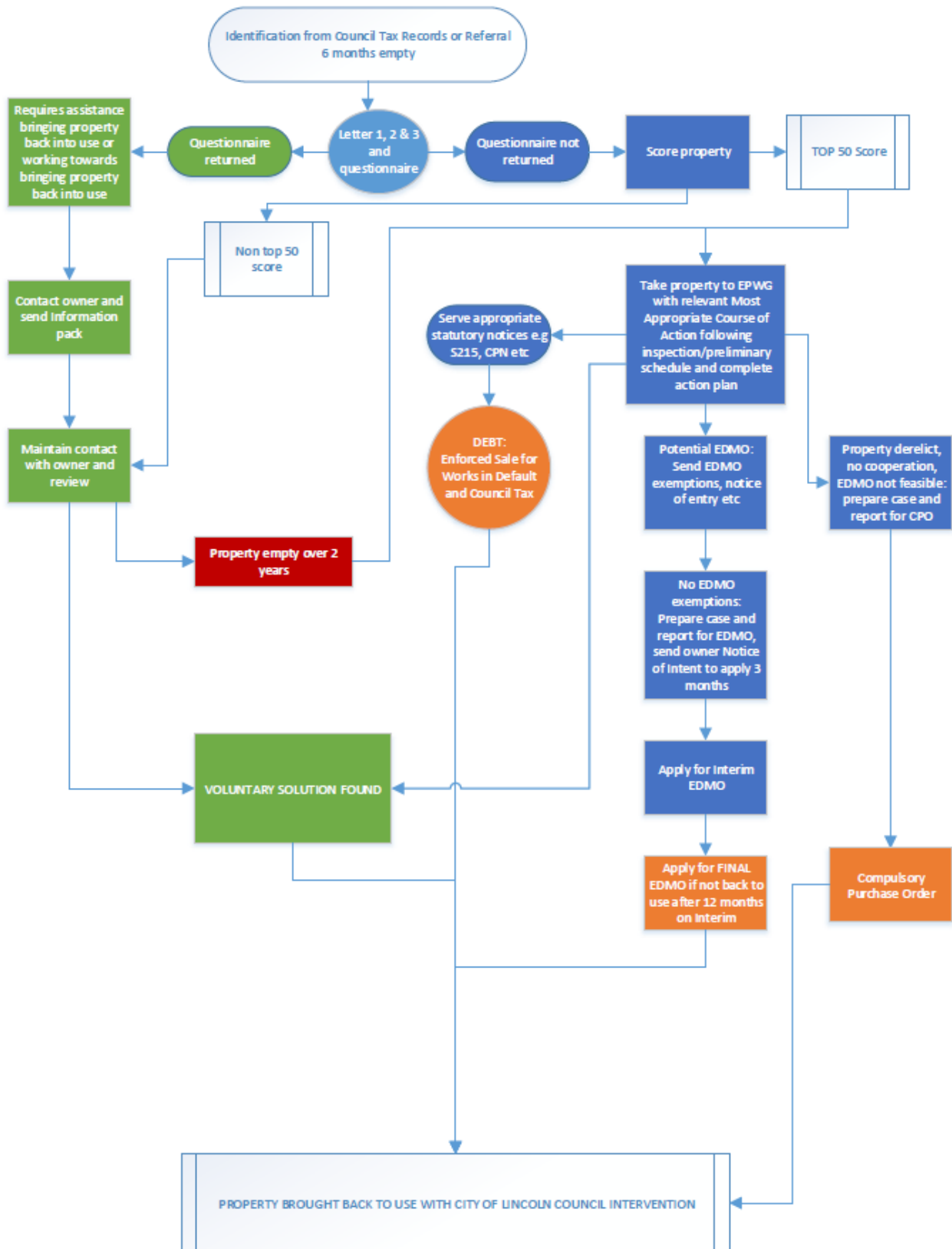
12	Develop processes and capacity in legal, private housing and planning teams to streamline CPO action	Some officers have undertaken CPO training. Private Housing Team Leader has completed a CPO in neighbouring authority (uncontested). One CPO file processed up to draft order stage.	CPO manual reviewed and updated with lessons learnt, typical timescales and budgets. Funding options explored. Officers have received relevant training to understand when to use different powers and the steps to a successful CPO.	Apr-19	Private Housing Team Leader	Solicitor (E Brownless) Empty Homes Officer Heritage & Planning Enforcement Team Leader
13	Develop knowledge and resources Private Housing Team, Revenues Team and Legal to carry out Enforced Sale for WID debt and Council Tax debt.	Some officers have undertaken high level training on enforced sale. Private Housing Team Leader has completed process in neighbouring authority. Enforced sale completed in COLC by previous post holder. Lack of budget for legal costs and departmental budgets not being topped up from moneys recovered.	Enforced Sale procedure manual prepared. Empty Homes Officer and Housing Standards and Enforcement Officers received appropriate training on LPA 1925 enforced sales. Protocol agreed between legal and EPWG - amount and age of debt thresholds. Budget agreed for legal costs and understanding of how recovered debts reallocated to budgets.	Apr-19	Private Housing Team Leader	Empty Homes Officer Housing Standards and Enforcement Officers Legal
14	Consider the commercial and strategic opportunities of renovating and / or retaining poor condition empty homes acquired through CPO	Properties identified for CPO are often in uninhabitable condition, restricting options for disposal on open market. End use of a property guides which legislation will be used for the CPO.	Appraise any interest in retaining homes in housing stock / housing company rather than onward sale, in which case identify budget. Develop a template business case for an empty home CPO - to sell back to back, carry out essential	Jul-19	Private Housing Team Leader	Empty Homes Officer Director of Housing and Regeneration

		Changes to homelessness statutory duties?	structural works prior to sale, or full renovation / redevelopment.			
15	Monitor availability of funding sources and partnership opportunities	Government funding to bring empty homes to use as affordable housing, and for community groups to bring empty homes back to use, ended in 2015. New Homes Bonus helps to fund Empty Homes Officer post, but no specific funding stream in place for empty homes capital or legal costs, and budget approval needed for individual CPO / EDMO / Enforced sale cases. Community Land Trust steering group in place for Sincil Bank area, and Housing Company agreed, which may have access to funding streams not available to local authority housing.	Community Land Trust incorporated to aid ability to bid for funding pots and ethical lending. Status of Housing Company understood by PHT and funding sources identified through HCA or otherwise. Communication with Registered Providers to identify any increase in appetite for empty homes work. Use of Section 106 planning conditions considered. Awareness through attendance at events or otherwise of regional and national empty homes good practice including funding opportunities. Ability to offer financial assistance to owners reviewed.	Jul-2019  Annually	Private Housing Team Leader	Empty Homes Officer Director of Housing and Regeneration Community Land Trust

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16	Appraise Options for voluntary lease and purchase of empty homes by Local Authority, Housing Company, Community Land Trust or partner organisation.	<p>Leasing of 15 homes in partnership with Waterloo Housing ended 2015, successes and barriers identified.</p> <p>Voluntary EDMO piloted in NKDC as an alternative to lease.</p> <p>Community Land Trust steering group formed in Sincil Bank and private sector expressing interest in empty homes.</p> <p>Registered Providers have declined to partner on Empty Homes due to cost/risk of older pepperpotted stock.</p> <p>Voluntary purchase restricted to last resort prior to CPO with a view to a back to back onward sale.</p> <p>National Empty Homes Network (officer group) completed engagement exercise with Council of Mortgage Lenders on barriers to leasing.</p>	Budget needs identified for acquisition and renovation of typical empty homes stock. Successes and pitfalls of voluntary EDMO understood through NKDC. Current attitude of main mortgage lenders understood in respect of leasing. Options appraisal prepared for acquisition by council or partner organisations, and renovation and / or retention by the different organisations	Oct-19	Empty Homes Officer	Director of Housing and Regeneration Community Land Trust Neighbourhood Manager
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## Appendix 2. Empty Homes Pathway to Occupation



### Appendix 3. Statutory Powers in Relation to Empty Homes

Circumstance	Power
Dangerous or dilapidated buildings or structures	Building Act 1984, sections 77 and 78
	Building Act 1984, section 79 (1)
	Housing Act 2004, section 5
	Housing act 1985, section 265
Property not secured against unauthorised entry, risk of vandalism, arson etc.	Local Government (Miscellaneous Provisions) Act 1982, section 29
	Anti-Social Behaviour Crime and Policing Act 2014
Vermin, present or there is risk of attracting vermin.	Public Health Act 1961, section 34
	Prevention of Damage by Pests Act 1949, section 4
	Public Health Act 1961, section 83
	Environmental Health Act 1990, section 80
Unsightly land and property affecting amenity of an area	Public Health Act 1961, section 34
	Town and Country Planning Act 1990, section 215
	Anti-Social Behaviour Crimes and Policing Act 2014
	Refuse Disposal Amenity Act 1978, section 3
	Building Act 1984, section 79 (2)
	Planning (Listed Buildings and Conservation Area) Act 1990, section 54
Protection from danger on land	Highways Act 1980, section 165
Properties that have been vacant for 2 years, are negatively impacting the community and negotiation has been unsuccessful in returning them back to use	Housing Act 2004, section 134
Debt owed to the council	Law of Property Act 1925, section 103
	Council Tax powers
Compulsory Purchase Orders	Housing Act 1985, section 17
	Planning (Listed Buildings and Conservation Area) Act 1990, section 47
	Town and Country Planning Act 1990, section 239
Council tax charges in respect of empty properties	Local Government Finance Act 2003
Requiring information from an owner	Local Government (Miscellaneous Powers) Act 1976, section 16
Sharing of data from other local authority departments	Local Government Act 2003, section 85
	Housing Act 2004, section 237
Powers of entry	These will generally be found in relation to the statutes above but note these specific powers.
	Housing Act 2004, 239
	Housing and Planning Act 2016, section 172

## Appendix 4: Definition of Homes Brought to Use Through Council Intervention

1. The Empty Homes Network, a national group of local government officers leading in empty homes work, defines the local authority bringing a home back to use as follows:
2. *To record a success, the local authority needs to demonstrate that the local authority's intervention made a material contribution to a positive outcome that occurred without unreasonable delay. It should be possible to evidence a chain of events unfolding without unreasonable delay following the local authority intervention and to show that, on the balance of probability, one event led on to the next as a precondition or cause.*
3. Successes within the authority will be counted if the Council can provide sufficient evidence to show compliance with the criteria recommended in the “Guidelines for Monitoring Empty Homes Interventions: A Standard Approach for Local Authorities” as published by the Empty Homes Network.
4. The City of Lincoln Council’s Empty Property Working Group interprets these guidelines by counting the following interventions as bringing an empty home back to use through council intervention, where the property subsequently becomes occupied:
  - Direct action to include a confirmed Compulsory Purchase; Final/Interim Empty Dwelling Management Order; an Enforced Sale; use of the council’s rent deposit/private housing allocations scheme; a leasing scheme or voluntary acquisition.
  - The threat or initiation of enforcement action to include but not limited to those powers listed in Appendix 3.
  - A high degree of engagement with the owner such as those listed in “Initial Options” in this document. This could include:
    - Sending at least three staged letters encouraging the home to be brought back to use
    - Fewer than three letters with some response from the owner and advice or assistance given
    - Referral to a charity or third party interested in working with the owner to bring the home back to use



## Appendix 5: Empty Property Working Group Terms of Reference

The Empty Property Working Group aims to deliver co-ordinated action on troublesome empty properties around the City. This is achieved through a process of referral, evaluation, action and then consideration as to any further steps. As such the group will:

- Seek ways to pool resources and create a single budget in support of the delivery of the Empty Homes Strategy and Vision 2020 objectives
- Develop and implement new models of community and stakeholder involvement in the delivery of the Empty Homes Strategy
- Focus on establishing work based innovation and good practice
- Address Housing Need in line with the Empty Homes Strategy and Vision 2020
- Bring residential property back into use in line with the Empty Property Strategy

### 1. Working group membership

The group aims to bring together all departments involved in a property, identify a solution to manage any problems which result from the properties vacancy, and identify methods of sale or reoccupation. As such the group will be a co-ordinated effort by officers from:

- Private Sector Housing
- Planning
- PPASB
- Building Control
- Council Tax and Recovery
- Neighbourhoods
- Elected Members
- Legal services
- Housing Needs / Housing Management

Additionally, other officers may attend as needed or as cases develop, and the group will engage partner organisations where appropriate.

### **3. Working Group format and frequency**

The working group will meet every 6 weeks with the agenda and property lists coordinated by the Empty Homes Officer.

Properties will be removed from the working group agenda when they reach a position which does not require the specialist involvement of a multi-disciplinary working group. Their removal will be agreed by the group, additionally referrals can be brought to the group by any member, and their inclusion in the list agreed by the group.

### **4. Process**

1. Referral – as mentioned above referrals are received and then brought to the group following an initial assessment.
2. Evaluation – The group discuss the issues, and where relevant identify a lead officer to investigate further.
3. Most Appropriate Course of Action – if enforcement is required the appropriate officer will lead and keep the group updated at further working groups.
4. Review – Once the enforcement is concluded or there are particular challenges the property returns to the group and is assessed for further action or removal from the group.

### **5. Final options**

Possible enforcement options include:

1. Serving of statutory notices leading to
  - i. Prosecution
  - ii. Works in Default (WID)
  - iii. Enforced sale
2. Empty Dwelling Management Orders.
3. Compulsory Purchase Order

## **6. Resource Implications**

There will be some financial implications attached to certain enforcement action. Adopting an Enforced Sale Procedure will allow the Council the opportunity to retrieve costs associated with non-compliance of statutory notices such as boarding up, nuisance issues and amenity issues. It will also provide suitable methods for retrieving personal debt such as Council Tax debt. It should also be noted that the costs incurred from a solicitor or legal service can be retrieved from the sale of the property rather than the Council, and the Council can also include officer time when calculating the costs to be retrieved in some cases.

However, other action such as Compulsory Purchase Orders will result in on-retrievable costs to the Council.

Nonetheless, although the costs are mostly retrievable there will need to be some upfront funding to allow the works to be completed before anything can be sought through sale.

## **7. Decision Making and Governance**

The Empty Property Working Group is chaired by the Private Housing Team Leader. It is capable of self-governance for most decisions that are within the remit of the authorised officers and elected members. However when high resource eventualities such as Compulsory Purchase, Empty Dwelling Management Orders and Enforced Sales are considered the Empty Property Officer will prepare a report to be presented to Head of Service of the lead department. This will ensure proper processes are considered and the risks to the Council mitigated as much as possible.

## **8. Lists of acts involved in relation to empty property enforcement.**

Particularly useful powers and procedures for the Council include:

- Town and County Planning Act 1990 – section 215
- Planning and Compulsory Purchase Act 2004
- Historic Buildings and Conservation Areas Act 1991
- Building Act 1984 – section 76-80

- Housing Act 2004 – Parts 1-4
- Local Government Act 2003
- Local Government (Misc Prov) Act 1982
- Local Government Act 2000
- Prevention of Damage by Pest Act 1949 – section 4
- Environmental Protection Act 1990 – Part2 and section 80
- Anti-Social Behaviour Crime and Policing Act 2014

This list is not exhaustive

# Equality with Human Rights Analysis Toolkit



The Equality Act 2010 and Human Rights Act 1998 require us to consider the impact of our policies and practices in respect of equality and human rights.

We should consider potential impact before any decisions are made or policies or practices are implemented. This analysis toolkit provides the template to ensure you consider all aspects and have a written record that you have done this.

If you need any guidance or assistance completing your Equality and Human Rights Analysis contact:  
Heather Grover, Principal Policy Officer on (87)3326; email: [heather.grover@lincoln.gov.uk](mailto:heather.grover@lincoln.gov.uk) . Alternatively contact Legal Services on (87)3840

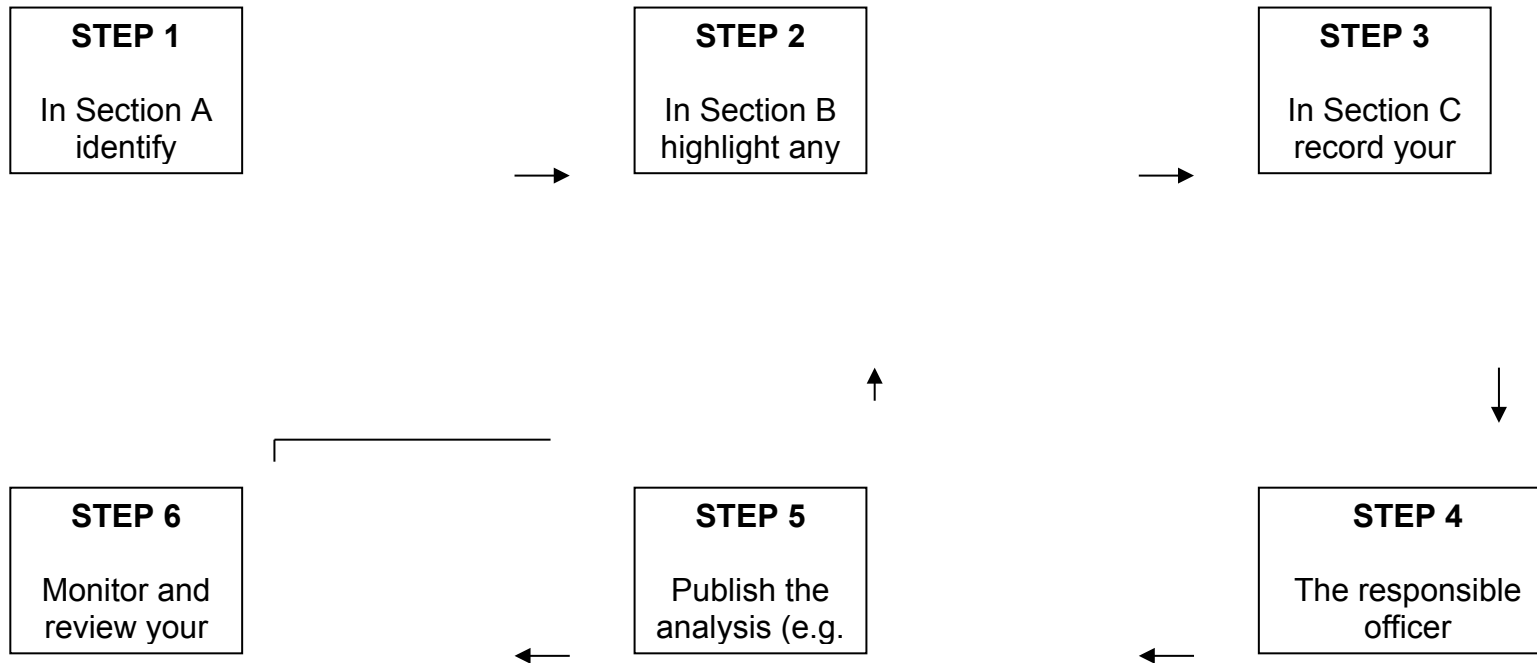
A diagram of the process you should follow is on page 2, and glossary and guidance to help you complete the toolkit can be found on pages 6-9.

Even after your policy, project or service has been implemented; it is recommended that analysis is undertaken every three years, and that this analysis is updated at any significant points in between. The purpose of any update is that the actual effects will only be known after the implementation of your policy, project or service. Additionally, area demographics could change, leading to different needs, alternative provision can become available, or new options to reduce an adverse effect could become apparent.

## Useful questions to consider when completing this toolkit

1. What is the current situation?
2. What are the drivers for change?
3. What difference will the proposal make?
4. What are the assumptions about the benefits?
5. How are you testing your assumptions about the benefits?
6. What are the assumptions about any adverse impacts?
7. How are you testing your assumptions about adverse impacts?
8. Who are the stakeholders and how will they be affected?
9. How are you assessing the risks and minimising the adverse impacts?
10. What changes will the Council need to make as a result of introducing this policy / project / service / change?
11. How will you undertake evaluation once the changes have been implemented?

## STEP BY STEP GUIDE TO EQUALITY ANALYSIS



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**\* Evidence could include information from consultations.**

## SECTION A

Name of policy / project / service	Empty Homes Strategy 2017-22
Background and aims of policy / project / service at outset	As of 1 January 2018 there are 419 privately owned homes that have been empty and unoccupied for six months or longer. The strategy sets out the council's approach to bringing empty homes back to use through engagement with owners, voluntary options, and enforcement, including the potential to use empty private homes to meet housing need.
Person(s) responsible for policy or decision, or advising on decision, and also responsible for equality analysis	Hannah Cann Private Housing Team Leader
Key people involved <i>i.e. decision-makers, staff implementing it</i>	Private Housing Team

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## 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 and if appropriate who you have consulted with*	Is action possible to mitigate adverse impacts?	Details of action planned including dates, or why action is not possible
	Positive	Negative	None			
Age  168	X	X		The strategy proposes enforcement action to improve the condition, and as a last resort, change the ownership or control of a person's property. Some homes are empty because the owner is receiving or giving care (council tax exemption category data) and some of these may be elderly. These homes are not targeted for action and are exempt from some enforcement actions such as EDMO. Advice, assistance and voluntary options can have a positive impact on the owner by removing a financial, physical or psychological burden.	Yes/No/NA	Everyone is treated equally in the context of the strategy covering the relevant issues and is subject to the same process/procedure. Consideration is given to an owner's vulnerability before formal enforcement commences – on a case by case basis
Disability including carers (see Glossary)	X	X		The strategy proposes enforcement action to improve the condition, and as a last resort, change the ownership or control of a person's property. Some homes are empty because the owner is receiving or giving care (council tax exemption category data) which may be due to disability. These homes are not targeted for action and are exempt from some enforcement actions such as EDMO. Some homes are empty because the owner is unable to cope with their upkeep or sale due to physical disability or mental ill health (case records). Advice, assistance and voluntary options can have a positive impact on the owner by removing a financial physical or	Yes/No/NA	Everyone is treated equally in the context of the strategy covering the relevant issues and is subject to the same process/procedure. Consideration is given to an owner's mental capacity and vulnerability before formal enforcement commences – on a case by case basis.



				psychological burden.		
Gender re-assignment			X		Yes/No/NA	
Pregnancy and maternity			X		Yes/No/NA	
Race			X		Yes/No/NA	
Religion or belief			X		Yes/No/NA	
Sex			X		Yes/No/NA	
Sexual orientation			X		Yes/No/NA	
Marriage/civil partnership			X		Yes/No/NA	
Human Rights (see page 8)		X		<p>The European Convention on Human Rights are affected by empty homes enforcement, in particular compulsory acquisition, as follows:-</p> <p>Article 1 (of the First Protocol) This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.</p> <p>Article 6 This provides that in determining civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.</p> <p>Article 8 (of the Convention) This protects private and family life, home and correspondence. No public authority can</p>	Yes/No/NA	<p>These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Compulsory purchase of land, Empty Dwelling Management Order, and Enforced Sale are permitted under the terms of the Housing Act 1985, Housing Act 2004, and Law of Property Act 1925 respectively and are subject to a statutory procedure (including rights to consultation and to be heard</p>

			<p>interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.</p> <p>Article 14 (of the Convention)</p> <p>This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or a social origin.</p>		<p>at a Public Inquiry or Tribunal) which will be followed. In addition, compensation is payable making the action fair and proportionate.</p> <p>Furthermore, in relation to Article 14, everyone is treated equally in the context of the policy covering the relevant issues and is subject to the same process/procedure.</p>
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*\*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?
170	N	

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

<p>Conclusion of Equality Analysis (describe objective justification for continuing)</p>	<p>The potential negative impact of enforcement action on a person with a physical or mental disability are reduced by the consideration of each case in relation to proportionality, and the offering of advice, assistance and voluntary options that have a positive impact reducing the burden of the empty home.</p> <p>The interference in an owner's qualified Human Rights in relation to enforcement is prescribed by law, is</p>
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	pursuant to a legitimate aim, is necessary in a democratic society and is proportionate.
--	--

When and how will you review and measure the impact after implementation?*	The most appropriate course of action will be considered on a case by case basis with regards to the owner's circumstances.
--	---

Checked and approved by responsible officer(s) (Sign and Print Name)	Hannah Cann	Date	09/03/2018
Checked and approved by Assistant Director (Sign and Print Name)		Date	

When completed, please send to [policy@lincoln.gov.uk](mailto:policy@lincoln.gov.uk) and include in Committee Reports which are to be sent to the relevant officer in Democratic Services

The Equality and Human Rights Commission guidance to the Public Sector Equality Duty is available via: [www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/](http://www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/)

## City of Lincoln Council Equality and Human Rights Analysis Toolkit: Glossary of Terms

**Adult at Risk** - an adult at risk is a person aged 18 years or over who is or may be in need of community care services by reason of mental health, age or illness, and who is or may be unable to take care of themselves, or protect themselves against significant harm or exploitation.

**Adverse Impact.** Identified where the Council's operations has a less favourable effect on one or more groups covered by the Equality Act 2010 than it has on other groups (or a section of a group)

**Carer - see also disability by association.** A carer is a person who is unpaid and looks after or supports someone else who needs help with their day-to-day life, because of their age, long-term illness, disability, mental health problems, substance misuse

**Disability by association.** Non disabled people are also protected from discrimination by association to a disabled person. This might be a friend, partner, colleague or relative. This applies to carers who have a caring responsibility to a disabled person.

**Differential Impact.** Identified where a policy or practice affects a given group or groups in a different way to other groups. Unlike adverse impact, differential impact can be positive or negative.

**Disability.** It is defined under the Equality Act 2010 as 'having a physical or mental impairment which has a substantial and adverse long term effect on a person's ability to carry out normal day to day activities'.

*Physical impairment* is a condition affecting the body, perhaps through sight or hearing loss, a mobility difficulty or a health condition.

*Mental impairment* is a condition affecting 'mental functioning', for example a learning disability or mental health condition such as manic depression

**Diversity.** Diversity is about respecting and valuing the differences between people. It is also recognising and understanding the mix of people and communities who use services and their different needs.

**Discrimination.** Discrimination has been defined as 'the unequal treatment of individuals or groups based on less because of a protected characteristic – see protected characteristic. This includes discrimination by association, perception, direct and indirect discrimination.

*Example of discrimination:* An employer does not offer a training opportunity to an older member of staff because they assume that they would not be interested, and the opportunity is given to a younger worker

**Equality.** The right of different groups of people to have a similar social position and receive the same treatment:

**Equality Analysis.** This is a detailed and systematic analysis of how a policy, practice, procedure or service potentially or actually has differential impact on people of different Protected Characteristics

**Equality Objectives.** There are specific strategic objectives in the area of equalities and should set out what services are seeking to achieve in each area of service in terms of Equality.

**Equality of Opportunity.** Equality of opportunity or equality opportunities may be defined as ensuring that everyone is entitled to freedom from discrimination. There are two main types of equality encompassed in equal opportunities:

1. Equality of treatment is concerned with treating everyone the same. Thus, in an organisational context it recognises that institutional discrimination may exist in the form of unfair procedures and practices that favour those with some personal attributes, over others without them. The task of equal opportunities is therefore concerned with the elimination of these barriers.
2. Equality of outcome focuses on policies that either have an equal impact on different groups or intend the same outcomes for different groups.

**Evidence.** Information or data that shows proof of the impact or non impact - evidence may include consultations, documented discussions, complaints, surveys, usage data, and customer and employee feedback.

**Foster good relations.** This is explicitly linked to tackling prejudice and promoting understanding.

**General Equality Duty.** The public sector equality duty on a public authority when carrying out its functions to have 'due regard' to the need to eliminate unlawful discrimination and harassment, foster good relations and advance equality of opportunity.

**Gender reassignment.** The process of changing or transitioning from one gender to another – for example male to trans-female or female.

**Harassment.** This is unwanted behaviour that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment.

**Human Rights** – Human rights are the basic rights and freedoms that belong to every person in the world - **see below**

**Marriage and Civil Partnership.** Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. Single people are not protected. Discrimination on grounds of marriage or civil partnership is prohibited under the Act. The prohibition applies only in relation to employment and not the provision of goods and services.

**Pregnancy and Maternity.** Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

**Protected Characteristics.** These are the grounds upon which discrimination is unlawful. The characteristics are:

- Age
- Disability
- Gender reassignment
- Race
- Religion and belief (including lack of belief)
- Sex/gender
- Marriage and civil partnership
- Pregnancy and maternity
- Sexual orientation

**Public functions.** These are any act or activity undertaken by a public authority in relation to delivery of a public service or carrying out duties or functions of a public nature e.g. the provision of policing and prison services, healthcare, including residential care of the elderly, government policy making or local authority services.

**Race.** This refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

**Religion or belief.** Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Section 11 of the Children Act.** This duty is a duty under the Children Act 2004 that requires all agencies with responsibilities towards children to discharge their functions with regard to the need to safeguard and promote the welfare of children. They must also ensure that any body providing services on their behalf must do the same. The purpose of this duty is that agencies give appropriate priority to safeguarding children and share concerns at an early stage to encourage preventative action.

**Sex.** It refers to whether a person is a man or a woman (of any age).

**Sexual Orientation.** A person's sexual attraction is towards their own sex; the opposite sex; or to both sexes: *Lesbian, Gay or Bisexual*

**Victimisation.** Victimisation takes place where one person treats another less favourably because he or she has exercised their legal rights in line with the Equality Act 2010 or helped someone else to do so.

**Vulnerable Adult.** A Vulnerable Adult is defined as someone over 16 who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him/herself or unable to protect him/herself against significant harm or exploitation'

## Human Rights

Human rights are the basic rights and freedoms that belong to every person in the world. They help you to flourish and fulfill your potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- living the life you choose
- taking an active part in your community and wider society.

The Human Rights Act 1998 (also known as the Act or the HRA) came into force in the United Kingdom in October 2000. It is composed of a series of sections that have the effect of codifying the protections in the European Convention on Human Rights into UK law.

The Act sets out the fundamental rights and freedoms that individuals in the UK have access to. They include:

- Right to life
- Freedom from torture and inhuman or degrading treatment
- Right to liberty and security
- Freedom from slavery and forced labour
- Right to a fair trial
- No punishment without law
- Respect for your private and family life, home and correspondence
- Freedom of thought, belief and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry and start a family
- Protection from discrimination in respect of these these rights and freedoms
- Right to peaceful enjoyment of your property
- Right to education
- Right to participate in free elections

174 Many every day decisions taken in the workplace have no human rights implications. However, by understanding human rights properly you are more likely to know when human rights are relevant and when they are not. This should help you make decisions more confidently, and ensure that your decisions are sound and fair.

<b>SUBJECT:</b>	<b>GENERAL DATA PROTECTION REGULATION (DATA PROTECTION) POLICY</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE &amp; TOWN CLERK</b>
<b>REPORT AUTHOR:</b>	<b>INFORMATION GOVERNANCE OFFICER (IGO) &amp; LEGAL &amp; DEMOCRATIC SERVICES MANAGER (LDSM)</b>

### **1. Purpose of Report**

- 1.1 To seek the Committee's comments on the EU General Data Protection Regulation & Data Protection Policy before being referred to Executive for their approval.

### **2. Executive Summary**

- 2.1 Data protection is critical to the Council to ensure that the data which is received, processed, retained and shared is protected in accordance with the legal framework.
- 2.2 The Data Protection Act 1988 will be replaced by a new Data Protection Act 2018 which will implement the General Data Protection Regulation (GDPR) into UK law by 25 May 2018.
- 2.3 The Council needs to have a policy to enable the council to be compliant with the new legal framework and the information governance team need to roll out the policy in order to increase awareness of the GDPR to officers' and councillors. Therefore members of the public can be confident that the organisation are aware of their responsibilities of the new legal framework.

### **3. Background**

- 3.1 Many of the GDPR's main concepts and principles are much the same as those in the current Data Protection Act, however, there are new elements, which include increased access rights for individuals, to include developments in new technology, tighter time limits for reporting breaches and increased fines for breaching data protection legislation and associated powers of the Information Commissioner's Officer.
- 3.2 Therefore as part of the action plan for this Vision 2020 project and to ensure the council is ready for the implementation of the new Regulation, the council needs to revise its Data Protection Policy.
- 3.3 The Information Governance team has therefore prepared the attached Policy to comply with the incoming Data Protection Act and GDPR

## 4 The Data Protection Principles

4.1 The GDPR states that anyone processing personal data must apply the six data protection principles. These principles are legally enforceable. The following will therefore apply after 25 May 2018, and are broadly similar to the current Data Protection Act.

1. ***Lawfulness, fairness and transparency principle: processed fairly, lawfully and in a transparent manner in relation to individuals;***

Lawfully requires in particular that personal data not be processed unless at least one Lawful Bases has been met. For special category data this also requires at least one further Condition to be met, in addition to the Lawful Basis. See the Definitions section below for a list of the Lawful Bases and additional Conditions for processing special category data

2. ***Purpose limitation principle: collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those processes;***

Further processes for archiving purposes in the public interest, scientific or historical research or statistical purposes is not considered to be incompatible with the initial purpose.

3. ***Data minimisation principle: adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;***

4. ***Accuracy principle :accurate and where necessary kept up to date;***

Every step must be taken to ensure personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.

5. ***Storage limitation principle: kept in a form which permits identification of the data subjects for no longer than necessary for the purposes for which the personal data are processed;***

Personal data may only be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes subject to technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.

6. ***Integrity and confidentiality principle: processed in a manner the ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;***

The GDPR also introduces a further ***Accountability Principle*** which requires the council as Controller be responsible for, and be able to demonstrate, compliance with the above principles.



4.2 The policy addresses the above changes.

## 5 Strategic Priorities

5.1 This Strategy does not directly relate to one of the main strategic priorities, however it does assist to make the Council fit for purpose and ensure access to information Polices such as Data Protection continue to promote transparency.

## 6. Organisational Impacts

6.1 Finance

No implications arising from this report.

6.2 Legal Implications

As outlined in the report.

## 7. Risk Implications

7.1 The Council must implement a policy in order to comply with the GDPR and the new Data Protection Act 2018.

## 8. Recommendation

8.1 To note the report and provide comments on the Data Protection Policy with a view to referring it to Executive for approval.

**Is this a key decision?** No

**Do the exempt information categories apply?** No

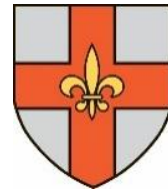
**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

**How many appendices does the report contain?** 1

**List of Background Papers:** None

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CITY OF  
*Lincoln*  
COUNCIL

# The General Data Protection Regulation & Data Protection Policy

## Document control

<b>Organisation</b>	<b>City of Lincoln Council</b>
<b>Title</b>	<b>Data Protection Policy</b>
<b>Author - name and title</b>	<b>Becky Scott, Legal and Democratic Services Manager</b>
<b>Owner - name and title</b>	<b>Becky Scott, Legal and Democratic Services Manager</b>
<b>Date</b>	<b>May 2018</b>
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## Document Amendment history

<b>Revision</b>	<b>Originator of change</b>	<b>Date of change</b>	<b>Change description</b>
<b>V.01.01</b>	<b>Sally Brooks</b>	<b>May 2018</b>	<b>To incorporate GDPR and Data Protection Act 2018</b>

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## Overview

To perform efficiently the City of Lincoln Council (“the council”), must collect and use information about the individuals with whom we work. This may include members of the public, employees (past and prospective), volunteers, work experience, partner organisations, agents, customers, and suppliers. The council may also be required by law to collect and use information to meet the requirements of central government.

All personal information must be handled and dealt with properly, no matter how it is collected, recorded and used, and whether it is on paper, in computer records or recorded by any other means. We all have a responsibility for its safe handling.

This document sets out the principles of data protection; our responsibilities; the rights of individuals; information sharing; and how we shall deal with complaints. The council must comply and fully endorse the principles of data protection as set out in the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

The council is a data Controller and is therefore bound by a legal duty to meet its obligations under the GDPR and the DPA at all times, when handling personal information. These legal obligations last from the moment the information is obtained until it is returned, deleted or destroyed.

### 1. Purpose

The main purpose of this Policy is to raise awareness amongst staff of GDPR and the DPA. This is to ensure that the council complies with its legal obligations at all times when handling personal information. The council also regards the lawful and correct treatment of personal information as essential to the effectiveness and success of its operations and in maintaining trust between the council and those with whom it carries out business. To this end the council will process personal information lawfully and correctly by embedding this Policy into its culture, its processes and its procedures.

### 2. Scope

#### 2.1 Who does this Policy apply to?

This Policy applies to all full time and part time employees of the City of Lincoln Council, elected members, partner agencies, contracted employees, third party contracts (including agency employees), volunteers and students or trainees on placement with the council.

Elected members are also data Controllers in their own right and must ensure that any personal information they hold/use in their office as an elected member is treated in line with the GDPR and the DPA.

#### 2.2 What is personal data?

This Policy applies to Personal data which means;

*'any information relating to an identified or identifiable natural person ('the Data Subject'). An identifiable natural person is one who can be identified directly or indirectly in particular by reference to an identifier'*

The GDPR has expanded the definition of personal data to reflect changes in technology and includes online identifiers such as an IP address and location data where they directly or indirectly identify individuals. Data which has been Pseudonymised (key coded) can also fall within the definition of personal data depending on how difficult it is to attribute the pseudonym to a particular individual.

### **2.3 What is special category or sensitive personal data?**

There are also special categories of personal data previously referred to as sensitive data which require extra protection. These are personal data revealing;

- racial or ethnic origin (for example CCTV images of individuals attending a place of worship or arrangements to allow a staff member to pray)
- political opinions
- religious or philosophical beliefs (for example veganism or atheist)
- trade union membership
- genetic or biometric data (for example fingerprints, DNA, iris and voice recognition)
- data concerning mental or physical health (for example sickness records, occupational health reports)
- sex life
- sexual orientation (including transgender and gender reassignment)
- criminal convictions and offences data are not included as special category data although similar provisions for processing apply
- all other criminal prosecutions data including investigations is dealt with separately under the Law Enforcement Provisions in the DPA and could be said to be 'extra special data'.

### **2.4 What type of personal records does this Policy apply to?**

This Policy applies to all personal information created or held by the council, in whatever format (for example paper, electronic, email, microfiche, film) and however it is stored, (for example ICT system/database, Intranet, filing structure, email, filing cabinet, shelving and personal filing drawers).

The GDPR has expanded the scope of applicable information to include;

*'the processing of personal data both automated and manual which form part of a filing system, or are attending to form part of a filing system'.*

This is where the personal data are accessible according to specific criteria (for example this now includes chronologically ordered sets of manual records containing personal data).

The GDPR and the DPA do not apply to information about deceased individuals, although the council may owe a duty of confidentiality in relation to such information. The GDPR and the DPA do not apply to use of personal data purely for personal or household activities.

## **3. Policy**

### **3.1. The Data Protection Principles**

The GDPR states that anyone processing personal data must apply the six data protection principles. These principles are legally enforceable. In summary, the principles require that personal information be:

**1. processed fairly, lawfully and in a transparent manner in relation to individuals;**

*(Lawfulness, fairness and transparency principle)*

Lawfully requires in particular that personal data not be processed unless at least one Lawful Bases has been met. For special category data this also requires at least one further Condition to be met, in addition to the Lawful Basis. See the Definitions section below for a list of the Lawful Bases and additional Conditions for processing special category data.

**2. collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those purposes;**

*(Purpose limitation principle)*

Further processes for archiving purposes in the public interest, scientific or historical research or statistical purposes is not considered to be incompatible with the initial purpose.

**3. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;**

*(Data minimisation principle)*

**4. accurate and where necessary kept up to date;**

*(Accuracy principle)*

Every step must be taken to ensure personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.

**5. kept in a form which permits identification of the data subjects for no longer than necessary for the purposes for which the personal data are processed;**

*(Storage limitation principle)*

Personal data may only be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes subject to technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.

**6. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;**

*(Integrity and confidentiality principle)*

The GDPR also introduces a further **Accountability Principle** which requires the council as Controller be responsible for, and be able to demonstrate, compliance with the above principles. This includes the council keeping records of all processing of personal data. These records are kept in the council's Information Asset Register and each IAO is responsible for keeping their section of this up-to-date and informing the Data Protection Officer of any amendments or additions. For further information please refer to the GDPR/IAO Handbook on the council's intranet [here](#). These records of processing also



include the retention and disposal schedules for each area, also available on the data protection page of the council's intranet.

### **3.2. Responsibilities**

The City of Lincoln Council is a data Controller under the GDPR and DPA, as referred to above.

The Chief Executive has overall responsibility for ensuring compliance with the GDPR and the DPA within the council.

Directors, Assistant Directors, City Solicitor and s151 Officer (Finance) are responsible for ensuring compliance with the GDPR and DPA and this Policy within their directorates.

Information Asset Owners (IAO's) are responsible for ensuring that the business areas they have responsibility for have processes and procedures in place that comply with the GDPR and DPA and this Policy.

IT Services are responsible for ensuring that data within systems under the control of the council, cannot be accessed by unauthorised personnel and to ensure that data cannot be tampered with, lost or damaged.

Responsibility for compliance with this Policy and communicating the Policy to staff in their own business areas is delegated to the IAO's. IAO's have been advised of their responsibilities and the requirement to carry out ongoing risk assessments on the assets for which they are responsible.

The responsibility for providing day-to-day advice and guidance to support the council in complying with the GDPR and the DPA and this Policy rests with the SIRO and Data Protection Officer.

All members of staff or agency staff and elected members who hold or collect personal data are responsible for their own compliance with the GDPR and DPA and must make sure that personal information is kept and processed in-line with the GDPR, the DPA and the Staff Code of Conduct.

IAO's have responsibility for agency staff's, volunteers, work experience's compliance with the GDPR, the DPA and the Staff Code of Conduct. This includes the provision of appropriate training and inductions. IAO's must also ensure that their data protection responsibilities are communicated and handed over clearly too any successors to their IAO role.

Failure to comply for any staff member may result in disciplinary action that may lead to dismissal, in addition to the possibility of an individual being criminally prosecuted under the GDPR and the DPA and/or liable to pay compensation in any civil action.

### **3.3. Engaging a data Processor to process personal data on behalf of the council**

If a contractor, partner organisation or agent of the council is appointed or engaged to collect, hold, process or deal with personal data on behalf of the council, the lead council officer must ensure a binding contract is in place which meets the requirements of the GDPR. There is guidance on what needs to be included in these contracts in the GDPR/ IAO's Handbook available on City People [here](#) and standard clauses issued by the Crown Commercial Service available here.

If the council are Joint Controllers or Controllers in Common with a partner organisation or agent then they shall in a transparent manner determine their responsibilities under the GDPR and the DPA informing Data Subjects of this where applicable. Information Sharing Agreements (ISA's) may be required and these should be agreed and signed off before any work commences. The council promotes information sharing and partnership working where it is in the best interests of the Data Subject. The council has a data sharing policy and protocols in place and will keep to the standards set out in these protocols. The council as Controller must ensure, when personal data is shared, it is done in accordance with the GDPR and the DPA.

### **3.4 Sharing personal data with other Controllers**

If the council is sharing personal data with Joint Controllers, Controllers in Common or other Controllers such as a partner organisation, agent or other council then they must do so in a transparent manner. This includes determining responsibilities under the GDPR and the DPA and informing Data Subjects of this (in privacy notices).

Information Sharing Agreements (ISA's) may be required between Controllers and these should be agreed and signed off before any work/sharing commences. These agreements should include recording the purpose of the sharing, the lawful basis, accuracy of the data, retention of data, amount of data necessary, security of the transfer, responsibility for providing privacy notices and responding to information rights requests, any duty of confidentiality owed, security of the data, single point of contact details and review dates.

The council promotes information sharing and partnership working where it is in the best interests of the Data Subject. The council has an Information Sharing Policy and protocols in place and will keep to the standards set out in these protocols. The council as a Controller must ensure, when personal data is shared, it is done in accordance with the GDPR and the DPA.

## **4. Rights of individuals and information access requests**

The GDPR creates new rights for individuals and strengthens some of the rights that previously existed. The GDPR provides the following rights for individuals in relation to their personal data;

1. The right to be informed
2. The right to access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights related to automated decision making and Profiling

### **4.1 Right to be informed**

An individual has a right to be informed of certain information concerning how their personal data will be processed. This is usually provided in a privacy notice. When and what information is supplied to the data subject depends on whether the personal data has been provided directly to the council by them or via a third party. If provided directly to the council this information must be supplied to the data subject

at the time their personal data is obtained. The information must be concise, transparent, intelligible and easily accessible, as well as written in clear plain language and free of charge.

This right does not apply when the data subject already has the information and in other limited circumstances set out by the GDPR where the personal data was supplied via a third party. The Information Commissioner's Office has produced guidance in the form of a table, which summarises the information to be supplied and which is reproduced at **Appendix 1**.

## **4.2 The right to access**

Individuals have the right to obtain confirmation their personal data is being processed, access to their data and certain information that corresponds with the information to be supplied in a privacy notice. The council must provide free of charge a copy of any data held about them and is no longer able to charge a fee for a request. However a reasonable fee can be charged when the request is manifestly unfounded or excessive, particularly if repetitive. The council may also charge a fee to provide further copies of the same information. The fee must be based on the administrative cost alone of providing the information.

Where a request is manifestly unfounded or excessive particularly repetitive the council can;

- charge a reasonable fee for the administration costs of providing the information or
- refuse the request

In refusing the request the council must explain why their request has been refused and inform them of their right to complain to the Information Commissioner's Office and to a judicial remedy without delay and at the latest within one month of the request.

The council has a right of access process, which sets out procedures for access to personal data, and complies with the GDPR and the DPA. The individual must provide proof of their identity and information may be withheld where the council is not satisfied that the person asking for information about themselves is who they say they are. In these cases, the council may refuse to provide the information until it receives all relevant requested documents.

The council must comply with the request within one month of receipt. This period can be extended by a further two months in limited circumstances where the request is complex or numerous. In this case the council would need to inform the requester of the extension within one month of the receipt of the request and explain why the extension was necessary.

The request does not necessarily need to be made in writing under the GDPR although the council encourages requesters to utilise the council's right to access request form. If the request is made electronically the council should provide this in a commonly used electronic format.

The GDPR states that where possible the council should be able to provide remote access to secure self-service system to provide individuals with direct access to their personal data (for example the council's My Info system for council tax and benefits)

Where the request is for a large amount of data the GDPR allows the council to ask the individual to specify the information the request relates to.

## **4.3 The right to rectification**

Individuals have a right to have personal data rectified if inaccurate or incomplete including by the provision of a supplementary statement. If the council has disclosed the personal data to any third

parties they must inform them of the rectification where possible. The council must also inform the individual about the third parties with whom the council has disclosed the information.

The council must respond to the request for rectification within one month. As above this can be extended a further two months where the request is complex. If the council will not be taking any action to the request for rectification the requester would need to be informed of this and the reason for this explained by the council along with the individual's right to complain to the ICO and to a judicial remedy.

#### **4.4 The right to erasure**

This is not an absolute right and only applies in certain circumstances;

- where the personal data is no longer required for its purpose (kept beyond its retention period)
- where the individual withdraws their consent and this is the only legal bases for processing
- where the individual exercises their right to object to the processing and this is successful
- the personal data is being processed unlawfully (in breach of the GDPR and DPA)
- the personal data is erased to comply with a legal obligation
- the personal data relates to that of a child and is processed online with parental consent
- 

The council can also refuse to respond to a request for erasure where personal data is processed for the following reasons;

- to exercise the right to freedom of expression and information (only likely to be relevant to press releases made by the council)
- to comply with a legal obligation or for the performance of a task carried out in the public interest or exercise of official authority, such as the council exercising its powers and duties (although the information held will need to be still within its retention period)
- for public health purposes in the public interest
- archiving purposes in the public interest, scientific research or statistical purposes or
- the exercise or defence of legal claims

There are additional requirements when the request relates to children's personal data particularly online services, where they may not have been aware of the risks when they consented to the processing. This reflects the GDPR's emphasis on enhanced protection of children's personal data.

The council would also be required to inform third parties of the erasure, if they have disclosed the personal data to them, unless it is impossible or involves disproportionate effort.

#### **4.5 The right to restrict processing**

If processing is restricting following a request. The council can hold the data but not further process it. Just enough information should be retained to ensure the restriction is respected in the future.

The council would be required to comply with a request for restriction in the following circumstances;

- where the accuracy of the personal data is contested by the requester, the council would need to be able to restrict the processing until the accuracy has been verified
- where the individual has exercised their right to object to the processing (see below) and the council are considering whether its legitimate interests override those of the individual
- when the processing is unlawful and the requester opposes erasure and requests restriction instead
- where the council no longer requires the data but the individual requires this to establish, exercise or defend a legal claim.

If the council has disclosed the personal data to third parties they must inform them about the restriction unless it is impossible or involves disproportionate effort. The council must inform the individual if they decide to lift the restriction on processing at any time.

#### **4.6 The right to data portability**

This allows individual's to request transfer of their personal data from one IT environment to another in a safe and secure way without affecting its usability.

This right only applies;

- to personal data an individual has provided to the council (includes data observed from a use of a service or device)
- where the processing is based on the individual's consent or for the performance of a contract and
- when the processing is carried out by automated means

This right does not apply when the council are processing based on the Legal Basis of performance of a task in the public interest (exercising its powers and duties).

The information must be provided in a structured commonly used and machine readable form (open source file such as a CSV not PDF). This must be provided free of charge within one month as other right to access requests. The same rules regarding extensions apply. If the individual requests it the council may be required to transmit the data directly to another organisation, although only where this is technically feasible.

#### **4.7 The right to object**

Individuals have a right to object when

- processing is based on legitimate interest or the performance of a task in the public interest or exercise of any official authority (for example the council exercising its powers and duties)
- direct marketing- any marketing including promoting the aims of an organisation directed to individuals
- processing for the purposes of scientific/historical research and statistics
- 

The council would need to stop processing the personal data unless;

- it could demonstrate compelling legitimate grounds for processing which override the interest, rights and freedoms of the individual
- the processing is for the establishment, exercise or defence of legal claims
- the scientific/historical research use, unless in the public interest

The council need to inform where applicable individuals of their right to object at the first point of communication for example in the privacy notice, when obtaining their personal data.

The council must stop processing data for direct marketing as soon as they receive an objection. There are no exemptions or grounds to refuse an objection to direct marketing.

#### **4.8 Rights related to automated decision making and profiling**

Individuals have the right not to be subject to a decision when;

- it is based on automated processing and
- it produces a legal effect or a similarly significant effect on the individual

The council must ensure individuals are able to

- obtain human intervention
- express their point of view and
- obtain an explanation of the decision and challenge it

The right does not apply if the automated decision;

- is necessary for entering into a contract
- is authorised by law with safeguards in place, for example for the purposes of fraud or tax evasion or
- is based on the explicit consent of the individual which has been obtained prior to the automated processing or
- where the decision does not have a legal or similarly significant effect on an individual

If carrying out Profiling which is form of automated decision (see Definitions section below) then the council would have to ensure appropriate safeguards are in place.

- ensure processing is fair and transparent, for example provide details of the logic involved, significance and consequences (in privacy notice)
- implement technical and organisational measure to ensure inaccuracies are corrected and minimise risks of error, for example data quality checks and reviews
- keep personal data secure which is proportionate to the risk to the rights and interests of the individual and prevent discriminatory effects.

Automated decisions must not concern a child or be based on special categories of personal data unless;

- explicit consent is obtained from the individual or
- processing is necessary for reason of substantial public interest on the basis of a legal obligation with specific measures in place to safeguard the individual.

#### **4.9. Exemptions to individual's information rights**

Under the GDPR and the DPA, it is sometimes necessary to withhold certain information that has been requested by individuals in relation to the right to access. The Data Protection Officer or the Freedom of Information Officer/the Legal and Democratic Services Manager or a member of the Legal Services team can offer advice in these circumstances. Examples of exemptions to right to access personal data which may be available are listed in the Definitions section below.

### **5. Disclosure of personal information about third parties**

Personal data must not be disclosed about a third party except in line with the GDPR and the DPA. If it appears necessary to disclose information about a third party to a person requesting their personal data, advice must be sought from the Data Protection Officer or Freedom of Information Officer/the Legal and Democratic Services Manager and if both unavailable a member of the legal team. Examples of exemptions to disclosure of third party personal data which may be available are listed in the Definitions section below.



## 6. Consent

The GDPR states that where the council are relying on the Lawful Bases to process personal data of the individual's Consent alone this must be valid. Valid Consent must be;

- unambiguous (clearly given)
- freely given (a genuine choice)
- demonstrable (the council are able to evidence the consent including when it was given)
- specific (not bundled up in the small print)
- informed (provided after being given all the information as to how the personal data will be processed, in the Privacy Notice, *see right to be informed below*)
- explicit for special categories (in writing)
- no silence or inaction (the council should not use opt-out boxes)

The individual must make a statement or a clear affirmative action to give valid Consent, for example ticking a box, entering information or clicking on an icon.

If Consent is being obtained from a child through online services and the child is under 13 years old, then parental consent is required.

Consent should rarely be relied upon as a Legal Basis for processing by the council. This is due the issue as to whether this would be freely given, as there is a clear imbalance of power between the individual and the council. All other Legal Bases should be considered first.

## 7. Privacy by design and Data Protection Impact Assessments (DPIA's)

'Privacy by design' is a legal requirement for the council under the GDPR. In summary this means implementing safeguards to ensure the protection of personal data by default and from the outset of all projects. Safeguards such as technical and organisational security measures including Pseudonymisation of data and data minimisation. This requires data protection by design to be the council's default position in relation to;

- decision making
- policy formulation
- project management and
- procurement

DPIA's are the most effective way for the council to comply with our data protection obligations and to meet individual's expectations of privacy. DPIA's identify and minimise privacy risks at an early stage, reducing costs, officer time, and enforcement action by the ICO including monetary fines, legal action and damage to the council's reputation. DPIA's need imbedding in project development, to ensure the council is dynamic, competitive and able to demonstrate to 'privacy by design'.

DPIA's particularly screening assessments are good practice for all projects involving the processing of personal data. The GDPR states however that they must be carried out in certain circumstances;

- High risk processing of personal data, particularly involving new technologies
- Profiling with significant effects on individuals

- large scale special category/criminal data processing
- public surveillance on a large scale (for example CCTV of a publically accessible area)

The council has extensive Guidance and Procedures including Screening questions and DPIA templates for carrying out these assessments which are available on City People here.

## 8. International transfers

The GDPR requires that where personal data is transferred to a third country (non EU and EEA countries) those countries need to have been judged by the ICO as Adequate Countries or there needs to be necessary safeguards in place with the organisation. Safeguards such as a legally binding agreement between public bodies or contract clauses approved by the ICO. There is list of Adequate Countries on the ICO's website. There are exemptions to these requirements although many are not available to public bodies such as the council when we are exercising their powers.

## 9. Further information, enquires and complaints

Further information and guidance on data protection is available on the Information Commissioner's website at. [www.ico.org.uk](http://www.ico.org.uk)

Advice on GDPR and the DPA can be sought and obtained from the Data Protection Officer or the Freedom of Information Officer/the Legal and Democratic Services Manager or a member of the Legal Services team. They will be responsible for dealing with all internal and external enquires and are also the first point of contact on any of the issues mentioned in this Policy document.

An individual has the right to complain about the response they have received regarding their information right's request as well as to complain about other breaches of the GDPR the DPA. All complaints should be written, dated and should include details of the complainant, as well as a detailed account of the nature of the problem.

Individuals under the right to be informed need to be provided (in the Privacy Notice) with the *Data Protection Officer's contact details being [dpo@lincoln.gov.uk](mailto:dpo@lincoln.gov.uk)* and their right to complain to the Information Commissioner's Office and their contact details being: *Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700 [www.ico.org.uk](http://www.ico.org.uk)*

## 10. Breach of the Policy

Any breach of this Policy must be investigated in line with the Data Protection Breach Management Policy and associated procedures. The council will always treat any data breach as a serious issue that could result in a disciplinary investigation.

The council encourages the notification of breaches by staff in accordance with the Data Protection Breach Management Policy at the earliest opportunity. Notification will also be taken into account in any resulting disciplinary investigation, where the individual/s concerned have assisted in the containment of the breach. Each incident will be investigated and judged on its individual circumstances in line with the Staff Code of Conduct or, in the case of elected members, the Members' Code of Conduct.



## **11. Data breach notification**

The GDPR makes it mandatory for the council to report data breaches. A data breach is defined as;

*'a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data, transmitted, stored or otherwise processed'.*

Where the breach affects individuals' rights and freedoms. The council must report this to the Information Commissioner without delay and no later than within 72 hours.

If the risk to individual's rights and freedoms is high, the council, will also need to report the breach, without delay, to the individuals affected, for example the customers, partners or staff members to which the personal data relates.

The council has its own Data Breach Management Policy here and internal data breach reporting e-form system here.

Whether the breach is to be reported to the Information Commissioner or data subjects is a decision for the SIRO, Freedom of Information Officer/Legal and Democratic Services Manager and Data Protection Officer.

## **12. Policy Compliance**

### **12.1. Compliance Measurement**

The Council will ensure compliance with this Policy by regularly reviewing organisational and technological processes to ensure compliance with the GDPR and the DPA and in the provision of training for all staff and elected members processing personal data, which will be monitored and reported by the IG Board and Audit Committee.

All policies and procedures relating to the GDPR and the DPA will be subject to scrutiny by the Policy Scrutiny Committee and the Audit Committee.

The Data Protection Officer will keep a record of all incidents and breaches relating to the GDPR and the DPA and will deal with all correspondence with the ICO relating to data protection matters.

IAO's will be asked to declare that they are compliant in their business areas with the GDPR and the DPA on an annual basis by submitting their IAO Checklist as required.

### **12.2. Non-Compliance**

A deliberate or reckless breach of the GDPR or the DPA could result in a member of staff facing disciplinary action. Managers must ensure that all staff familiarise themselves with the content of this Policy.

All personal data recorded in any format must be handled securely and appropriately, and staff must not disclose information for any purpose outside their normal work role. Any deliberate or reckless disclosure of information by a member of staff will be considered a disciplinary issue.

Employees should be aware that it is a criminal offence deliberately or recklessly to disclose personal data without the authority of council. It is also a criminal offence under DPA to re-identify personal data and processing this without the authority of the council and to alter personal data to prevent disclosure. In addition civil actions may be brought against individuals and the council for compensation.

Non-compliance of this Policy may also result in a report being made to the ICO which could result in council facing enforcement action, including substantial fines, in addition to substantial reputational damage.

### **12.3 Policy Review**

This Policy will be reviewed every two years by Policy Scrutiny Committee and updated in the interim as required.

## **13. Related Policies, and Guidance**

This Policy relates to other council policies, in particular:

Information Governance Strategy

Information Governance Policy

Legal Responsibilities Policy

Information Sharing Policy

Data Quality Policy

Data Protection Breach Management Policy

Freedom of Information Policy & Environmental Information Regulations Policy

Records Management Policy

Information Security Policy

Staff Code of Conduct

Member's Code of Conduct

Retention and Disposal Policy

## **14. Definitions**

### **14.1. Abbreviations**

<b>Abbreviation</b>	<b>Description</b>
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DPA	Data Protection Act 2018
GDPR	General Data Protection Regulation
ICO	The Information Commissioner's Office
SIRO	Senior Information Risk Officer
IAO	Information Asset Owner

## 14.2. Definitions

Controller	A person who determines the purpose for which and the manner in which, Personal Data is to be processed. This may be an individual or an organisation and the processing may be carried out jointly with other persons
Data Subject	This is the living individual who is the subject of the Personal Data
Processor	A person who processes personal data on a Controller's behalf. Anyone responsible for the disposal of confidential waste is also included in this definition
Privacy Notice	A notice the council are required to give before collecting personal data from data subjects. The Privacy Notice must contain certain information. See Appendix 1
Profiling	Automated processing of personal data to evaluate certain aspects relating to data subjects in particular to analyse or predict behaviour, economic situation and personal preferences.
Information Commissioner's Office (ICO)	The UK's independent authority who upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. <a href="http://www.ico.org.uk">www.ico.org.uk</a>
Processing	Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on data
Information Asset Owner (IAO)	Information Asset Owners within the Council are all Service Managers and where appropriate Team Leaders. IAO's are responsible for the data held in their areas. If you are unsure of your IAO contact the Data Protection Officer.

Information Asset Register	Part of the council's records of processing. This spreadsheet details the data we hold, where it is held, who can access it, the risks to the data, security measures, who the data is shared with. Each IAO is responsible for the section of Register relevant to their business area.
Pseudonymisation	Personal data which can no longer be attributed to a specific data subject without the use of additional information (kept separately and subject to security measures to ensure not attributed to data subject)
Legal Bases for processing personal data	<ul style="list-style-type: none"> <li>- necessary for a contract</li> <li>- necessary for a legal obligation</li> <li>- vital interests (emergency to life)</li> <li>- necessary for official authority/task carried out in the public interest (council's powers)</li> <li>- necessary for legitimate interest (not available for council's powers)</li> <li>- OR the data subject has given consent</li> </ul>
Additional Conditions for processing special category data	<p>processing is necessary for:-</p> <ul style="list-style-type: none"> <li>- legal obligations in employment law, social security and social protection law</li> <li>- to protect vital interests</li> <li>- carried out by a not-for-profit body with a political, philosophical, religious or trade union aim</li> <li>- relates to personal data made manifestly public by the data subject</li> <li>- for the establishment, exercise or defence of legal claims</li> <li>- public interest as permitted by law</li> <li>- preventative or occupational medicine</li> <li>- for reasons of public interest in the area of public health</li> <li>- for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes</li> <li>- OR the data subject has given their explicit consent</li> </ul>
Examples of exemptions to the non-disclosure of third party personal data	<ul style="list-style-type: none"> <li>- Crime and Taxation</li> <li>- National security</li> <li>- Defence</li> <li>- Prevention, detection and prosecution of criminal offences</li> <li>- Enforcement of civil matters</li> <li>- Disclosures required by law</li> <li>- Statement made by health, education and social care professionals</li> </ul>
Examples of exemptions to the right of access.	<ul style="list-style-type: none"> <li>- Legal professional privilege</li> <li>- Corporate finance- effecting markets and prices</li> <li>- Management forecasts</li> <li>- Negotiations</li> </ul>

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|--|---|
|  | <ul style="list-style-type: none"><li>- Confidential references- exemption is available to the organisation giving the reference not the organisation receiving the reference</li></ul> |
|--|---|

## GDPR and Data Protection Policy- Appendix 1

What information must be supplied in a Privacy Notice?	Data obtained directly from data subject	Data not obtained directly from data subject (for example via a third party organisation)
Identity and contact details of the controller (the council) or the joint controllers (the council and others) and the data protection officer's contact details <a href="mailto:dpo@lincoln.gov.uk">dpo@lincoln.gov.uk</a>	✓	✓
Purpose of the processing and the lawful basis for the processing (see Definitions section)	✓	✓
The legitimate interests of the controller or third party, where applicable	✓	✓
Categories of personal data		✓
Any recipient or categories of recipients of the personal data	✓	✓
Details of transfers to third country and safeguards, if applicable.	✓	✓
Retention period or criteria used to determine the retention period (see retention schedules)	✓	✓
The existence of each of data subject's rights	✓	✓
The right to withdraw consent at any time, where relevant (only where legal basis is Consent)	✓	✓
The right to lodge a complaint with the ICO	✓	✓
The source the personal data originates from and whether it came from publicly accessible sources		✓
Whether the provision of personal data is part of a statutory or contractual requirement or obligation and possible consequences of failing to provide the personal data	✓	
The existence of any automated decision making, including profiling and information about how decisions are made, the significance and the Consequences	✓	✓
When should information be provided?	At the time the data are obtained	Within a reasonable period of having obtained the data (within 1 month)
		If the data are used to communicate with the individual, at the latest, when the first communication takes place; or
		If disclosure to another recipient is envisaged, at the latest, before the data are disclosed.

**POLICY SCRUTINY COMMITTEE**

**20 MARCH 2018**

<b>SUBJECT:</b>	<b>DRAFT POLICY SCRUTINY WORK PROGRAMME 2018/19 AND EXECUTIVE WORK PROGRAMME UPDATE</b>
<b>REPORT BY:</b>	<b>CHIEF EXECUTIVE &amp; TOWN CLERK</b>
<b>LEAD OFFICER:</b>	<b>CLAIRE TURNER, DEMOCRATIC SERVICES OFFICER</b>

**1. Purpose of Report**

1.1 To present the Draft Policy Scrutiny Committee Work Programme for 2018/19 and receive comments and considerations from members with items for the municipal year 2018/2019 and to advise Members of the items that are on the current edition of the Executive Work Programme.

**2. Background**

2.1 The work programme is attached at **Appendix A**.

2.2 The Constitution provides for the publication of the Executive Work Programme on a monthly basis detailing key decisions/ exempt para (Section B) items to be taken by the Executive, a committee of the Executive or a Member of the Executive during the period covered by the programme. This is attached at **Appendix B** and has been provided to assist members in identifying items for inclusion within the work programme.

**3. Recommendation**

3.1 That Members give consideration to the Policy Scrutiny Work Programme for 2018/19 and update where appropriate to include items which they wish to consider from the Executive Work Programme as required.

**List of Background Papers:** None

**Lead Officer:** Claire Turner, Democratic Services Officer  
Telephone 873619

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Policy Scrutiny Committee Work Programme – Timetable for 2018/19

19 June 2018

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Review of Mutual Exchange Policy	Yvonne Fox	Requested at 20 <sup>th</sup> June 2017
Review of Waste Enforcement Policy	Steve Bird	Requested at 20 <sup>th</sup> June 2017
County Joint Municipal Waste Management Strategy	Steve Bird	Added by Steve Bird 5 March 2018
Fair Trade Policy	Heather Grover	Requested at 20 <sup>th</sup> June 2017
People Strategy Post Implementation Review	Claire Burroughs	Requested at 17 <sup>th</sup> February 2017
Customer Experience Strategy Post Implementation Review	Jo Crookes	Requested at 17 <sup>th</sup> February 2017
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report
Policy Scrutiny Work Programme 2018 -2019	Democratic Services	Regular Report

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21 August 2018

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Policy Scrutiny Work Programme 2018-2019 Update	Democratic Services	Regular Report
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

9 October 2018

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
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Annual Scrutiny Report	Democratic Services	Regular Report
Review of Procurement Policies	Heather Carmichael	Requested at 10 October 2017 meeting.
Policy Scrutiny Work Programme 2018 -2019	Democratic Services	Regular Report
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

**27 November 2018**

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Public Health Funeral Provision – Post Implementation Review	Simon Colburn	Requested at 28 November 2017 meeting
Policy Scrutiny Work Programme 2018-2019 Update	Democratic Services	Regular Report
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

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**15 January 2019**

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Policy Scrutiny Work Programme 2018-2019 Update	Democratic Services	Regular Report
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

**19 March 2019**

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Draft Policy Scrutiny Work Programme 2019-2020	Democratic Services	Regular Report

Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report
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- Review of Houses in Multiple Occupation Article 4 Direction and Supplementary Planning Documents – For review in June 2020 (as requested at the meeting of 20 June 2017)

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## EXECUTIVE WORK PROGRAMME

**March 2018 - February 2019**

### NOTES

1. The Leader in consultation with the Chief Executive and Town Clerk prepares an Executive Work Programme to cover a period of twelve months.
2. The Executive Work Programme contains matters which the Leader has reason to believe will be the subject of a key decision during the period covered by the Plan or Executive decisions which are likely to be taken in private.
3. A Key Decision is one which is likely:
  - a) to result in the Local Authority incurring expenditure which is , or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which it relates; or
  - b) to be significant in terms of its effect on communities living or working in an area comprising 2 or more wards in the area of the local authority.
4. Whilst the majority of the Executive's business at the meetings listed in the Executive Work Programme will be open to the public and media organisations to attend, there will be some business to be considered that contains, for example, confidential, commercially sensitive or person information.

This document serves as formal notice under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that certain items in the Executive Work Programme will be considered in private because the item contains exempt information under Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it. If an item is to be considered in private this will indicated on the individual decision notice.

If you have any queries, please telephone 01522 873387 or email [democratic.services@lincoln.gov.uk](mailto:democratic.services@lincoln.gov.uk).

### EXECUTIVE WORK PROGRAMME SUMMARY

<b>Date of Decision</b>	<b>Decision</b>	<b>Decision: Summary</b>	<b>Decision Taken By</b>	<b>Key Decision</b>	<b>Exempt Information</b>
26 March 2018	Review of Housing Assistance Policy	Confirm revised housing assistance Policy	Executive	No	Public
26 March 2018	Empty Homes Strategy	Adopt update Empty Homes Strategy	Executive	No	Public
26 March 2018	Disposal of Land	Disposal of land	Executive	Yes	Private
26 March 2018	De Wint Court redevelopment	Partnership approach to development	Executive	Yes	Private
26 March 2018	Lincolnshire Well- Being provider consortium and staffing implications for the City of Lincoln Council	Proposed appointment of additional staff	Executive	Yes	Private
26 March 2018	Proposed use of Council land for development by the Lincolnshire Employment and Accommodation project	Gift of Council land	Executive	Yes	Private
16 April 2018	Residents Parking Scheme Zones		Executive	Yes	
29 May 2018	BUSINESS RATES GROWTH POLICY	To consider/approve a Business Rates Growth Policy for the City of Lincoln. Final decision to be taken by Executive on 26th March 2018 - to be	Executive	Yes	Public

		considered by Policy Scrutiny Committee on 20th March 2018.			
23 July 2018	LEISURE FACILITIES DEVELOPMENT PROJECT	Agreement to submit funding application bid to Football Foundation and Sport England for two new full size artificial grass pitches and repair existing all weather pitch and running track; Agreement to submit planning applications for two full size artificial grass pitches; Agreement of financial model including borrowing.	Executive	Yes	Partly Private
23 July 2018	Western Growth Corridor	To continue the development of the Western Growth Corridor, including consideration of any relevant options required to facilitate the project	Executive	No	Private

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