

# Kirklees Council



Council Chamber - Town Hall, Huddersfield

Tuesday 1 December 2015

Dear Councillor

**The Council will meet on Wednesday 9 December 2015 at 6.00 pm at Council Chamber - Town Hall, Huddersfield.**

The following matters will be debated:

**Pages**

**1: Announcements by the Mayor and Chief Executive**

To receive any announcements.

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**2: Apologies for absence**

Group Business Managers to submit any apologies for absence.

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- 3: Minutes of Previous Meeting** 1 - 8
- To agree and authorise the Mayor to sign as a correct record.
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- 4: Declaration of Interests** 9 - 10
- The Councillors will be asked to say if there are any items of the Agenda in which they have a Disclosable Pecuniary Interests, which would prevent them from participating in any discussion of them items or participating in any vote upon the items, or any other interests.
- 
- 5: Reference from Cabinet/Corporate Governance and Audit Committee - Treasury Management Activities 2015/16 - Half Year Monitoring** 11 - 22
- To receive the report.
- Contact: Tim Mitchell, Finance Manager
- 
- 6: Reference from Licensing and Safety Committee - Gambling Policy** 23 - 56
- To consider the adoption of the Gambling Policy for the period 2016 – 2019.
- Contact: Catherine Walker, Licensing Manager
- 
- 7: Whitcliffe Mount School and the Closure of Whitcliffe Mount Sports Centre - to note the Ombudsman Report** 57 - 80
- To receive the details of the Ombudsman’s finding on the investigation regarding the closure of Whitcliffe Mount Sports Centre, including a decision timeline and background information.
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## **8: West Yorkshire Combined Authority - Minutes**

81 - 90

To receive the Minutes of the Combined Authority Meeting, held on 17 September 2015.

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## **9: Key Discussion - Heroes Welcome**

Council will debate the key discussion topic, which will be introduced by Councillor Calvert and will include a representation from Mr John Senior of Heroes Welcome in the UK.

More information available at [www.heroeswelcome.co.uk](http://www.heroeswelcome.co.uk)

(Under the provision of Council Procedure Rule 5 (5), the key discussion must commence no later than 7pm. Council Procedure Rule 18 (23) permits a maximum of 60 minutes for this item)

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## **10: Motion submitted in accordance with Council Procedure Rule 14 as to Mental Health**

To consider the following Motion submitted in the names of Councillors Sheard and Kendrick;

"This Council notes that :

- 1 in 6 people will experience a mental health problem in any given year.
- The World Health Organisation predicts that depression will be the second most common health condition worldwide by 2020.
- Mental ill health costs some £105 billion each year in England alone.
- People with a severe mental illness die up to 20 years younger than their peers in the UK.
- There is often a circular relationship between mental health and issues such as housing, employment, family problems or debt.

This Council believes that:

- Kirklees Council has a responsibility to provide support to its

citizens across the district and in so doing contribute collectively with other local authorities to address this growing national problem.

- As a Local Authority we have a crucial role to play in improving the mental health of everyone in our community and tackling some of the widest and most entrenched inequalities in health.

- Mental health should be a priority across all the local authority's functions, from public health, adult social care and children's services to housing, planning and public realm.

- All Councillors, whether members of the Executive or Scrutiny and in our community and casework roles, can play a positive role in championing mental health on an individual and strategic basis.

This Council resolves:

To sign the Local Authorities' Mental Health Challenge run by Centre for Mental Health, Mental Health Foundation, Mind, Rethink Mental Illness, Royal College of Psychiatrists and Young Minds.

To commit within budget and request that where appropriate Cabinet acts to;

- Appoint an Elected Member as 'mental health champion' across the Council

- Identify a 'lead officer' for mental health to link in with colleagues across the Council

- Follow the implementation framework for the mental health strategy where it is relevant to the Council's work and local needs

- Work to reduce inequalities in mental health in our community

- Work with the NHS to integrate health and social care support

- Promote wellbeing and initiate and support action on public mental health

- Tackle discrimination on the grounds of mental health in our community

- Encourage positive mental health in our schools, colleges and workplaces

- Proactively engage and listen to people of all ages and backgrounds about what they need for better mental health

- Sign up to the Time to Change pledge."

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**11: Motion submitted in accordance with Council Procedure Rule 14 as to the Failings of Cabinet**

To consider the following Motion submitted in the names of Councillors Light, D Hall, Bolt, Palfreeman, Bellamy, Hemingway, Holmes, Armer, J Taylor, Wilson and Patrick;

"This Council notes with extreme concern the damning Ombudsman report into the way the Cabinet made the decision to close Whitcliffe Mount Sports Centre.

This Council further notes, with equal concern, that Overview and Scrutiny has found failures in the Cabinet's decision making processes on Grass Cutting, Libraries and Community Asset Transfers, all within the last five months.

This Council therefore resolves that it has no confidence in the ability of the present Cabinet to properly adhere to principles of good governance in accordance with the constitutional powers delegated to it by the Council."

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**12: Motion submitted in accordance with Council Procedure Rule 14 as to Scrutiny**

To consider the following Motion submitted in the names of Councillors Light, Bolt, Palfreeman, Bellamy, Hemingway, Holmes, Armer, J Taylor, Wilson and Patrick;

"This Council:

1. Recognises the constructive contribution made by non-Executive members of the Council, from all political Groups, through the Overview and Scrutiny process since it was introduced by the Labour Government in the Local Government Act 2000, and that the, then, Government's intention was to create a counterweight to the new executive structures created by the same 2000 Act.
2. Acknowledges that Members, when in their Overview and Scrutiny role have acted, and continue so to do, in both an independent and non-political way.
3. Considers it to be essential that Overview and Scrutiny is free to challenge decisions, policy etc. in order to uphold good governance.
4. Commits to uphold the independence of the Overview and Scrutiny process and requests Cabinet to ensure that adequate

resources are made available to continue this essential Council function"

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### **13: Motion Submitted in Accordance with Council Procedure Rule 14 as to the Housing and Planning Bill**

To consider the following Motion in the names of Councillors C Scott, S Hall, Khan and G Turner;

"This Council notes:

That the Housing and Planning Bill is currently being debated in Parliament, and if passed would threaten the provision of affordable homes for rent and buy, for many individuals, couples and families across the Kirklees District, through:

- Forcing 'high-value' council homes to be sold on the open market!
- Extending the right-to-buy to housing association tenants: and
- Undermining section 106 requirements on private developers to provide affordable homes
- That there is no commitment in the Bill that affordable homes will be replaced like-for-like in the local area.
- That whilst measures to help first-time buyers are welcome, the 'starter homes' proposals in the Bill will be unaffordable to families and young people on ordinary incomes in most parts of the country: will not preserve the taxpayer investment: and will be built at the expense of genuinely-affordable homes to rent and buy.
- That the Bill undermines localism by taking 32 new wide and open-ended powers for the Secretary over councils and local communities, including the ability to override local plans, to mandate rents for social tenants, and to impose a levy on stock-holding councils, violating the terms of the housing revenue account self-financing deal.
- That the Bill, whilst introducing some welcome measures to get to grips with rogue landlords, does not help with the high rents, poor conditions and insecurity affecting many of England's 11m private renters - including one in four families with children and does nothing to help arrest the recent rise in homelessness.

This Council therefore resolves:

- That the Director of Economy, Skills and the Environment be

requested to analyse and report on (i) the likely impact of the forced sale of council homes, the extension of right-to-buy and the 'starter homes' requirement on the local availability of affordable homes to Cabinet and Council and (ii) any further likely impacts of the Bill on the Kirklees District.

- That this information be used to support the Leader of Kirklees Council in writing to the Secretary of State with our concerns about the Bill."

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By Order of the Council

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Chief Executive

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Contact Officer: Andrea Woodside

## COUNCIL

### KIRKLEES COUNCIL

**At the Meeting of the Council of the Borough of Kirklees held at  
Council Chamber - Town Hall, Huddersfield on Wednesday 11 November 2015**

## PRESENT

**The Mayor (Councillor Paul Kane) in the Chair**

## COUNCILLORS

Councillor Masood Ahmed	Councillor Mahmood Akhtar
Councillor Simon Alvy	Councillor Karen Allison
Councillor Bill Armer	Councillor Robert Barraclough
Councillor Donna Bellamy	Councillor Martyn Bolt
Councillor Cahal Burke	Councillor Jean Calvert
Councillor Andrew Cooper	Councillor Nosheen Dad
Councillor Jim Dodds	Councillor Eric Firth
Councillor Charles Greaves	Councillor David Hall
Councillor Steve Hall	Councillor Mark Hemingway
Councillor Lisa Holmes	Councillor Erin Hill
Councillor Edgar Holroyd-Doveton	Councillor Judith Hughes
Councillor Mumtaz Hussain	Councillor Christine Iredale
Councillor Viv Kendrick	Councillor Musarrat Khan
Councillor John Lawson	Councillor Vivien Lees-Hamilton
Councillor Robert Light	Councillor Gwen Lowe
Councillor Terry Lyons	Councillor Andrew Marchington
Councillor Naheed Mather	Councillor Peter McBride
Councillor Darren O'Donovan	Councillor Marielle O'Neill
Councillor Andrew Palfreeman	Councillor Shabir Pandor
Councillor Abdul Patel	Councillor Nigel Patrick
Councillor Carole Pattison	Councillor Amanda Pinnock
Councillor Andrew Pinnock	Councillor Kath Pinnock
Councillor Hilary Richards	Councillor Karen Rowling
Councillor Mohammad Sarwar	Councillor Cathy Scott
Councillor Phil Scott	Councillor David Sheard
Councillor Ken Sims	Councillor Ken Smith
Councillor Mohan Sokhal	Councillor Julie Stewart-Turner
Councillor John Taylor	Councillor Kath Taylor
Councillor Graham Turner	Councillor Nicola Turner
Councillor Sheikh Ullah	Councillor Molly Walton
Councillor Michael Watson	Councillor Gemma Wilson
Councillor Linda Wilkinson	

**56 Announcements by the Mayor and Chief Executive**

There were no announcements.

Council observed a minute's silence in respect of Armistice Day.

**57 Apologies for absence**

Apologies for absence were received on behalf of Councillors D Firth, Mayet, Ridgway, Smaje and Stubley.

**58 Minutes of Previous Meeting**

**RESOLVED** - That the Minutes of the meeting held on 7 October 2015 be approved as a correct record.

**59 Declaration of Interests**

No interests were declared.

**60 Minutes of the Meeting of West Yorkshire Combined Authority held on 23 July 2015**

**RESOLVED** - That the Minutes of the meeting of West Yorkshire Combined Authority, held on 23 July 2015, be received and noted.

**61 Written Questions to Committee and Nominated Spokespersons of Joint Committees/External Bodies**

No written questions were received.

**62 Minutes of Cabinet and Cabinet Committee - Local Issues**

The following Minutes were received for information;

(a) Cabinet - 28 July, 25 August and 22 September 2015

(b) Cabinet Committee - Local Issues - 12 August 2015

**63 Holding Executive to Account**

(a) Verbal Update from Cabinet Member

Councillor McBride, Cabinet Member for Transportation, Skills, Jobs and Regional Affairs, provided an update on issues within his portfolio of responsibility.

(b) Oral Questions/Comments to Cabinet Members on their portfolios and relevant Cabinet Minutes

(i) Place (Planning, Highways and Open Spaces) Portfolio

(a) Councillor Palfreeman asked the Cabinet Member to advise of the cost of preparing and displaying temporary road signs, how long they should be in place, and what happens to them at the end of that period.

The Cabinet Member (Councillor S Hall) replied thereto.

(b) Councillor K Pinnock asked whether the Cabinet Member understood the value and importance to civic pride of flowers within Town and Village Centres, and local parks.

The Cabinet Member (Councillor S Hall) replied thereto.

(c) Councillor Light asked whether the Cabinet Member could share details of the business case for Bradley Nurseries so that a judgement could be made in terms of commercial value, indicating that if an appropriate commercialisation strategy was put in place it might be possible to change the closure plans.

The Cabinet Member (Councillor S Hall) replied thereto.

(d) Councillor Bolt made reference to the Cabinet Member's interview with the BBC relating to the Parks and Open Spaces Maintenance Strategy and asked whether he was aware of the KKP Study into the Kirklees Playing Pitch Strategy.

The Cabinet Member (Councillor S Hall) replied thereto.

(e) Councillor Marchington made reference to previous Cabinet decisions relating to Bradley Nurseries, and the procurement of plants, and asked for an update on the progress that had been made since the Cabinet decisions were taken.

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The Cabinet Member (Councillor S Hall) replied thereto.

(f) Councillor Patrick asked whether the Cabinet Member could give assurance that towns would not be left without hanging baskets and tubs next year.

The Cabinet Member (Councillor S Hall) replied thereto.

(g) Councillor Bolt referred to the Cabinet Member's comments in the media regarding the obstruction of a byway on Nethermoor Farm and asked him to advise Council of the process of clearing the obstruction, how much it has cost the Council and when it will be open to the public.

The Cabinet Member (Councillor S Hall) replied thereto.

(h) Councillor Sims asked the Cabinet Member whether he thought that to announce the closure of the nurseries in Kirklees before a financial assessment had been done was the right approach.

The Cabinet Member (Councillor S Hall) replied thereto.

(ii) Family Support and Child Protection Portfolio

(a) Councillor Holmes asked, in terms of safeguarding of children, whether the Cabinet Member had confidence in licensing in Kirklees.

The Cabinet Member (Councillor Hill) replied thereto.

(iii) Prevention, Early Intervention and Vulnerable Adults Portfolio

(a) Councillor Iredale asked the Cabinet Member to advise of what the Council was doing to safeguard the residents of the Botham Hall Care Home, Golcar, which was part of the Four Seasons Care firm which is facing financial difficulties.

The Cabinet Member (Councillor Kendrick) replied thereto.

(b) Councillor K Pinnock asked what the Cabinet Member could do in terms of lobbying ATOS for the provision of a PIP (Personal Independence Payment) Assessment Service within Kirklees.

The Cabinet Member (Councillor Kendrick) replied thereto.

(iv) Schools and Learning

(a) Councillor K Pinnock asked whether the Cabinet Member had met the Regional Schools Commissioner for Kirklees.

The Cabinet Member (Councillor Pandor) replied thereto.

(v) Housing and Relief of Poverty

(a) Councillor N Turner referred to bin collection figures as being 98% on target and asked the Cabinet Member to advise what period of time this was over.

The Cabinet Member (Councillor C Scott) undertook to provide a written response.

(b) Councillor P Scott asked what the cost to the Council was of fly-tipping.

The Cabinet Member (Councillor C Scott) undertook to provide a written response.

(c) Councillor Light made reference to the new bin collection arrangements and asked when the performance rate was expected to meet 100% and also provide an assurance that there would not be problems with the bin collection service over the Christmas period.

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The Cabinet Member (Councillor C Scott) undertook to provide a written response.

(d) Councillor Marchington asked for information in regards to how the 98% success rate was calculated, and also gave an example of a case whereby residents bins had not been emptied but that the Council records did not reflect this.

The Cabinet Member (Councillor C Scott) undertook to provide a written response.

(e) Councillor N Turner made reference to the bulky waste collection system and asked if there were faults in the system resulting in bulky waste not being collected.

The Cabinet Member (Councillor C Scott) undertook to provide a written response.

### 64 **Minutes of Other Committees**

The following Minutes were received for information;

(a) Appeals Panel - 10 August, 15 September and 20 October 2015

(b) Corporate Governance and Audit Committee - 31 July and 25 September 2015

(c) Corporate Parenting Board - 1 October 2015

(d) District Committee – Batley and Spennings Dale - 28 July and 8 September 2015

(e) District Committee – Huddersfield - 7 July, 25 August and 29 September 2015

(f) District Committee – Kirklees Rural - 30 July and 24 September 2015

(g) Health and Well Being Board - 30 July and 24 September 2015

(h) Overview and Scrutiny Management Committee - 28 July, 20 August, 7 September, 5 October, 19 October and 23 October 2015.

(i) Personnel Committee - 9 July and 22 September 2015

(j) Policy Committee - 7 September, 23 September and 19 October 2015

(l) Strategic Planning Committee - 27 August, 24 September and 22 October 2015

### 65 **Oral Questions to Committee Chairs and Nominated Spokespersons of Joint Committees/External Bodies**

(a) Councillor N Turner asked Councillor Holroyd-Doveton (Chair of Kirklees Rural District Committee) to advise what progress had been made in terms of devolution to District Committees.

Councillor Holroyd-Doveton replied thereto.

(b) Councillor Patrick asked Councillor Holroyd-Doveton (Chair of Kirklees District Committee) to advise of which decisions the District Committee can make.

Councillor Holroyd-Doveton replied thereto.

(c) Councillor Watson made reference to the Council's governance process in terms of taxi licensing and recent comments made by the Cabinet Member for Place. He asked Councillor Smith (Chair of Licensing and Safety Committee) whether he was satisfied that only fit and proper persons, in accordance with Council Policy, were licensed as taxi drivers in Kirklees and also whether the concerns raised by Councillor S Hall in regard to Committee Membership and training had been addressed.

Councillor Smith replied thereto.

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(d) Councillor Marchington asked Councillor Stewart-Turner (Chair of Overview and Scrutiny Management Committee) if she would wish to comment upon the number of Call-in meetings that had recently taken place.

Councillor Stewart-Turner replied thereto.

(e) Councillor Light made reference to pre decision scrutiny processes that take place in other Local Authorities and asked Councillor Stewart-Turner (Chair of Overview and Scrutiny Management Committee) whether consideration could be given to the introduction of such a process in Kirklees.

Councillor Stewart-Turner replied thereto.

(f) Councillor Marchington asked Councillor Hussain (Spokesperson for West Yorkshire Fire and Rescue Authority) whether the programme for the reduction of fire stations across West Yorkshire had been completed, and what impact it had upon the provision of services.

Councillor Hussain undertook to provide a written response.

(g) Councillor Bolt asked Councillor Ahmed (Spokesperson for West Yorkshire Fire and Rescue Authority) whether he would join him in congratulating all of the fire and rescue service personnel in West Yorkshire for the excellent service that they provided to the community over the bonfire period, and also to Mirfield Fire Station for the community events that they had been involved in over the weekend period.

Councillor Hussain replied thereto.

(h) Councillor Sheard made reference to Fire Safety Standards relating to children's Halloween costumes and asked Councillor A Pinnock (Spokesperson for West Yorkshire Joint Services Committee) for details of any discussions that may have taken place regarding the sale of fire proof clothes.

Councillor A Pinnock replied thereto.

(i) Councillor Light asked Councillor A Pinnock (Spokesperson for West Yorkshire Joint Services Committee) whether he could provide an update on the potential for the governance arrangements of the Joint Services Committee being integrated into that of the Combined Authority.

Councillor A Pinnock replied thereto.

### 66 **Motion submitted in accordance with Council Procedure Rule 14 as to Tax Credits**

It was moved by Councillor O'Neill and seconded by Councillor Kendrick;

"That this is Council is concerned by the effects the Government's proposed changes to the welfare system, particularly but not exclusively to tax credits, as it demonstrates a clear attack on the lowest paid families.

Of particular concern is the effect these cuts will have on many of the low paid, hardworking families across Kirklees and the wider impact this will have on the diverse communities across the district.

We therefore request following:

(1) That Cabinet ask the Director of Resources to produce a report as to the effects of this attack on working families in Kirklees.

(2) This Council therefore asks that the Chief Executive writes a letter to Government requesting it seriously reconsiders implementation of these changes, so as to not enforce further undue financial suffering to many already hard working families of Kirklees."

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Whereupon it was moved by Councillor D Hall, and seconded by Councillor Hemingway, by way of AMENDMENT

"That all words after "This Council is concerned by..." be deleted and replaced with;

...anything which adversely affects the livelihood of its residents, including welfare changes.

It welcomes the Government's intimations that it will reconsider the implementation of changes to tax credits in the Autumn Statement, and therefore requests that the Director of Resources prepares a report after 25th November to assess the impact on Kirklees residents."

The AMENDMENT, upon being put to the vote, was LOST.

(At the request if a Member, supported by at least five other Members, a recorded vote was taken on the AMENDMENT as follows;

FOR: Councillors Armer, Bellamy, Bolt, D Hall, Hemingway, Holmes, Lees-Hamilton, Light, Palfreeman, Patrick, Sims, J Taylor, K Taylor, Watson and Wilson (15 Votes)

AGAINST: Councillors Ahmed, Akhtar, Allison, Alvy, Barraclough, Burke, Calvert, Cooper, Dad, E Firth, Greaves, S Hall, Hill, Holroyd-Doveton, Hughes, Hussain, Iredale, Kendrick, Khan, Lawson, Lowe, Marchington, Mather, McBride, O'Donovan, Pandor, Patel, Pattison, AU Pinnock, A Pinnock, K Pinnock, Richards, Rowling, Sarwar, C Scott, P Scott, Sheard, Smith, Sokhal, Stewart-Turner, G Turner, N Turner, Ullah, Walton and Wilkinson (45 Votes)

Whereupon, it was moved by Councillor Marchington, and seconded by Councillor Lawson, by way of further amendment, that

"That the following text be inserted after Paragraph 2;

This Council also notes that Labour Party failed to oppose these changes when they came before the House of Commons in July and failed to support a motion that would have killed off the proposals altogether when it was brought before the House of Lords in October."

The AMENDMENT, on being put to the vote was LOST.

The SUBSTANTIVE MOTION, on being put to the vote was CARRIED, and it was

### **RESOLVED -**

"That this is Council is concerned by the effects the Government's proposed changes to the welfare system, particularly but not exclusively to tax credits, as it demonstrates a clear attack on the lowest paid families.

Of particular concern is the effect these cuts will have on many of the low paid, hardworking families across Kirklees and the wider impact this will have on the diverse communities across the district.

The Council therefore resolved that;

(1) The Director of Resources be asked to produce a report as to the effects of this attack on working families in Kirklees.

(2) The Chief Executive be asked to write a letter to Government requesting that it seriously reconsiders implementation of these changes, so as to not enforce further undue financial suffering to many already hard working families of Kirklees."

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### **Sky Lanterns - Motion approved by Council on 29 July 2015**

That the response of West Yorkshire Trading Standards be noted.



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<b>KIRKLEES COUNCIL</b>			
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>			
<b>DECLARATION OF INTERESTS</b>			
Council			
Name of Councillor			
<b>Item in which you have an interest</b>	<b>Type of interest (eg a disclosable pecuniary interest or an "Other Interest")</b>	<b>Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]</b>	<b>Brief description of your interest</b>

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



**Name of meeting:** Cabinet 17 November 2015

Corporate Governance and Audit 20 November 2015

Council 9 December 2015

**Title of report:** Half yearly monitoring report on Treasury Management activities 2015/16

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
<b>Date signed off by Director</b>	David Smith, Director of Resources 14 October 2015
<b>Is it signed off by the Director of Resources?</b>	Yes 14 October 2015
<b>Is it signed off by the Assistant Director – Legal and Governance?</b>	No legal implications
<b>Cabinet member <a href="#">portfolio</a></b>	Corporate and Finance

**Electoral [wards](#) affected and ward councillors consulted:** All

**Public or private:** Public

## 1. Purpose of report

1.1 The Council has adopted the CIPFA Code of Practice on Treasury Management. It is a requirement of the Code that regular reports be submitted to Members detailing treasury management operational activity. This report is the mid-year for 2015/16 covering the period 1 April to 30 September.

## 2. Key points

### 2.1 [Background](#)

2.1.1 The Council has adopted the CIPFA Code of Practice on Treasury Management and operates its treasury management service in compliance with this Code and various statutory requirements.

Code recommends monitoring reports on treasury management be submitted to Council. Under Financial Procedure Rules, Cabinet is responsible for the implementation and monitoring of the treasury management policies. Corporate Governance and Audit Committee undertake a scrutiny role with regard to treasury management. The Council's treasury advisors gave training to members of that committee in March 2015.

2.1.2 The report covers the period 1 April to 30 September, and reports on interest rates, investment and borrowing activities, budget monitoring, prudential indicators, and risk/compliance issues. Reference will be made to the Treasury Management Strategy Report approved by Council 18 February 2015.

## 2.2 The Treasury Management Strategy 2015/16 approved by Council on 18 February 2015

2.2.1 The over-riding policy continues to be one of ensuring the security of the Council's balances. The Council will aim to invest externally balances of around £30 million, largely for the purpose of managing day-to-day cash flow requirements, with any remaining balances invested "internally", offsetting borrowing requirements. The investment strategy is designed to minimise risk, investments being made primarily in instant access accounts or short-term deposits, with the major British owned banks and building societies, or Money Market Funds. Diversification amongst counterparties is key.

2.2.2 It was not expected that the Council would have any external borrowing requirement.

## 2.3 Economic Context and Interest Rates

2.3.1 Events at the beginning of the year were dominated by Greece and their possible default and exit from the Eurozone. The issue was finally resolved (for the time being) with agreement on 12 July on a third bailout. The summer saw attention shifting towards China with signs of a significant slowdown in their economy. The UK economy has remained resilient over the last six months. GDP has shown growth in ten consecutive quarters and there has been further improvement in the labour market.

2.3.2 Base rate has remained at 0.5% for the period, whilst long term borrowing rates continue at historically low levels – 3.11% at the beginning of April, 3.40% at the end of June and 3.19% at the end of September (50 year maturity loan – PWLB – Certainty Rate). Our advisors expect the first rise in Base Rate to be mid 2016, with the pace of increases being gradual thereafter.

## 2.4 Investment Performance

2.4.1 The Council invested an average balance of £60.9 million externally during the period (£58.8 million in the first six months of 2014/15), generating £0.13 million in investment income. The Council is cash rich at the beginning of the year due to profiles of Revenue Support

Grant being weighted towards earlier payments and it is not expected that the “target” investment balance of £30 million will be achieved until January.

2.4.2 Most balances were invested in instant access accounts or short term deposits. Appendix 1 shows where investments were held at the start of April, the end of June and September by counterparty, by sector and by country.

2.4.3 The Council’s investment performance was monitored during the period, with the average lending rate of 0.43%. This is slightly higher than the average for 2014/15 of 0.42%.

2.4.4 The change in regulations on bank bail-ins has now been reflected in movements in credit ratings, along with other factors. Some institution’s ratings have improved whilst others have suffered, notably in terms of the Council’s investment activity –

- Coventry Building Society improving its ratings such that it has moved into the Council’s specified category, thus increasing potential investment limits (up to £10 million)
- Nottingham and Yorkshire Building Societies improving their ratings such that they move into the Council’s non-specified category, thus increasing potential counterparties (up to £3 million)
- Barclays’ ratings falling such that it moves into the Council’s non-specified category from specified, thus reducing potential investment limits (down from £10 million to £3 million)

2.4.5 In an attempt to further diversify the Council’s investments in light of the changes in regulations on bail-in, the strategy approved in February was changed to allow fixed deposits for up to two months with some unrated building societies (as approved by our treasury management advisors) and highly rated foreign banks, particularly when the Council was cash rich. Unfortunately, this opportunity has not really materialised –

- Many of the building societies suggested are not or rarely in the market for taking local authority money, or want investments for longer periods than the Council is prepared to place monies.
- Due to the uncertainty over the Greek economic position over the last few months, the Director of Resources has decided not to increase exposure to foreign banks as this point in time.

## 2.5 Borrowing Performance

2.5.1 In terms of borrowing, long-term loans at the end September totalled £413.1 million (£422.6 million 31 March 2015) and short-term loans £12.6 million (£21.1 million 31 March 2015). There has been no new external borrowing so far this year. The updated borrowing requirement for the year is around £20 million. This builds in borrowing rolled over from 2014/15 capital underspend but also allows for slippage in 2015/16.

- 2.5.2 Any borrowing undertaken is likely to be fairly short-term, partly to take advantage of very low borrowing rates but also because as the Council may be cash rich again in April 2016, it will give the opportunity to repay at least some of the borrowing rather than have high investment balances increasing the exposure to risk.
- 2.5.3 The Local Capital Finance Company, established in 2014 by the LGA as an alternative source of local authority finance, is still not operational. Officers will continue to monitor developments.
- 2.5.4 Fixed rate loans account for around 80% of total long-term debt giving the Council stability in its interest costs. The maturity profile for fixed rate long-term loans is shown in Appendix 2 and shows that no more than 10% of fixed rate debt is due to be repaid in any one year. This is good practice as it reduces the Council's exposure to a substantial borrowing requirement in future years when interest rates might be at a relatively high level.
- 2.5.5 The Council has not had any temporary borrowing from the Money Market, apart from in the first few days of April. This was borrowed from another local authority at a rate of 0.28%.

## 2.6 Revenue Budget Monitoring

- 2.6.1 The treasury management budget for 2015/16 currently stands at £34.7 million. The latest budget monitoring shows an under-spend of £1.75 million. The under-spend is due to savings on principal and interest arising from capital slippage and the net effect of £10.5 million capital receipt/revenue contribution/capital grant applied to service debt in 2014/15.

## 2.7 Prudential Indicators

- 2.7.1 The Council is able to undertake borrowing without central government approval under a code of practice called the Prudential Code. Under this Code, certain indicators have to be set at the beginning of the financial year as part of the treasury management strategy. The purpose of the indicators is to contain the treasury function within certain limits, thereby reducing the risk or likelihood of an adverse movement in interest rates or borrowing decision impacting negatively on the Council's overall financial position. Other prudential indicators are reported as part of the monitoring of capital.
- 2.7.2 Appendix 3 provides a schedule of the indicators set for treasury management and the latest position.

## 2.8 Risk and Compliance Issues

- 2.8.1 The Council moved its current account banking arrangements from the Co-Operative to Barclays on 1 July 2015, on an initial five year contract. The changeover was extensively planned by officers and went reasonably smoothly. There have been delays with the correction of some mis-postings on income and loading statements for bank reconciliation purposes due to some additional work being needed to

change software configuration. Officers are currently working to clear any backlog and it is envisaged items will be up-to-date by the end of December at the latest.

- 2.8.2 There has been some adverse publicity recently, including a Channel 4 documentary on 6 July, about LOBO (Lender's Option, Borrower's Option) loans, claiming that these loans are offering poor value for money for local authorities. The publicity has resulted in a DCLG Select Committee taking evidence from the participants of the documentary on 20 July.
- 2.8.3 The principle of a LOBO is that the opening rate is usually cheaper than borrowing from the Government's Public Works Loans Board. However, at pre-determined future dates, such as every 5 years, the lender has the option to propose or impose a new fixed rate for the remaining term of the facility and the borrower has the option to either accept the new imposed fixed rate or repay the loan facility.
- 2.8.4 The Council currently has eleven LOBOs with various UK and foreign banks, totalling £105 million. They were all taken between 1997 and 2008, and their average interest rate equates to 4.4% compared to the Council's PWLB loan average interest rate of 5.1%. All the LOBOs are on their original terms – in one case, where a bank proposed to increase an interest rate from 3.36% to 4.20%, the Council decided to immediately repay that loan. The Council has no "inverse floating" LOBOs, of which the Channel 4 documentary was particularly critical.
- 2.8.5 The Council is aware of the risks of passive management of the treasury portfolio and, with the support of the Council's consultants, Arlingclose, has proactively managed the debt and investments over the period.

## 2.9 Fossil Fuel Divestment

### 2.9.1 Council on 7<sup>th</sup> October 2015 passed a motion that:-

"This Council recognises;

(i) the challenge and threat of climate change to residents and global community.

(ii) that to keep global warming below 2oC we must operate within a global carbon budget. 80% of existing fossil fuel reserves cannot be burned if we are to keep below the internationally agreed climate change goal of keeping below 2 degrees

(iii) the growing movement to divest from fossil fuels in order to, in the words of Desmond Tutu, "break their ties with corporations financing the injustice of climate change."

(iv) that there is also a strong financial case for divestment ,with recent concerns raised by the Bank of England about 'unburnable carbon' and significant financial risks posed by fossil fuel equities.

(v) that governments are increasingly controlling carbon emissions to meet international targets; a large proportion of fossil-fuel reserves which companies expect to extract will become stranded assets: a

"carbon bubble". Funds which are exposed to fossil-fuel equities when this bubble bursts can expect to suffer considerable losses.

(vi) that Pension Fund Trustees owe fiduciary duties to scheme employers and scheme members, and must act in the best long-term interests of fund members.

This Council believes that;

The Director of Resources is requested to review the existing Treasury Management Strategy, and present a report to Corporate Governance and Audit Committee, Cabinet and Council to giving consideration to an additional principle of avoiding direct investment in institutions with material links to fossil fuel extraction as defined by the Carbon Underground 200 – the top 200 companies with the largest known carbon reserves (oil, gas and coal) by June 2016.

Kirklees Council will encourage other local authorities to similarly reviewing their Fossil Fuel industry investments, by sharing this decision through the Local Government Association and the West Yorkshire Combined Authority.

Kirklees Council will use its influence to call on West Yorkshire Pension Fund and other Funds where the Council appoints Trustees to review investments in the fossil fuel industry (as defined by the Carbon Underground 200). Specifically Kirklees will ask our representatives on the West Yorkshire Pension Fund - Investment Advisory Panel to call on all Pension Trustees to exercise their fiduciary duty and to call for a review of WYPF fossil fuel investments in the light of climate risk posed by fossil fuel equities.

Kirklees Council request that WYPF makes a commitment to wind down exposure to the carbon underground top 200 fossil fuel companies over a 5 year period.”

2.9.2 In addition the Council has received a petition of some 350 signatures requesting that “Kirklees Council should immediately freeze any new investments in fossil fuels, and divest from direct public ownership and any commingled funds that include fossil fuel public equities and corporate bonds.”

2.9.3 The Director of Resources therefore will review our existing investment policy and report back to Cabinet and Council as part of the 2016/17 budget process. The Council currently has no direct investments in fossil fuel companies. However, further checks need to run on the money market funds the Council invests with to determine whether they hold corporate bonds of such companies. Consideration also needs to be given where the Council is acting as Trustee for Charitable Funds.

### **3. Implications for the Council**



3.1 The underspending on the treasury management function has been taken into account in the consolidated budget monitoring reported to Cabinet.

**4. Consultees and their opinions**

None.

**5. Next steps**

None.

**6. Officer recommendations and reasons**

Cabinet and Corporate Governance and Audit Committee are asked to recommend to Council that the report be noted.

**7. Cabinet portfolio holder recommendation**

The report be noted.

**8. Contact officer and relevant papers**

Tim Mitchell  
Finance Manager  
01484 221000

CIPFA's Code of Practice on Treasury Management in the Public Services.

CIPFA's Prudential Code for Capital Finance in Local Authorities.

Local Government Act 2003.

The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008.

Public Works Loan Board Website.

**9. Assistant Director responsible**

Debbie Hogg  
Assistant Director, Financial Management, Risk & Performance  
01484 221000

**APPENDIX 1**

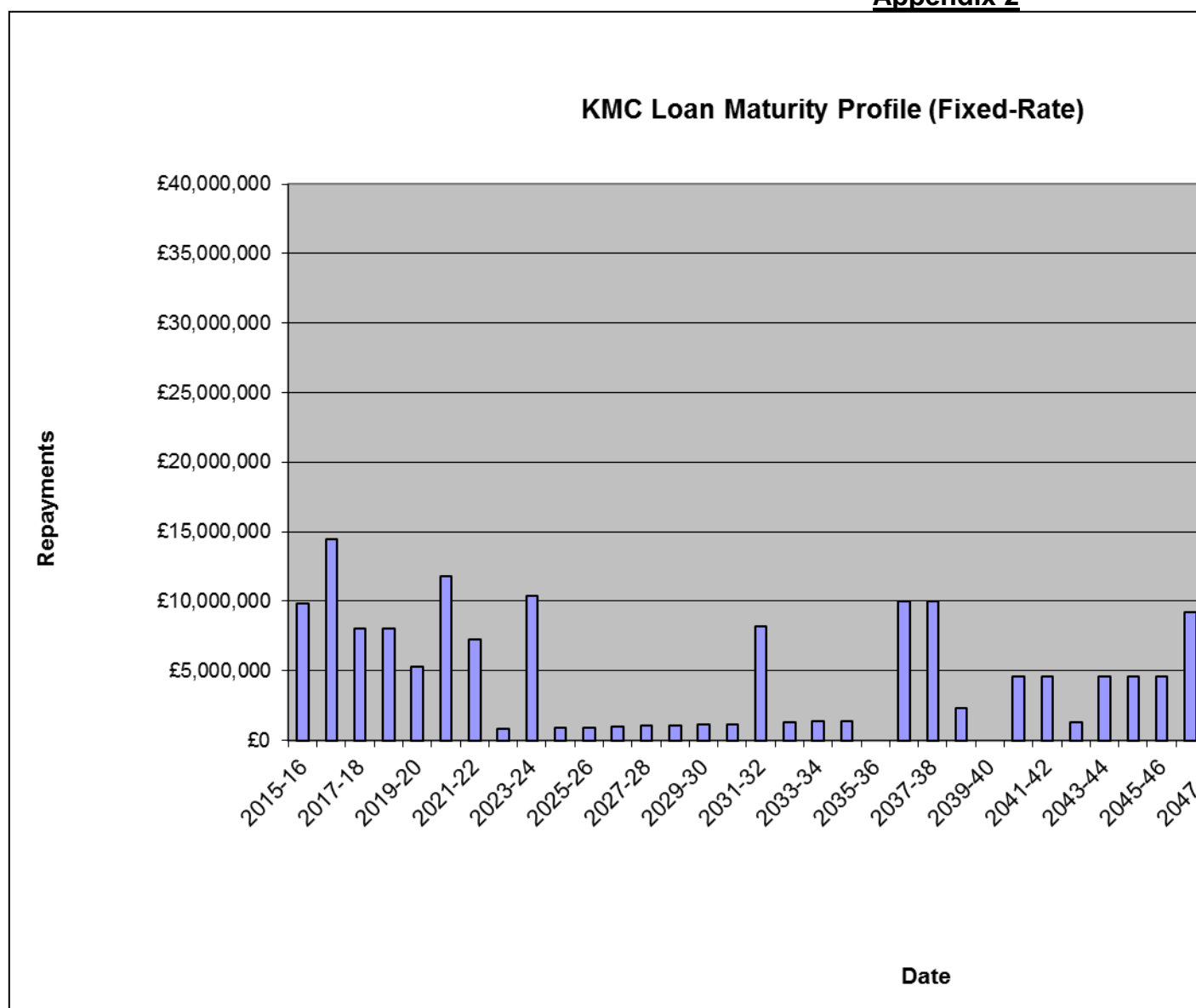
Kirklees Council Investments 2015-16											
Counterparty	Credit Rating Sept 2015*	1 April 2015 (opening)			30 June 2015			30 September 2015			
		£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment	
<b><u>Specified Investments</u></b>											
LB Merton	Local Govt	3.2	0.40%	1 mth fixed							
Barclays	Bank				4.0	0.40%	2 mth fixed				
Nationwide	Bldg Soc	F1/A	6.5	0.43%	1 mth fixed	8.0	0.46%	2 mth fixed x 3	8.0	0.43%	1 mth fixed x 3
Bank of Scotland	Bank	F1/A+			4.0	0.40%	Instant Access	2.0	0.40%	Instant Access	
Handelsbanken	Bank	F1+/AA-	9.0	0.45%	Instant Access	3.0	0.45%	Instant Access	5.0	0.45%	Instant Access
Handelsbanken	Bank				5.0	0.55%	35 days fixed				
Std Life (Ignis)	MMF**	AAAmmf	10.0	0.47%	MMF-Instant Acc	9.0	0.48%	MMF-Instant Acc	7.6	0.49%	MMF-Instant Acc
Aviva	MMF**	Aaa-mf	5.0	0.39%	MMF-Instant Acc	8.3	0.44%	MMF-Instant Acc	7.6	0.46%	MMF-Instant Acc
Aviva - Govt	MMF**	Aaa-mf				9.6	0.40%	MMF-Instant Acc	10.0	0.39%	MMF-Instant Acc
Deutsche	MMF**	AAAmmf				3.9	0.41%	MMF-Instant Acc	7.5	0.45%	MMF-Instant Acc
Goldman Sachs	MMF**	AAAmmf	5.0	0.41%	MMF-Instant Acc	8.8	0.44%	MMF-Instant Acc	7.1	0.45%	MMF-Instant Acc
Coventry	Bldg Soc	F1/A				3.0	0.41%	1 mth fixed	4.7	0.41%	1 mth fixed x 2
<b><u>Non-specified investments</u></b>											
Barclays	Bank	F1/A							2.9	0.10%+0.40%	Instant Access
Nottingham	Bldg Soc	P2/Baa1							3.0	0.40%	1 mth fixed
			<b>38.7</b>			<b>66.6</b>			<b>65.4</b>		
<b><u>Sector analysis</u></b>											
Bank			9.0			16.0			9.9		
Building Society			6.5			11.0			15.7		
MMF**			20.0			39.6			39.8		
Local Authorities/Cent Govt			3.2								
			<b>38.7</b>			<b>66.6</b>			<b>65.4</b>		
<b><u>Country analysis</u></b>											
UK			9.7			19.0			20.6		
Sweden			9			8.0			5.0		
MMF**			20			39.6			39.8		
			<b>38.7</b>			<b>66.6</b>			<b>65.4</b>		

\*Fitch short/long term ratings, except Aviva MMF and Nottingham BS (Moody rating). See next page for key. The use of Fitch ratings is illustrative – the Council assesses counterparty suitability using all 3 credit rating agencies, where applicable, and other information on credit quality.

\*\* MMF – Money Market Fund. These funds are domiciled in Ireland for tax reasons, but the funds are made up of numerous diverse investments with highly rated banks and other institutions. The credit risk is therefore spread over numerous countries, including the UK. The exception to this is the Aviva Government Liquidity Fund which invests directly in UK government securities and in short-term deposits secured on those securities.

**Key – Fitch’s credit ratings:**

		<b>Long</b>	<b>Short</b>	
Investment Grade	Extremely Strong	AAA	F1+	
		AA+		
	Very Strong	AA		
		AA-		
		A+		
	Strong	A		F1
		A-		
		BBB+		F2
	Adequate	BBB		
		BBB-		F3
BB+		B		
Speculative	BB			
	BB-			
	Very Speculative		B+	
B				
B-				
Vulnerable	CCC+		C	
	CCC			
	CCC-			
	CC			
	C			
Defaulting	D	D		



**APPENDIX 3**

**Treasury Management Prudential Indicators**

Interest Rate Exposures

While fixed rate borrowing can contribute significantly to reducing the uncertainty surrounding future interest rate scenarios, the pursuit of optimum performance justifies retaining a degree of flexibility through the use of variable interest rates on at least part of the treasury management portfolio. The Prudential Code requires the setting of upper limits for both variable rate and fixed interest rate exposure:

	Limit Set 2015 - 16	Estd Actual 2015 - 16
Interest at fixed rates as a percentage of net interest payments	60% - 100%	78.7%
Interest at variable rates as a percentage of net interest payments	0% - 40%	21.3%

The interest payments were within the limits set.

Maturity Structure of Borrowing

This indicator is designed to prevent the Council having large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates.

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate	Limit Set 2015 - 16	Estd Actual 2015 - 16
Under 12 months	0% - 20%	3% - 5%
12 months to 2 years	0% - 20%	2% - 4%
2 years to 5 years	0% - 60%	5% - 8%
5 years to 10 years	0% - 80%	6% - 10%
More than 10 years	20% - 100%	76% - 79%

The limits on the proportion of fixed rate debt were adhered to.

Total principal sums invested for periods longer than 364 days

The Council will not invest sums for periods longer than 364 days.

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**Name of meeting:** Council  
**Date:** 9<sup>th</sup> December 2015

**Title of report:** REVISED GAMBLING POLICY - STATEMENT OF PRINCIPLES

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
<p>Date signed off by <u>Director</u> &amp; name</p> <p>Is it signed off by the Director of Resources?</p> <p>Is it signed off by the Assistant Director - Legal &amp; Governance?</p>	<p>Jacqui Gedman - 27.11.15  <i>Paul Kemp, AD Place - on behalf of</i></p> <p>David Smith - 25.11.15</p> <p>Julie Muscroft - 27.11.15</p>
Cabinet member <a href="#">portfolio</a>	Planning, Highways and Open Spaces - Councillor Steve Hall

**Electoral [wards](#) affected:** ALL

**Ward councillors consulted:**

**Public or private:** PUBLIC

## 1. Purpose of report

This report details the outcome of the consultation process in respect of the review of Kirklees Council's Gambling Policy (Statement of Principles) and makes recommendations to Council for its adoption.

## 2. Key points

### 2.1 Introduction

2.1.1 The Gambling Act 2005 requires each Authority to carry out its various licensing functions so as to promote the following three licensing objectives.

- Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime in any way.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.1.2 To achieve these objectives, the Authority is required to publish a Statement of Gambling Policy every three years and set out the policies the Authority will generally apply, to promote the licensing objectives when making decisions on applications made under the Act. The Policy must be agreed by Council.

## **2.2 The Issues**

2.2.1 The policy document attached (Appendix One) has been circulated widely to stakeholders throughout the Kirklees district and to numerous national representative bodies and organisations, with a closing date for comments of 1<sup>st</sup> December 2015. A copy has also been posted on the Council's website.

2.2.2 The draft policy is based on a template issued by the Local Authorities Coordinators of Regulatory Services (LACORS). The Gambling Commission, in its Guidance to Licensing Authorities, 3rd Edition, May 2009, recommends that the Licensing Authority give appropriate weight to the views of those consulted in respect of the draft policy. In determining what weight to give particular representations, the factors to be taken into account should include:

- Who is making the representations (what is their expertise or interest);
- Relevance of the factors to the licensing objectives;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters that the Licensing Authority should be including in its policy statement.

2.2.3 It is important to demonstrate that in reviewing responses to the consultation, due weight and consideration has been given to all representations including, where appropriate, why some (if any) have been disregarded. This is so that in the event that the policy is challenged, the Authority can demonstrate to a court how it arrived at the policy.

2.2.4 Kirklees Council has not at the time of writing this report, received any representation on its draft policy.

## **3. Implications for the Council**

### **3.1 Resource Implications**

There are no specific resource implications in respect of the Gambling Policy.



### **3.2 Legal Implications**

The Gambling Act 2005, requires the Authority to review the Statement of Gambling Policy, to consult in respect of the policy and to have discussed and formally adopted, published and advertised the policy by 3 January 2016 for implementation from 31 January 2016.

### **3.3 Human Rights**

There are no human rights issues specific to the Gambling Policy providing the Authority can demonstrate best practice and compliance with national guidance in the production of the policy.

## **4. Consultees and their opinions**

- West Yorkshire Police
- The Local Safeguarding Children Board
- Representatives of local businesses
- Local Chambers of Commerce
- Town Centre Associations
- Residents of Kirklees and their representatives
- Kirklees Federation of Tenants & Residents Association
- Town Councils in the district
- Parish Councils in the district
- Local Members of Parliament
- Ward Councillors
- Area Committees
- Sister Services
- National bodies representing the gambling trade
- National charities concerned with the social impact of gambling
- Representatives of existing licence holders
- Yorkshire Forward
- Yorkshire Culture
- West Fire and Rescue
- Community Safety Partnership
- Huddersfield University
- Local financial/debt management agencies
- Holders of Club Premise Certificates
- Holders of Lottery Permits
- Holders of Permits for Amusement Arcades

No responses received as at the time of writing this report.

## **5. Cabinet portfolio holder recommendation**

The portfolio holder, Councillor Steve Hall, recommends adoption of the policy to the Council.

## **6. Licensing and Safety Committee recommendation**

Adoption of the policy was considered by the Licensing and Safety Committee on 4<sup>th</sup> November 2015, when the committee recommended that Council adopts the Gambling Policy.

## **7. Officer recommendations and reasons**

That Council considers adoption of the Gambling Policy, as its Policy for the next three years.

## **8. Contact officer and relevant papers**

Catherine Walter

Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

Tel: - (01484) 456868

Background Papers:

Guidance issued by the Gambling Commission (3rd edition) May 2009.

## **9. Assistant Director responsible**

Paul Kemp

Assistant Director - Place

Email: [paul.kemp@kirklees.gov.uk](mailto:paul.kemp@kirklees.gov.uk)

Tel - (01484) 221000



# STATEMENT OF PRINCIPLES

## GAMBLING POLICY 2016-2019

**KIRKLEES COUNCIL  
THE GAMBLING ACT 2005  
STATEMENT OF PRINCIPLES 2013 - 2016**

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*All references to the guidance of the Gambling Commission to licensing authorities refer to the guidance 4<sup>th</sup> edition published September 2012 (updated February 2013).*

## **PART A**

### **THE GAMBLING ACT 2005**

#### **1. The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

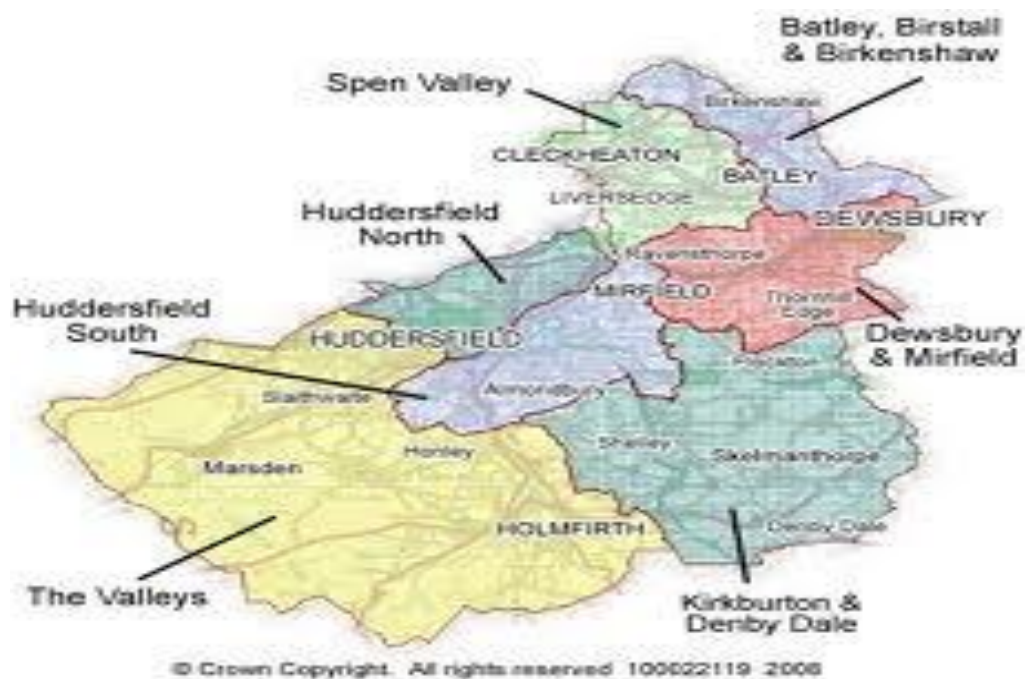
The council is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

#### **2. Introduction**

Kirklees Council is situated in West Yorkshire, which contains 5

metropolitan councils in total. The council area has a population of approximately 423,000 (2011 census) making it the largest metropolitan district not based on a city in terms of population. In terms of area it is the third largest in West Yorkshire, covering 157 square miles. The council area is mainly rural in the south with a central urban area around large towns. The area also comprises of several smaller towns of varying sizes. These areas are shown on the map below.



The people of Kirklees represent many cultures, faiths, languages and races. A wide range of minority groups including Pakistani, Indian, Black Caribbean as well as many other smaller communities make up 16 % of the population.

Kirklees Council has issued a Corporate Plan which outlines the Council's vision for a 'New Council'. The priorities throughout the transformation program to the 'New Council' will focus on building healthy, economically resilient communities and protecting the most vulnerable people (the working poor, the frail elderly and children at risk of abuse).

The Gambling Policy aims to promote the licensing objectives within the overall context of the Corporate Plan. .

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must then be re-published.

Kirklees Council consulted widely upon their original statement before finalising and publishing. A list of those persons consulted is provided below.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

List of persons this authority consulted:

- ***West Yorkshire Police***
- ***The Local Safeguarding Children Board***
- ***Representatives of local businesses***
- ***Local Chambers of Commerce***
- ***Town Centre Associations***

- **Residents of Kirklees and their representatives**
  - **Kirklees Federation of Tenants & Residents Association**
  - **Town Councils in the district**
  - **Parish Councils in the district**
  - **Local Members of Parliament**
  - **Ward Councillors**
  - **Area Committees**
  - **Sister Services**
  - **National bodies representing the gambling trade**
  - **National charities concerned with the social impact of gambling**
  - **Representatives of existing license holders**
  - **Yorkshire Forward**
  - **Yorkshire Culture**
  - **West Fire and Rescue**
  - **Community Safety Partnership**
  - **Huddersfield University**
  - **Local financial/debt management agencies**
  - **Holders of Club Premise Certificates**
  - **Holders of Lottery Permits**
  - **Holders of Permits for Amusement Arcades**

Our consultation will end on 1<sup>st</sup> December 2015

Should you have any comments as regards this policy statement please send them via e-mail or letter to the address below:

Licensing Service  
Flint Street  
Fartown  
Huddersfield  
HD1 6LG

Email: [licensing@kirklees.gov.uk](mailto:licensing@kirklees.gov.uk)

Tel 01484 456868

Fax 01484 223477



### **3. Declaration**

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a license, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

In producing the final statement, the council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

These are generally public bodies that must be notified of all applications, they are entitled to make representations to the Council which are relevant to the licensing objectives. They have no obligation to respond to applications for premises licences if they wish not to do so.

Section 157(h) of the Act defines them as

- The Gambling commission
- The Police
- The Fire Service
- The Local Safeguarding Children Board
- The local planning authority
- Environmental Health
- HM Revenue and Customs
- The licensing authority (the council)

Each representation will be assessed with regard to the licensing objectives and be taken on its own individual merits.

The council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area;
- and the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.kirklees.gov.uk](http://www.kirklees.gov.uk)

## **5. Interested parties**

Interested parties are certain types of people or organisations who have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

The council is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. The council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and

tenants' associations. However, the council emphasises that it will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represent the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact

Licensing Service, Flint Street, Fartown, Huddersfield, HD1 6LG

Email: [licensing@kirklees.gov.uk](mailto:licensing@kirklees.gov.uk)

Tel 01484 456868

Fax 01484 456857

## **6. Exchange of Information**

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions with respect to the exchange of information between it and the Gambling Commission, and the functions with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that the council applies is that it will act in accordance with the

provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection and Freedom of Information Acts will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

The council will work closely with responsible authorities in undertaking its enforcement duties under the Gambling Act 2005, be guided by the Gambling Commission's Guidance for local authorities and will endeavor to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

The council will endeavor to avoid duplication with other regulatory regimes so far as possible.

The main enforcement and compliance role for the council in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This council will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## 8. Licensing Authority functions

Licensing Authorities are responsible under the Act for:

- Licensing premises where gambling activities are to take place by issuing *Premises Licences*
- Issuing *Provisional Statements*
- Regulating *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing *Club Machine Permits to Commercial Clubs*
- Granting permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issuing *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Registering *small society lotteries* below prescribed thresholds
- Issuing *Prize Gaming Permits*
- Receiving and Endorsing *Temporary Use Notices*
- Receiving *Occasional Use Notices*
- Providing information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintaining registers of the permits and licences that are issued under these functions

The council will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

## PART 8

### PREMISES LICENCES

#### 1. General Principles

The council will issue premises licences to allow premises to be used for certain types of gambling. The types of premises to which licences will be issued include amusement arcades, bingo halls, bookmakers and casinos.

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

The council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

#### Definition of "premises"

Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.

The council will take particular care in considering applications for multiple licences

for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

The council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an important consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise may compromise the licensing objectives.

An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

Where premises are not yet built or are about to be altered for the purpose of gambling and ultimately a premises licence will be required, the applicant should first consider making an application for a provisional statement (see section 9).

#### Location

The council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- a. to take account of significant changes in local circumstance, including those identified in this policy;
- b. when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c. when applying for a variation of a premises licence; and
- d. in any case, undertake a local risk assessment when applying for a new premises licence.

The council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises
  - The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.



- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome

#### Duplication with other regulatory regimes

The council will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

#### Licensing objectives

Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, the council has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

#### **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime the council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The council is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behavior was to those who could see it, so as to make that distinction.

#### **Ensuring that gambling is conducted in a fair and open way**

The council has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

## Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Kirklees Safeguarding Children Board has a webpage dedicated to providing local information about child safety, child sexual exploitation, policies and procedures including risk factors and signs and symptoms:

<http://www.kirkleessafeguardingchildren.co.uk/>

The council is aware that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The council will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." The council will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated by way of a revision.

### Conditions

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable **in all** other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

The council will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted that:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

There are conditions which the council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

#### Door Supervisors

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objective of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

Where operators and the council decide that supervision of entrances / machines is appropriate for particular cases, it will need to be decided whether these need to be Security Industry Authority (SIA) licensed or not. It will not be automatically assumed that they need to be.

## **2. Adult Gaming Centres**

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

The council may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **3. (Licensed) Family Entertainment Centres:**

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The council may consider measures to meet the licensing objectives such as:

- CCTV

- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

The council will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Changes on the numbers of machines permitted came into force in 2011. Please see appendix one for limits on numbers of machines at the above type of premises.

#### **4. Casinos**

The council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the full council.

##### Casinos and competitive bidding

The council is aware that where a licensing authority is empowered to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The council will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

##### Licence considerations/conditions

The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account

in relation to the suitability and layout of casino premises". This guidance will be considered by the council when it is made available.

### Betting machines

The council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of betting machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **5. Bingo premises**

The council is aware that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the council will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

This council is also aware that the Gambling Commission has stated that it is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by the council once it is made available.

## **6. Betting premises**

Betting premises are premises such as bookmakers and betting offices where various types of gambling are authorised to take place. Children and young persons will not be able to enter such premises.

Betting premises will be able to provide a limited number of betting machines. The council will take into account the size of the premises, the number of counter

positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **7. Tracks**

Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. There are currently no tracks within this council area.

Should the need arise the council is aware that such tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The council will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The council will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

The council may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example

measures.

#### Gaming machines

The council will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines at a track.

The council is aware that the Gambling Commission is preparing guidance as regards where gaming machines may be located at tracks and any special considerations that should apply in relation, for example, to the supervision of the machines and preventing children from playing them.

#### Betting machines

The council will take into account the size of the premises and the ability of staff to monitor the use of the betting machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises.

#### Conditions on rules being displayed

In line with guidance from the Gambling Commission the council will consider attaching a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

### **8. Travelling Fairs**

Travelling fairs have traditionally been able to provide various low stakes gambling without the need for a licence or permit provided that certain conditions are met. This provision continues in a similar fashion in the new Act.

The council will decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the



statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The council will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which has yet to be constructed or altered for the purpose of gambling, would be granted a premises licence when the building work is complete. It is not a licence and merely gives the holder some form of assurance that a premises licence would be granted. Once works are complete a full premises licence would still be required.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage;  
or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.

The council will not take into account irrelevant matters e.g. the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

## **10. Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the council to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is :

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

Consideration will also be given as to whether the request is frivolous, vexatious, will certainly not cause this authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## **P A R T C**

### **PERMITS/TEMPOARY & OCCASIONAL USE NOTICES**

#### **1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)**

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D machines. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.

The Gambling Act 2005 contains a provision for local authorities to prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, Para 7 of the Act states, "in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the

Commission under Section 25."

In accordance with Gambling Commission guidance the council will give weight to child protection issues when considering applications for permits.

The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised children being on the premises, or children causing problems on or around the premises. The council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs, that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

The council is aware that an application for a permit may only be granted if the chief officer of police has been consulted on the application.

In line with the Act the council cannot attach conditions to this type of permit and the "Statement of principles" only applies to initial applications and not to renewals

## **2. Gaming machine permits in premises licensed for the sale of alcohol**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The council can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*" The council considers that "such matters" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the council that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy the council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

The council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3. Prize Gaming Permits - (Statement of Principles on Permits)**

The council will expect the applicant to set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.

In making its decision on an application for this permit the council does not need to have regard to the licensing objectives but must have regard to any Gambling

Commission guidance.

There are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### **4. Club Gaming and Club Machines Permits**

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

To qualify for club permits members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The council may only refuse an application on the grounds that:

- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young

persons;

- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **S. Temporary Use Notices**

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be useful for a temporary use notice would include hotels, conference centres and sporting venues.

The Act makes a special reference, in the context of temporary use notices, to a "set of premises" to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted under the act. The council considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", the council will look at, amongst other things, the ownership/occupation and control of the premises. The council will be ready to object to notices where it

appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

## **6. Occasional Use Notices for tracks**

There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice.

The council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The council will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

More information relating to this can be found in the Guidance to licensing authorities 4<sup>th</sup> edition at <http://www.gamblingcommission.gov.uk>

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**Name of meeting: Council**

**Date: 9<sup>th</sup> December 2015**

**Title of report: Whitcliffe Mount School and the Closure of Whitcliffe Mount Sports Centre – To note the Ombudsman’s Report**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No. The report is for information purposes
Is it in the <a href="#">Council’s Forward Plan?</a>	Not applicable
Is it eligible for call in by <a href="#">Scrutiny?</a>	Not applicable
Date signed off by <u>Director</u> & name	Ruth Redfern Director of Communities, Transformation & Change David Smith Director of Resources
Is it signed off by the Director of Resources?	<b>David Smith 30<sup>th</sup> November 2015</b>
Is it signed off by the Assistant Director (Legal Governance and Monitoring)?	<b>Julie Muscroft 1<sup>st</sup> December 2015</b>
Cabinet member <a href="#">portfolio</a>	Give name of Portfolio Holder area and name for Cabinet reports <b>Cllr Jean Calvert, Portfolio – Community Development</b> <b>Cllr Graham Turner, Portfolio – Resources and Community Safety</b>

Electoral [wards](#) affected: Cleckheaton

Ward councillors consulted: None

Public or private: Public

## 1. Purpose of report

- 1.1 A decision was taken by Cabinet on 17<sup>th</sup> December 2013 to close Whitcliffe Mount Sports Centre (WMSC). The purpose of this report is to inform all Members of Council of the background to the decision to close WMSC and to report to Council the outcome of an Ombudsman investigation. In accordance with the Constitution, as this is an executive matter, a subsequent meeting of Cabinet will be convened in North Kirklees (local venue to be confirmed) to formally review the decision to close. The Council itself has no decision making power in relation to this. The Ombudsman is aware of the constitutional arrangements and is in agreement with the decision being taken by Cabinet at a suitable date.

## **2. Summary**

- 2.1 On 17<sup>th</sup> December 2013, Cabinet considered a private report to close Whitcliffe Mount Sports Centre (WMSC).
- 2.2 Two separate complaints have been submitted to the Ombudsman about this decision. Both raise the issue that consultation was not undertaken until after the decision was taken and that a full Equalities Impact Assessment was not undertaken.
- 2.3 The Ombudsman has recommended that Cabinet should give further consideration to the decision to close WMSC at a public meeting as “it is not possible to go back and re-run the decision making process in its entirety” (Local Government Ombudsman).

## **3. Background**

- 3.1 Appendix 1 to this report sets out the Background to the decisions taken.
- 3.2 Appendix 2 sets out the final decision of the Ombudsman in relation to the two complaints referred to as Mr B and Mr B and his son.

## **4. Implications for the Council**

- 4.1 Cabinet will need to formally consider the future of WMSC. A meeting is being arranged in North Kirklees to consider the Ombudsman report and the future options for the Council.

## **5. Consultees and their opinions**

- 5.1 Kirklees Active Leisure has discussed closure plans with users of the sports centre and relocated many of the regular bookers to other KAL premises or they have made their own arrangements.
- 5.2 Staff and governors at Whitcliffe Mount School have been consulted in relation to the development of the new school.

## **6. Officer recommendations and reasons**

- 6.1 That Council notes the background to the WMSC decision and the Ombudsman report

## **7. Cabinet portfolio holder’s recommendations**

- 7.1 Agrees with the officer recommendation.

## **8. Contact officer and relevant papers**

Adele Poppleton 01484 221000 [adele.poppleton@kirkees.gov.uk](mailto:adele.poppleton@kirkees.gov.uk)

## **9. Assistant director responsible**

Kimiyo Rickett, Assistant Director, Communities and Leisure

## Appendix 1

### WHITCLIFFE MOUNT SPORTS CENTRE AND WHITCLIFFE MOUNT SCHOOL

#### INFORMATION SHEET

##### DECISION TIMELINE

2008	Building Schools for the Future submission – the Government's plan to update deficient school buildings. Whitcliffe Mount School included in the submission.
December 2009	Outline planning permission for extensive works granted to Whitcliffe Mount School
July 2010	BSF programme cancelled by Coalition Government
2011	A report commissioned by the Council indicated a limited remaining life for Spenborough Pool.
11 <sup>th</sup> October 2011	Cabinet considers report to submit capital funding bid to Government for Whitcliffe Mount School
October 2011	Priority Schools Building Programme Bid submitted to Government including Whitcliffe Mount School
June 2012	Government confirms that the Priority Schools Bid for Whitcliffe Mount School has been successful
Autumn 2012	The replacement of Spenborough Pool included in the Council's Risks and Pressures which formed part of the Council's new approach to strategic capital investment.
10 <sup>th</sup> July 2013	£4.4 million borrowing identified in the Capital Plan for Spenborough Pool
17 <sup>th</sup> December 2013	Private report considered by Cabinet to accept Education Funding Agency's (EFA) conditions, close Whitcliffe Mount Sports Centre (WMSC) and accept the EFA's offer to demolish WMSC
May 2014	AHR commissioned to look at options on Spenborough Site and review other potential sites. Brief revised to look at a bigger facility on the existing Spenborough Pool site.
Autumn 2014	Education Funding Agency (EFA) approached the Council regarding the potential to bring forward the closure of

WMSC from late 2016 to May/June 2016 in order to make better use of the reconfigured school site and to reduce the impact of the new build on the green belt.

December 2014	AHR complete their report regarding Spenborough Pool
December 2014	EFA submit planning application for new school
27 <sup>th</sup> January 2015	Cabinet updated about the appointment of the contractor Laing O'Rourke and revised plans re the footprint of the school building including on part of the footprint of the existing WMSC
February 2015	Capital borrowing for Spenborough Pool increased to £15 million
24 <sup>th</sup> February 2015	Cabinet approves plans to extend the fitness facilities at Spenborough Pool
March 2015	Planning application for new build school approved
June 2015	Planning application submitted for modular build at Spenborough Pool to extend fitness facilities
7 <sup>th</sup> October 2015	Council debates petition submitted over closure of WMSC

## **1. INTRODUCTION**

- 1.1 Two separate complaints have been submitted to the Ombudsman about the decision to close Whitcliffe Mount Sports Centre (WMSC). They both raise the issue that consultation was not undertaken until after the decision was taken and that a full Equalities Impact Assessment (EIA) was not completed.
- 1.2 The Ombudsman has upheld the complaints but not issued a formal report. She has recommended that the council should give further consideration to the decision to close WMSC at a public meeting to resolve the lack of public consultation as "*it is not possible to go back and re-run the decision making process in its entirety*" (Local Government Ombudsman). At this meeting, members of the public should have the opportunity to put forward their views.
- 1.3 WMSC is a sports centre owned by Kirklees Council and managed on its behalf by Kirklees Active Leisure (KAL). It shares a campus, car park and all utilities with Whitcliffe Mount School in Cleckheaton.
- 1.4 Whitcliffe Mount School is a large and sprawling school with over 1,200 students and consists of multiple buildings built over the last 100 years. It reflects the changes in education over this time with many disparate extensions. Consequently, the school presents considerable management difficulties for the staff, a situation which has been compounded by a lack of investment in recent years following the cancellation of the Building Schools for the Future (BSF) programme in 2010. The school was originally one of the Council's Pathfinders and initially received Outline Planning for extensive works in December 2009.
- 1.5 The decision to rebuild the school has led to the decision to close WMSC.

## **2. THE DECISIONS TAKEN**

### **2008 to 2011**

- 2.1 Kirklees entered the Government's Building Schools for the Future (BSF) programme in 2008, with the aim of fully or partially rebuilding all twelve High Schools in the north of the Borough. Whitcliffe Mount School was chosen by the Council as one of two pathfinder schools to be taken to outline planning permission, primarily due to its condition but also to respond to the then impending changes to the three tier pyramid system in place in Cleckheaton at the time. Outline planning permission by the Council to extensively rebuild Whitcliffe Mount was achieved in December 2009.
- 2.2 The Council was in the process of submitting its overall Outline Business Case Submission for all twelve schools to the Department for Education in the summer of 2010 when the BSF programme was cancelled by the incoming coalition government following a review of capital by the Department in July 2010.

- 2.3 Subsequently in 2011, the Government set up the Priority School Building Programme (PSBP) through a privately financed public private partnership (PPP) to invest in those school buildings nationally in the worst state of repair. Councils were invited in Autumn 2011 to submit proposals for schools that met nationally set criteria.

### **2011 Priority Schools Building Programme bid**

- 2.4 In response to the Department for Education's PSBP invitation, the Council submitted a bid in 2011 to the Department for Education for Whitcliffe Mount and four other schools to be considered for the replacement Priority Schools Building Programme. The PSBP was set up primarily to deal with condition issues and eligibility for funding was based on meeting the following criteria published:

- Its condition backlog of priority 1-3 needs should be at least 30% of the anticipated rebuild cost
- The project would need to cover the whole school and unless at least 70% (by floor area) of the school is replaced it is unlikely to be value for money
- If any of the school buildings are listed, these should be less than 30% of the floor area
- It should not have received major capital investment in the last 15 years.

- 2.5 As part of the bid process, the Authority commissioned a detailed condition survey for all of the schools being considered for the bid following a prior sifting process and subsequently, Whitcliffe Mount School (along with All Saints Catholic College and Mount Pleasant Primary School) were all deemed to be beyond reasonable repair and were selected for the programme with Whitcliffe and All Saints being part of the PPP programme and Mount Pleasant being determined by the EFA as being more suitable for a capital build programme.

### **11<sup>th</sup> October 2011 Cabinet Report**

- 2.6 On 11<sup>th</sup> October 2011, Cabinet considered a report to bid for capital funding from Government for five schools in Kirklees including Whitcliffe Mount School. Rebuild costs for the school were estimated to be around £15 million. Cabinet approved the submission of a PSBP1 bid.

### **June 2012**

- 2.7 In June 2012, the Government confirmed that Kirklees had been successful with three bids including the rebuild of Whitcliffe Mount. By being accepted on to the Priority School Building Programme, this acknowledged that the school is one of the 261 worst condition schools in the country.

## **17<sup>th</sup> December 2013 Cabinet Report**

- 2.8 A private report was presented to Cabinet on 17<sup>th</sup> December 2013. This outlined the Education Funding Agency's (EFA) conditions in relation to Whitcliffe Mount School and its proposals for demolishing the school and rebuilding it. The report was deemed to be a private report because it contained exempt information under Part 1 of Schedule 12A of the Local Government Act 1972 including information about financial and business affairs. Disclosure of some of these details could have adversely affected value for money; compromised commercial confidentiality of the bidding organisation and KAL; and disclosed contractual terms.
- 2.9 It is now accepted by the council that part of this report could have been a public report with only the commercially sensitive information contained within a private report or appendices. It has been agreed with the Ombudsman that the council will consider whether private matters can be separated in future Cabinet reports.
- 2.10 The EFA proposed that it would provide the funding to rebuild the school and the school would contribute to the long term maintenance costs. The Council would not be contributing financially to either the new build cost or the on-going cost of the long term maintenance contract.
- 2.11 The report recognised that the site had a complex ownership. As the school is a Voluntary Controlled School, ownership of the site is split between the Council (Deed packets 2055 and 2059) and the School's Charity Trustees (Trustees) (10413, 10411 and 10412). WMSC sits partially on Council land but mainly on Trustees land with the car park on a mixture of both.
- 2.12 The EFA originally proposed the complete demolition of the existing school campus including the prominent Edwardian building which faces onto Turnsteads Avenue. The school would be replaced with a complete new build with the most likely position being on the school's existing Redgra sports area. The new build would include a four court sports hall with appropriate changing facilities. A replacement playing field to Sports England standards would be provided to replace the Redgra. The EFA did not propose to relocate the existing school bus bay and was looking to use the existing shared WMSC/school car park for staff car parking as opposed to providing a dedicated school car park for staff. New visitors and disabled car parking would be provided.
- 2.13 This package of works was known as the EFA's "Control Option" and was necessary to enable the EFA to run a tender process to select a contractor to deliver the 7 school PFI package of works. The Yorkshire PFI batch contains two schools in Kirklees, four schools in Bradford and one school in Harrogate. No guarantee was given by the EFA that the final design solutions proposed by the successful bidder would match the proposed control option.
- 2.14 The EFA noted that the location of WMSC at the centre of the campus would have a significant impact on the redevelopment of the site and so offered to

demolish WMSC free of charge to the Council should the Council decide to close the facility. It would not though replace the community aspects of the facility as its funding can only be used on costs directly related to the new build school.

- 2.15 Should the Council wish to retain WMSC, the EFA agreed to demolish all the buildings around it and make good the points at which the demolished buildings connected to WMSC (i.e. rebuild walls to close holes in the external envelope) free of charge to the council. It would not however re-provide severed utility connections or a new boiler which is presently housed in the school. This is because the EFA will only use its budget on costs directly related to the new build school. With this option, WMSC would have to close until the utilities had been re-connected.
- 2.16 The new school will have a four court sports hall with changing facilities. As a minimum, it will also have a new playing field to Sport England standards and the possibility of a 3G artificial pitch should the school be able to lever in additional funds from the Football Foundation or other Sports Bodies. Whilst not at the level and range of sports provision presently provided by WMSC, if the school provides community access to these facilities, some of the loss of WMSC will be negated. The EFA has indicated that there will be no limits to community use in the PFI contract. There will be a gap in provision from when the school is demolished and the new one opened, approximately 18 months.
- 2.17 This first proposal (i.e. the EFA control option) did not intend to build on the footprint of WMSC. The report recommended the closure of WMSC for financial reasons. The cost to reinstate utilities to WMSC after the connection to the school is severed in order to demolish it was assessed to be £0.5 million. WMSC also requires significant investment of approximately £1.5 million (2013 estimates) to repair the fabric of the building, improve antiquated changing rooms and the reception area and make it fully DDA (Disability Discrimination Act) compliant. This means that WMSC required a total investment of £2 million.
- 2.18 Cabinet decided to accept the EFA's conditions and in light of the substantial investment required to keep WMSC open, decided to close the centre from late 2016.
- 2.19 The cabinet report was prepared without prior public consultation and a full Equality Impact Assessment (EIA) was not undertaken to inform the Cabinet about the impact on users, especially those with protected characteristics, if the centre closed. The EIA screening tool was used and it determined that a full assessment was not required as services were not being withdrawn but relocated and thus there would be minimal impact.

#### **Autumn 2014**

- 2.20 All three bidders invited to tender by the EFA for the 7 schools Yorkshire Batch PFI contract concluded that the EFA's Control Option of placing the



new build school and sports centre on the existing redgra area would not be the best solution for the site. All bidders opted instead to site the replacement buildings on or around the existing tennis courts and WMSC. The EFA approached the Council to consider the possibility of bringing forward the closure date from late 2016 to May/June 2016 in order to make best use of the site and to limit the impact on the green belt.

### **27<sup>th</sup> January 2015 Cabinet Report**

- 2.21 On 27<sup>th</sup> January 2015, Cabinet was updated about the plans for the school. Laing O'Rourke had been appointed as the contractors for the new build. The company had identified the optimum location for the school and its stand-alone sports hall plus Multi-Use Games Area, main car park and delivery yard as an area which includes the footprint of WMSC.
- 2.22 This means that the decision to close the sports centre is no longer just a financial decision but one which is also about minimising the impact of the new school on local residents and the green belt.

### **February 2015**

- 2.23 A topped up figure of £15m was agreed in the Capital Plan to invest in a new Spenborough Pool and Fitness Complex. Approval to borrow £4.4 million was originally secured in February 2014. Most of this spending will be from 2016 with an expected opening of the centre in Spring 2019.
- 2.24 It was decided that this site was more of a priority for investment than WMSC due to the need to replace the pool and due to its more central location.

### **24<sup>th</sup> February 2015 Cabinet report**

- 2.25 At this Cabinet, Members approved an extension to the existing facilities on the Spenborough Pool site to provide additional fitness facilities and to improve the existing ones. Once completed around late 2015/early 2016, these new facilities would facilitate the transfer of fitness activities from WMSC.

### **20<sup>th</sup> October 2015 Cabinet Report**

- 2.26 On 20<sup>th</sup> October 2015, Cabinet endorsed the Built Sport and Leisure Facilities Strategic Assessment Report. Once the new sports hall at Whitcliffe Mount School and the fitness facilities at the new Spenborough Pool are built, if WMSC was to remain open, there would be over provision in the area especially as Bradford Council are planning to build a major new sports facility at Sedbergh Playing Fields, less than 4 miles from the WMSC site, which is due to open in 2018.

### **3. OTHER INFORMATION**

- 3.1 KAL has been supporting users of WMSC to relocate to other facilities with better access for people with disabilities e.g. some netball teams have relocated to Huddersfield Leisure Centre and are being charged the same rates as at WMSC for better facilities; the roller hockey team is using facilities in Bradford.
- 3.2 A programme of works to improve and extend the fitness suite at Spensborough Pool will be completed by Christmas 2015 so that WMSC gym members, the largest percentage of WMSC users (53%), can transfer to that site in early 2016. This is only 1.8 miles away from WMSC.
- 3.3 Under the terms of the Council's formal Funding Agreement with KAL, as the Council may require the closure of WMSC, it will be liable for any outstanding costs associated with such a closure. KAL is trying to mitigate such costs as far as possible but this is likely to include redundancy and associated employment costs and a range of associated costs which will include: removal/de-cant costs; early termination of service contracts; stock write-offs; KC finance charge write off for bar conversion work in 2008/09 of £66,068; Council CWI loan write-off; and the scrapping of any KAL assets. Redundancy costs have still to be calculated, but the other associated costs listed are likely to be c.£100k.
- 3.4 The only outstanding issue is provision for indoor bowlers. With the loss of indoor bowling facilities in Huddersfield since the development of Huddersfield Leisure Centre, there is now no similar provision in Kirklees. Council members and officers are advising a partnership of voluntary groups which is wishing to build a new indoor bowling facility at Huddersfield YMCA at Salendine Nook.
- 3.5 One of the groups for whom one of the complainants has been lobbying, the Society for the Blind of Dewsbury, Batley and District has informed KAL that it will no longer be using WMSC as its funding for bowling activities has ceased.
- 3.6 In December 2014, the EFA submitted a Planning Application for the new build school complete with standalone four-court Sports Hall. As part of the submission, detailed discussions were held with Sport England who needed to satisfy themselves that there was no substantial loss of provision with the new build. The subsequent approval in March 2015 included a Condition that required there to be a Community Use Agreement in place before the new school opened to ensure that a community benefit was maintained
- 3.7 If the decision is taken to close WMSC, the gym users will transfer to Spensborough Pool and Fitness centre in January 2016 and the remaining users will relocate elsewhere in Spring 2016. KAL intends to vacate the building by the beginning of May 2016.
- 3.8 The present school building has significant condition needs and is no longer suitable for the delivery of a modern curriculum. The provision of extensive

new build accommodation will have a range of positive impacts on teaching and learning by:

- providing efficient learning environments that maximise the resources used for learning rather than running and maintaining the premises
- providing an effective learning environment that gives the best conditions for learning and makes young people feel safe and secure at all times
- treating young people with trust and respect which encourages responsibility
- providing a modern environment that stimulates their interest and is relevant to them
- giving flexibility of group organisation with “lecture”, large group and small group spaces and free break out space
- providing internal and external environmental opportunities for exploration
- providing cutting edge ICT capacity, capable of continuous updating to support extended learning and social interaction.

3.9 The EFA has consistently indicated that the overall 7 school rebuild PFI package cannot be jeopardised by one school and that should such a situation arise, the most likely outcome would be the removal of the school concerned from the PFI contract which is expected to be signed by the EFA in the coming weeks. The extensive re-design of the Whitcliffe Mount project, which would be inevitable if a decision was made to keep WMSC open, would be a situation that would cause the EFA grave concern and would be a scenario under which the EFA would strongly consider the removal of the school from the PFI package.

3.10 A complaint from a disabled user of the centre has been received by the council and a petition from more than 3,000 people was discussed at the council meeting on 7<sup>th</sup> October 2015.



**Complaint reference:**  
14 016 740

**Complaint against:**  
Kirklees Metropolitan Borough Council

## **The Ombudsman's final decision**

Summary: The Council failed to carry out public consultation and an Equalities Impact Assessment when deciding to close a public leisure centre. This complaint is upheld. Mr B objects to the closure of the leisure centre but the decision affects many people as it is linked to construction of a new school. It is not possible to rerun the entire decision making process, but an acceptable remedy would be for the Council to reconsider the issue publicly at a Council meeting.

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## **The complaint**

1. The complainant, whom I shall refer to as Mr B, complains about the Council's decision to close a sports centre. He wants the centre to remain open as he prefers the facilities there.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

## **How I considered this complaint**

4. I read the papers sent by Mr B and discussed the complaint with him.
5. I considered the Council's comments about the complaint and the supporting documents it provided.
6. I sent my draft decision to Mr B and the Council, and considered their comments.

## **What I found**

### **Key facts**

7. Mr B and his son are users of a sports centre. The Council decided this sports centre will close in May 2016. The sports centre shares a site with a school. The Council will demolish the school and sports centre and the school will be rebuilt elsewhere on the site using private funding.

- 
8. The Cabinet of the Council met for a private session on 17 December 2013. Officers prepared a report seeking a decision from Cabinet to demolish the school and sports centre and rebuild the school on the site.
  9. The Council has said the report should to be considered in private because the information is exempt information under part 1 of schedule 12A of the Local government Act 1972, as it contained information about financial or business affairs.
  10. The report is not available for the public to read. However, I have read it and it clearly explains that a significant investment was needed to the sports centre. This included general upgrading and a new boiler if the school was demolished, as these services were shared.
  11. The report outlines the closure of the sports centre would have an impact on the local community. It also explains the Council should carry out an Equalities Impact Assessment (EIA) to assess the impact on current users. This would be users including specific groups e.g. indoor bowls, basketball.
  12. The report also explained the new school would have a new four court sports hall which could be available for public use. The report also considered that the Council should consider the closure as part of the wider picture of sports facilities in the area.
  13. The decision to close the sports centre in 2016 became public on 18 December 2013.
  14. In January 2015 Cabinet approved the date for the closure of the sports hall to change from late 2016 until the end of May 2016. This was a decision made after a public report. The report noted that extending another site would accommodate the current fitness users at the sports centre. The report said that other users of the sports hall use other sports halls or the new school sports hall that would replace the sports centre. The reports noted there was currently no other provision for roller hockey and indoor bowls, but the Council wanted to find an alternative for the indoor bowling.
  15. The Council carried out a screening assessment in November 2014 which showed there was a low risk of impact and so the Council did not need a full Equalities Impact Assessment.
  16. The notes of the screening assessment say that ‘the current service includes providing a range of sport and physical activity opportunities which will stop on the existing site. The new school facility should provide the opportunity for some of the opportunities to continue except for bowls and roller sports. There will be a removal of service from the current site i.e. the Sports Centre, but some of this capacity will/can be absorbed into the new school facility. In addition there will be an extension to the fitness provision at another site, this will accommodate at least the capacity from the closure of the sports centre. Fitness classes and gym use is by far the largest percentage of use at the current site. Other services will have alternative options where possible. For example the regional bookings like Netball will be offered space at a new Sports Centre. Work to identify alternative indoor bowling opportunities has begun and will continue. The Council will continue to work with current users to provide for their needs where possible.’
  17. The Council has said that after the decision was made by Cabinet to close the sports centre, it carried out a few consultations to mitigate the loss of the facilities. People were also able to put forward their objections to the planning application to demolish and replace the school.

- 
18. The Council has said the alternative gym facilities, at a local swimming pool complex, will comply with disability access requirements. The Council has said the facilities available at the sports centre which are due to close are no different to those available at other leisure centres.

### **My analysis**

19. Mr B has complained the Council failed to consult users when deciding to close a sports centre.
20. Under Section 100(A) (4) of the Local Government Act 1972 a council may exclude the public from a meeting during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of exempt information. Exempt information is defined in the legislation as:
- Information about any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
21. Cabinet decided to close the centre in a private meeting. I asked the Council to explain why it decided to take the decision on closing the leisure centre in private.
22. The Council has said that disclosure of the details could have adversely affected value for money, compromise commercial confidentiality of the bidding organisation and disclose contractual terms. The Council has said that it has no written record of why the decision was taken in a private meeting.
23. I asked why the Council could not separate any confidential aspects from the general decision to close the leisure centre. As the decision to close the leisure centre became public in the newspapers the next day, it seems to me that it would have been possible to consider most of the decision publicly, keeping back those details which were confidential.
24. Because the Council decided to close the school privately it carried out no public consultation. I consider the consultation on the leisure centre closure could have been separated from the private finance aspects which the Council felt should be private. I can see no reason the Council could not consult the public solely on the leisure centre closure. The Council has said that it will consider whether private matters can be separated out in future.
25. The Ombudsman's view is that Council's should consult the public before withdrawing a service it has provided to the public. In this case the Council consulted after making the decision to close the leisure centre and so the Council pre-determined the outcome of the consultation. The failure to consult before making the decision to close the leisure centre was fault.
26. The Council did not carry out an equalities impact assessment. It carried out a screening assessment to see whether an EIA should be carried out. I asked the Council to explain why the closure of the leisure centre had such low scores on the screening that it did not require a full equalities impact assessment.
27. The Council said that it shared some of my concerns on the assessment scoring, in terms of impact. But it felt that any errors might appear low in view of the fact that local sports provision is not being withdrawn, but simply reconfigured and relocated elsewhere.

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28. The Council's view is the new provision for disabled sports users will be much improved and it could not hope to offer such disabled facilities if the leisure centre was refurbished.
29. The Equalities and Human Rights Commission (EHRC) has also issued advice to public authorities on this subject. This advice says that, 'A key requirement of the public sector duties is for public authorities to carry out equality impact assessment for all relevant policies and decisions.'
30. I consider that the Council's failure to carry out a full equality impact assessment on the closure of the leisure centre is fault. I can find nothing in the legislation that suggests a screening assessment is adequate, especially when there are a number of disabled user groups who would clearly be adversely affected.
31. In response to my concerns about the lack of public consultation and the equalities impact assessment the Council has said that it is willing to carry out the consultation process and to undertake a full equalities impact assessment on the closure of the physical sports centre now. However, the Council has said that as the contract to redevelop the site has been signed (this was to be late October/early November), there would be a large financial penalty if it did not go ahead with the closure of the leisure centre.
32. Given that the situation has moved on, I do not consider it is reasonable to expect the Council to rerun the consultation process and equalities impact assessment. This is because the Council has clearly already made its decision and so it is unlikely to change this after consultation.
33. However, I do think it reasonable for Council Members to make a final decision on the leisure centre closure at a well publicised Council meeting. I think that the Council should write a public Committee report explaining:
- The errors the Council made during the process to close the leisure centre.
  - The benefits of closing the leisure centre for sports centre users and for users of the new school.
  - The drawbacks of closing the leisure centre for sports centre users and for users of the new school.
  - The cost to the tax-payer of breaking the contract and keeping the leisure centre open.
34. I understand that Mr B wants the leisure centre to remain open and that is his preferred result. However, I have to take account that there may be many other local residents who would prefer the new school and leisure centre. So, in this situation I consider it reasonable for Council Members to make a final decision after members of the public have put forward their views. This would include consideration on whether the cost of breaking the contract and keeping the leisure centre was a good use of public money.
35. In response to my draft decision Mr B has said the Council did not carry out public consultation and the Council should have carried out a full EIA.
36. Mr B said he wants the Council to hold the meeting quickly and he does not think that financial penalties should stop the Council making the right decision. Mr B says he has questions about the decision to demolish the sports centre, including a land swap agreement.



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37. I consider the Council will consider these points at the public meeting the Council has agreed to organise. The Council can then make a final decision on the leisure centre aware of Mr B concerns and the views of other residents.

### **Agreed Remedy**

38. The Council has agreed that Council Members will make a final decision after members of the public have put forward their views on the leisure centre closure at a well publicised Council meeting.

### **Final decision**

39. I have completed my investigation and uphold this complaint. The Council failed to carry out public consultation and an equalities impact assessment on the closure of a leisure centre. The Council's reconsideration of the decision to close the leisure centre at a public meeting is an adequate remedy to this complaint as it is not possible to go back and re-run the decision making process in its entirety.

### **Investigator's decision on behalf of the Ombudsman**



**Complaint reference:**  
14 006 462

**Complaint against:**  
Kirklees Metropolitan Borough Council

## **The Ombudsman's final decision**

Summary: The Council failed to carry out public consultation and an Equalities Impact Assessment when deciding to close a public leisure centre. This complaint is upheld. Mr B objects to the closure of the leisure centre but the decision affects many people as it is linked to construction of a new school. It is not possible to rerun the entire decision making process, but an acceptable remedy would be for the Council to reconsider the issue publically at a Council meeting.

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## **The complaint**

1. The complainant, whom I shall refer to as Mr B, complains the Council has failed to consult disabled users of a sports centre when deciding to close it. He wants the centre to remain open as he prefers the facilities there.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

## **How I considered this complaint**

4. I read the papers sent by Mr B and discussed the complaint with him.
5. I considered the Council's comments about the complaint and the supporting documents it provided.
6. I sent my draft decision to Mr B and the Council, and considered their comments.

## **What I found**

### **Key facts**

7. Mr B is a user of a sports centre. The Council decided this sports centre will close in May 2016. The sports centre shares a site with a school. The Council will demolish the school and sports centre and the school will be rebuilt elsewhere on the site using private funding.

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8. The Cabinet of the Council met for a private session on 17 December 2013. Officers prepared a report seeking a decision from Cabinet to demolish the school and sports centre and rebuild the school on the site.
  9. The Council has said the report should to be considered in private because the information is exempt information under part 1 of schedule 12A of the Local government Act 1972, as it contained information about financial or business affairs.
  10. The report is not available for the public to read. However, I have read it and it clearly explains that a significant investment was needed to the sports centre. This included general upgrading and a new boiler if the school was demolished, as these services were shared.
  11. The report outlines the closure of the sports centre would have an impact on the local community. It also explains the Council should carry out an Equalities Impact Assessment (EIA) to assess the impact on current users. This would be users including specific groups e.g. indoor bowls, basketball.
  12. The report also explained the new school would have a new four court sports hall which could be available for public use. The report also considered that the Council should consider the closure as part of the wider picture of sports facilities in the area.
  13. The decision to close the sports centre in 2016 became public on 18 December 2013.
  14. In January 2015 Cabinet approved the date for the closure of the sports hall to change from late 2016 until the end of May 2016. This was a decision made after a public report. The report noted that extending another site would accommodate the current fitness users at the sports centre. The report said that other users of the sports hall use other sports halls or the new school sports hall that would replace the sports centre. The reports noted there was currently no other provision for roller hockey and indoor bowls, but the Council wanted to find an alternative for the indoor bowling.
  15. The Council carried out a screening assessment in November 2014 which showed there was a low risk of impact and so the Council did not need a full Equalities Impact Assessment.
  16. The notes of the screening assessment say that ‘the current service includes providing a range of sport and physical activity opportunities which will stop on the existing site. The new school facility should provide the opportunity for some of the opportunities to continue except for bowls and roller sports. There will be a removal of service from the current site i.e. the Sports Centre, but some of this capacity will/can be absorbed into the new school facility. In addition there will be an extension to the fitness provision at another site, this will accommodate at least the capacity from the closure of the sports centre. Fitness classes and gym use is by far the largest percentage of use at the current site. Other services will have alternative options where possible. For example the regional bookings like Netball will be offered space at a new Sports Centre. Work to identify alternative indoor bowling opportunities has begun and will continue. The Council will continue to work with current users to provide for their needs where possible.’
  17. The Council has said that after the decision was made by Cabinet to close the sports centre, it carried out a few consultations to mitigate the loss of the facilities. People were also able to put forward their objections to the planning application to demolish and replace the school.

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18. The Council has said the alternative gym facilities, at a local swimming pool complex, will comply with disability access requirements. The Council has said the facilities available at the sports centre which are due to close are no different to those available at other leisure centres.

### **My analysis**

19. Mr B has complained the Council failed to consult disabled users when deciding to close a sports centre.
20. Under Section 100(A) (4) of the Local Government Act 1972 a council may exclude the public from a meeting during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of exempt information. Exempt information is defined in the legislation as:
- Information about any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
21. Cabinet made the decision to close the centre in a private meeting. I asked the Council to explain why it decided to take the decision on closing the leisure centre in private.
22. The Council has said that disclosure of the details could have adversely affected value for money, compromise commercial confidentiality of the bidding organisation and disclose contractual terms. The Council has said that it has no written record of why the decision was taken in a private meeting.
23. I asked why the Council could not separate any confidential aspects from the general decision to close the leisure centre. As the decision to close the leisure centre became public in the newspapers the next day, it seems to me that it would have been possible to consider most of the decision publicly, keeping back those details which were confidential.
24. Because the Council decided to close the school privately it carried out no public consultation. I consider the consultation on the leisure centre closure could have been separated from the private finance aspects which the Council felt should be private. I can see no reason the Council could not consult the public solely on the leisure centre closure. The Council has said that it will consider whether private matters can be separated out in future.
25. The Ombudsman's view is that Council's should consult the public before withdrawing a service it has provided to the public. In this case the Council consulted after making the decision to close the leisure centre and so the Council pre-determined the outcome of the consultation. The failure to consult before making the decision to close the leisure centre was fault.
26. The Council did not carry out an equalities impact assessment. It carried out a screening assessment to see whether an EIA should be carried out. I asked the Council to explain why the closure of the leisure centre had such low scores on the screening that it did not require a full equalities impact assessment.
27. The Council said that it shared some of my concerns on the assessment scoring, in terms of impact. But it felt that any errors might appear low in view of the fact that local sports provision is not being withdrawn, but simply reconfigured and relocated elsewhere.

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28. The Council's view is the new provision for disabled sports users will be much improved and it could not hope to offer such disabled facilities if the leisure centre was refurbished.
29. The Equalities and Human Rights Commission (EHRC) has also issued advice to public authorities on this subject. This advice says that, 'A key requirement of the public sector duties is for public authorities to carry out equality impact assessment for all relevant policies and decisions.'
30. I consider the Council's failure to carry out a full equality impact assessment on the closure of the leisure centre is fault. I can find nothing in the legislation that suggests a screening assessment is adequate, especially when there are a number of disabled user groups who the decision would adversely affect.
31. In response to my concerns about the lack of public consultation and the equalities impact assessment the Council has said that it is willing to carry out the consultation process and to undertake a full equalities impact assessment on the closure of the physical sports centre now. However, the Council has said that as the contract to redevelop the site has been signed (this was scheduled to be late October/early November), there would be a large financial penalty if it did not go ahead with the closure of the leisure centre.
32. Given the situation has moved on, I do not consider it is reasonable to expect the Council to rerun the consultation process and equalities impact assessment. This is because the Council has clearly already made its decision and so it is unlikely to change this after consultation.
33. However, I do think it reasonable for Council Members to make a final decision on the leisure centre closure at a well publicised Council meeting. I think that the Council should write a public Committee report explaining:
- The errors that the Council made during the process to close the leisure centre.
  - The benefits of closing the leisure centre for sports centre users and for users of the new school.
  - The drawbacks of closing the leisure centre for sports centre users and for users of the new school.
  - The cost to the tax-payer of breaking the contract and keeping the leisure centre open.
34. I understand that Mr B wants the leisure centre to remain open and that is his preferred result. However, I have to take account that there may be many other local residents who would prefer the new school and leisure centre facilities. So, in this situation I consider it reasonable for Council Members to make a final decision after members of the public have put forward their views. This would include consideration on whether the cost of breaking the contract and keeping the leisure centre was a good use of public money.
35. In response to my draft decision Mr B has said that he thinks the rebuild of the school can go ahead without demolishing the sports centre. He wants to take action against the individual Councillors involved. Mr B said that he has questions about the land ownership and the contract.
36. I consider the Council will consider these points at the public meeting the Council has agreed to organise. The Council can then make a final decision on the leisure centre aware of Mr B concerns and the views of other residents.

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## **Agreed Remedy**

37. The Council has agreed that Council Members will make a final decision after members of the public have put forward their views on the leisure centre closure at a well publicised Council meeting.

## **Final decision**

38. I have completed my investigation and uphold this complaint. The Council failed to carry out public consultation and an equalities impact assessment on the closure of a leisure centre. The Council's reconsideration of the decision to close the leisure centre at a public meeting is an adequate remedy to this complaint as it is not possible to go back and re-run the decision making process in its entirety.

## **Investigator's decision on behalf of the Ombudsman**

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## ITEM 4

**MINUTES OF THE MEETING OF THE  
WEST YORKSHIRE COMBINED AUTHORITY  
HELD ON THURSDAY 17 SEPTEMBER 2015 AT WELLINGTON HOUSE, LEEDS**

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<b>Present:</b>	CLlr Peter Box (Chair)	-	Wakefield MDC
	CLlr Barry Collins	-	Calderdale MBC
	CLlr David Green	-	City of Bradford MBC
	CLlr Peter McBride	-	Kirklees MC
	CLlr Judith Blake	-	Leeds City Council
	CLlr Chris Steward	-	City of York Council
	CLlr Jeanette Sunderland	-	Liberal Democrat Representative (City of Bradford MBC)
	CLlr Andrew Carter	-	Conservative Representative (Leeds City Council)
	CLlr Stephen Baines	-	Conservative Representative (Calderdale MBC)
	Roger Marsh	-	Leeds City Region LEP
<b>In attendance:</b>	CLlr Keith Wakefield	-	Chair of WYCA Transport Committee
	Adrian Lythgo	-	WYCA
	Angela Taylor	-	WYCA
	Nick Winney	-	WYCA
	Angela Shearon	-	WYCA

### **34. Apologies for Absence**

Apologies for absence were received from Councillors Keith Aspden, David Sheard and Tim Swift.

### **35. Declarations of Disclosable Pecuniary Interests**

There were no pecuniary interests declared by members at the meeting.

**36. Exclusion of the Press and Public**

There were no items on the agenda requiring exclusion of the press and public.

**37. Minutes of the Meeting held on 23 July 2015**

Councillor Sunderland requested that the minutes be amended as follows:-

**Minute 27 (Leeds City Region Growth Deal Delivery Update)**

Members requested that a further column be included in the dashboard to show the RAG rating of community benefits.

**Minute 31 (Budgets for LEP Projects and Programmes)**

That minute (ii) be amended to refer to 'community interest bodies' not 'authorities'.

**Resolved:** That, subject to the amendments detailed above, the minutes of the meeting of the WYCA held on 23 July 2015 be approved and signed by the Chair.

**38. Leeds City Region Growth Deal Delivery and Budget Allocation Process**

The Authority considered a report which provided an update on the delivery of the Growth Deal and the West Yorkshire plus Transport Fund (WY+TF) and on the position concerning the reallocation of Growth Deal expenditure in 2015/16.

**Growth Deal Delivery and Expenditure Re-allocation 2015/16**

Members were given an update on delivery of the Growth Deal and the West Yorkshire plus Transport Fund and noted the significant delivery to date on projects such as the Wakefield Eastern Relief Road, the Business Growth Programme and capital investment in further education colleges. It was reported that developments on two of the Growth Deal projects (Biovale and York Central flood alleviation) had put planned investment in 2015/16 at risk.

As discussed at the July meeting, due to delays and changes to projects originally identified, there was a sum of £4.2m to be re-allocated within the current year and the Authority agreed to reallocate £3.9m to new projects. Members' attention was drawn to the fact that if further Growth Deal funding was to be re-allocated within the current financial year in time for spend on any new projects by the end of March, decisions on the remaining £300,000 and the planned expenditure on Biovale and York Central would need to be taken quickly. The Investment Committee would be looking in detail at the progress of all Growth Deal projects, together with options to re-allocate funding and recommendations would be brought to the next meeting of the Authority.

## Growth Deal Expenditure Allocation 2016/17

It was reported that the City Region had been given a provisional Growth Fund allocation of £127.7m for 2016/17. It was a matter for the LEP and the Authority to decide how the money would be allocated to specific projects and programmes, although it was acknowledged that some of the funding was already committed as a result of decisions on multi-annual projects already taken. The Investment Committee would be considering in detail each of the projects and programmes highlighted in green in Appendix 2 of the submitted report over the course of its next few meetings and would be bringing forward recommendations to the Authority on whether, and in what form, the projects should proceed, although given the pressures on the housing and regeneration allocation, the Investment Committee had recommended that first consideration be given to projects related to the City Regions' strategic development priorities.

Members stressed the need for absolute certainty on which schemes were in a position to move forward to ensure that the available funding was spent, particularly as there was no facility to carry-over any unspent allocation.

### **Resolved:**

- (i) That the progress to date in delivering the Leeds City Region Growth Deal and other projects be welcomed.
- (ii) That a report be prepared for the next meeting outlining the latest position in respect of the Growth Deal budget for 2015/16 and presenting recommendations for budget re-allocation if required.
- (iii) That the outline of Growth Fund spending for 2016/17 detailed in Appendix 1 of the submitted report form the basis for next year's Growth Deal programme.
- (iv) That priority be given to the consideration of housing & regeneration projects due to commence in 2016/17 and subsequent years that come from the LEP's major strategic development priorities, as defined in the Strategic Economic Plan. Projects of lower strategic priority should only be considered once the major priority projects have been assessed and funds remain to be allocated.

### **39. West Yorkshire 'Plus' Transport Fund – Rail Package (Parking) Programme – Tranche 1 (Gateway 1)**

The Authority considered a report on the progression through the Gateway process of the Rail Package (Parking) Programme – Tranche 1 (Gateway 1).

It was reported that as part of the West Yorkshire plus Transport Fund, a package of car park extensions at rail stations had been identified to enhance connectivity to, from and within West Yorkshire.

Members were informed that, in the interests of delivery, the programme had been split into two tranches with Tranche 1 consisting of four stations (Fitzwilliam, Horsforth, Mytholmroyd and South Elmsall) where there were no anticipated land ownership barriers. It was possible to commence construction of Tranche 1 during the 2015/16 financial year and approval was sought from the Authority to progress through Gateway 1 to Gateway 2.

It was reported that the remaining sites in Tranche 2 were subject to land acquisition issues. It was anticipated that those sites would be progressed for delivery within the first 3 years of the Fund being established subject to land ownership issues being resolved.

Councillor Baines asked whether the access road to Mytholmroyd station would be upgraded at the same time as the extension work took place on the car park and confirmation was given that this would be done.

**Resolved:**

- (i) That progression of the Rail Package (Parking) Programme – Tranche 1 through Gateway 1 be endorsed.
- (ii) That the allocation of £137,000, to be funded through Local Growth Deal Funding, to allow the preparation of detailed design, and the development of a full detailed business case for the Tranche 1 station car park extensions be approved.

**40. Planning Review**

The Authority considered a report which presented the findings of the Planning Review conducted by Leeds City Region Planning Portfolios Board.

At its meeting in September 2014, the Authority had requested that a review be carried out to explore and develop options on the potential roles of the WYCA and Leeds City Region LEP in adding value to the Duty to Cooperate, planning processes and strategic planning. The WYCA, LEP and local planning authorities had previously demonstrated a commitment to work collaboratively on planning issues through adoption of a Statement of Cooperation which had been supported by Government.

The Planning Review had now been completed and a full set of draft recommendations were set out in the submitted report and had been discussed and agreed with Leeds City Region Authorities in advance of the meeting. Key recommendations included:-

- WYCA to provide formal consultation responses at publication draft stage in the preparation of local development plans;

- In addition to ongoing comments on detailed transport matters, WYCA to also comment on planning applications from a strategic perspective, on an exception basis;
- WYCA to implement resource-sharing activity relating to minerals and waste;
- The potential for further joint working opportunities should be explored;
- Introduction of a spatial element to the SEP.

Members welcomed the review and in particular the potential arising from it to strengthen joint working arrangements and shared resources on planning matters, including identifying potential cost savings and efficiencies at a time of diminishing resources within local planning authorities. However, comment was made that, in implementing the recommendations of the review, it was important to ensure that the WYCA was involved at the appropriate level and not become involved in minor planning issues.

**Resolved:**

- (i) That the recommendations of the LCR Planning Portfolios Board in relation to enhanced strategic planning and enhanced supporting roles for WYCA be approved.
- (ii) That the Leeds City Region Statement of Cooperation be updated with the agreed recommendations
- (iii) That a report be prepared for a future meeting of the WYCA on progress in implementing the recommendations.
- (iv) That any proposals for further enhanced roles, taking into account any devolution proposals by the Combined Authority/LEP, be brought back to the WYCA for consideration and decision.

**41. Governance and Audit Committee Recommendations**

The Committee considered a report on decisions recommended by the Governance and Audit Committee at its meeting held on 28 July 2015.

The following were recommended to the Authority for consideration and formal approval:-

- **Internal Audit Quality Assurance and Improvement Programme (QAIP)**

The QAIP sets out the way in which Internal Audit will ensure it has robust assessment processes in place.

- **Review of internal control and of the effectiveness of internal audit**

The Governance & Audit Committee had considered the statutory annual review of internal control arrangements and the effectiveness of internal audit alongside the Internal Audit Annual Report for 2014/15 which provided an opinion that the frameworks were 'operating adequately'.

- **Approval of Annual Accounts 2014/15**

The Governance & Audit Committee had considered the first set of Annual Accounts of the Authority; there were no material issues arising during the audit that required any changes to the figures and a "clean" audit opinion was expected to be issued.

**Resolved:**

- (i) That the Internal Audit Quality Assurance and Improvement Programme be approved.
- (ii) That the conclusions of the review of internal control and the effectiveness of internal audit be confirmed.
- (iii) That the annual accounts for the WYCA for 2014/15 and the treasury management statement be approved.

**42. Request to Change Overview and Scrutiny Committee Standing Orders**

The Combined Authority considered a request from the Overview and Scrutiny Committee to amend Standing Orders in relation to call-in arrangements.

At its meeting on 23 July, the Overview & Scrutiny Committee considered the arrangements in place in the Scrutiny Standing Orders to enable them to call-in decisions of the Combined Authority and Transport Committee. It was felt that the time permitted to register a decision to call-in, given the need to co-ordinate such a decision across members from more than one District Council, was insufficient.

The Committee requested that the Authority give consideration to extending the 3 days required for registering a call-in to 5 working days.

**Resolved:** That the timescale for registering a call-in be extended from 3 to 5 working days.

**43. Sustainable Urban Development Strategy**

The Authority considered a report on progress made to date on developing the Sustainable Urban Development strategy for West Yorkshire & York.

It was reported that, at its meeting in July, the Authority agreed to act as the 'Intermediate Body' to oversee the Sustainable Urban Development (SUD) Strategy for West Yorkshire & York thereby allowing some devolved control over how a proportion (£17m) of the existing 2014-20 allocation of EU funding would be spent. Devolution of the entire European Structural and Investment Funds (ESIF) budget was one of the City Region's 'devolution asks' in current negotiations with Government.

Since the July meeting of the Authority, work to develop the SUD strategy document, which would guide how the funding would be allocated, had continued. The strategy, which would be in line with the existing Strategic Economic Plan and the ESIF strategy, was on course to be submitted by the Government's deadline of 25 September.

Members welcomed the opportunity to be able to determine where some of the existing funding allocation would be spent. Concerns were, however, shared about the long standing and ongoing debate about access to European funding and the ongoing delays in approving the start of the programme, which has affected cities across the UK.

**Resolved:** That the LEP Director oversees the submission of the SUD strategy to government, in consultation with the Chair of the Investment Committee.

#### **44. Leeds City Region Strategic Economic Plan Revision**

The Authority considered a report on the decision of the LEP Board to revise the Leeds City Region Strategic Economic Plan (SEP).

It was reported that the SEP, published in March 2014, had been created in response to a request from government for each LEP to produce a SEP that served as both a statement of its economic strategy and a bidding document for an allocation of the £12bn Local Growth Fund. The LCR SEP was regarded as one of the best 3 in the country and had been the basis of the six year £627m Growth Deal settlement received to date along with the additional award of £420m to support the West Yorkshire plus Transport Fund from 2021-35.

Members were informed that although there was no requirement from government for any LEP to update or revise their Plan, it had been agreed by the LEP Board that an update would be valuable particularly as the political and policy context had moved on with the emergence of the Northern Powerhouse, Transport for the North and devolution negotiations with government, together with fast moving economic changes. It was considered to be important to update the SEP to ensure that the City Region's policies were based on the most reliable and up-to-date evidence.

Members considered the outline timetable for revision of the SEP which would include a period of public consultation with an anticipated publication date of a revised Plan by March 2016. In parallel with the revision of the SEP, the Authority is

also developing a revised Single Transport Plan for West Yorkshire and efforts would be made to ensure that consultations for the SEP and the Single Transport Plan were co-ordinated and complementary.

Members were keen to ensure that there was a mechanism in place for them and members of the Authority's committees to comment on, and feedback into, the revised SEP.

**Resolved:**

- (i) That the decision of the LEP Board to revise the Leeds City Region Strategic Economic Plan be endorsed.
- (ii) That a revised draft of the SEP be brought back to the Combined Authority at a future date for comment/feedback.

**45. Transport for the North**

The Authority considered a report which provided an update on Transport for the North (TfN).

As Members were aware, work had been ongoing with other transport authorities across the north of England on development of Transport for the North. Following publication of the report 'The Northern Powerhouse: One Agenda, One Economy, One North' in March 2015, work had been progressing to develop a more detailed strategy for publication in spring 2016.

It was reported that TfN were focussing on the long term transformational changes to connectivity. Members were provided with updates on the various work streams including new east-west road and rail links, options for a more integrated Leeds station, and the development and early implementation of integrated and smart ticketing across the North. The work stream priorities for 2015/16 were set out in Appendix A to the submitted report. Members welcomed the vital work on inter-region connectivity and stressed the importance of integrated, smart ticketing.

The need to continue to make the case for electrification of the TransPennine route was recognised and members were informed that Cllrs Wakefield, Box and Green had written jointly to the Secretary of State seeking a meeting to set out the strong case for lifting the pause.

Members noted that work was in progress to establish Transport for the North on a statutory footing; an interim Chief Executive and Chair for TfN were being recruited and it was planned to start recruiting full time permanent staff. Options would be developed for a permanent base for TfN, potentially through a bidding process and, building on Rail North's location in Leeds, there would be an opportunity to make a case for the permanent base to be in the Leeds City Region. Furthermore, a



submission was being made to the government's Comprehensive Spending Review seeking a substantial future budget for TfN development costs. Councillor Box informed the Committee of the need for northern authorities to work collectively as a 'Council for the North' and that WYCA would lead on this. It was suggested that a conference of these councils be held in Leeds, led by WYCA, and that Transport for the North could be at the heart of this.

With reference to Rail North, members were informed that arrangements were in place for staff to relocate to Wellington House in November and that David Hoggarth had been appointed as Rail North Director.

**Resolved:**

- (i) That progress on Transport for the North be noted.
- (ii) That the opportunities for WYCA to shape the work to ensure that it benefits the whole city region and to make the case for hosting the new organisation be noted.
- (iii) That David Hoggarth be congratulated on his appointment as Director of Rail North.

**46. WYCA Medium Term Financial Strategy**

The Authority considered a report on the development of the medium term financial strategy and a number of additions to the agreed budget following the award of further funding to the Leeds City Region Enterprise Partnership.

It was reported that the Finance Working Group had been overseeing a programme of work to ensure that in integrating the functions of the former West Yorkshire Integrated Transport Authority with the economic activities of the Leeds City Region Enterprise Partnership, the combined budgets were put to best use and met the needs of the enhanced and enlarged West Yorkshire Combined Authority.

Members were given an update on the work which had been carried out to date by the Group in reviewing the transport budgets with work in progress on the reserves strategy, treasury management policy and consequences of reducing spend. This had begun to shape a medium term financial strategy for the next 3 years which would need to reflect the funding required to support increased activities including devolution, rail, Growth Deal delivery and the West Yorkshire plus Transport Fund. Members noted that the use of reserves may be required to manage the increase in the short term but longer term savings would be needed if the funding received from the District Councils was not increased further than that required for the Transport Fund. Members acknowledged that the Group were looking at the reserves strategy and would in due course welcome further clarity on the level and use of reserves as well as clarity on changes in staffing levels.

A summary of the planned expenditure and funding for the next 3 years for the revenue and capital budgets was attached at Appendix A to the submitted report. It was reported that the LEP had successfully secured further funding for the following projects which required formal approval of the Authority:-

- Enterprise Adviser Continuation
- West Yorkshire and York Broadband Programme
- Central Heating Fund
- Apprenticeship Grant for Employers (AGE)

**Resolved:**

- (i) That the work to date on the development of the medium term financial strategy be noted.
- (ii) That the following budgets be approved:
  - (a) £150,000 for the Enterprise Adviser Continuation Phase 1;
  - (b) £7,252,733 for the West Yorkshire Broadband Phase 2;
  - (c) £2,300,000 for the Central Heating Fund;
  - (d) An increase in the Apprenticeship Grant for Employers to take it to £2,392,500, to be funded as set out in the submitted report.

**47. Minutes of the meetings of the Transport Committee held on 12 June 2015 and 31 July 2015**

**Resolved:** That the minutes of the meetings of the Transport Committee held on 12 June 2015 and 31 July 2015 be noted.

**48. Minutes of the meeting of the West Yorkshire & York Investment Committee held on 6 July 2015**

**Resolved:** That the minutes of the meeting of the West Yorkshire & York Investment Committee held on 6 July 2015 be noted.