

AGENDA



SOUTH KESTEVEN DISTRICT COUNCIL

CABINET

THURSDAY, 4 OCTOBER 2018

2.00 PM

**SHEKINAH, JUBILEE CHURCH LIFE CENTRE, LONDON ROAD,
GRANTHAM, NG31 6EY**

Aidan Rave, Chief Executive

The Leader Councillor Matthew Lee, Cabinet Member for Cultural Services
(Chairman)

The Deputy Leader Councillor Kelham Cooke, Cabinet Member for Business Transformation & Commissioning

Cabinet Members: Councillor Dr Peter Moseley, Cabinet Member for Environment
Councillor Helen Goral, Cabinet Member for Growth and Communications
Councillor Nick Neilson, Cabinet Member for Housing
Councillor Nick Robins, Cabinet Member for Retail & Visitor Economy
Councillor Jacky Smith, Cabinet Member for Communities, Health, Wellbeing & Skills
Councillor Adam Stokes, Cabinet Member for Finance

Cabinet Support Officer: Jo Toomey Tel: 01476 40 61 52
E-mail: j.toomey@southkesteven.gov.uk

Members of the public are entitled to attend the meeting of the Cabinet at which key decisions will be taken on the issues listed on the following pages. Key decisions are marked *.

1 APOI OGIES

2 MINUTES OF THE MEETING HELD ON 6 SEPTEMBER 2018 (Pages 3 - 11)

(Enclosure)

3 DISCLOSURE OF INTERESTS (IF ANY)

4 ***HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND THE EQUALITY ACT 2010** (Pages 13 - 40)
Report number CSL131 of the Cabinet Member for Environment.
(Enclosure)

5 ***GROUNDS MAINTENANCE COMPANY** (Pages 41 - 68)
Report number ENV703 of the Cabinet Member for Environment.
(Enclosure)

6 ***HOUSING POLICIES (MUTUAL EXCHANGES, SUCCESSION AND ASSIGNMENT)** (Pages 69 - 123)
Report number HSG134 of the Cabinet Member for Housing. **(Enclosure)**

7 **HEALTH AND SAFETY POLICY** (Pages 125 - 131)
Report number ENV702 of the Cabinet Member for Environment.
(Enclosure)

8 **SKDC SURVEY OF RESIDENTS 2018** (Pages 133 - 141)
Report number ACEX007 of the Cabinet Member for Growth and Communities.
(Enclosure)

9 **MATTERS REFERRED TO CABINET BY THE COUNCIL OR OVERVIEW & SCRUTINY COMMITTEES** (Pages 143 - 152)
Report number LDS316 of the Leader of the Council. **(Enclosure)**

10 **ITEMS RAISED BY CABINET MEMBERS INCLUDING REPORTS ON KEY AND NON KEY DECISIONS TAKEN UNDER DELEGATED POWERS.**
(Pages 153 - 155)
Report number LDS317 of the Leader of the Council. **(Enclosure)**

11 **REPRESENTATIONS RECEIVED FROM NON CABINET MEMBERS** (Pages 157 - 159)
Report number LDS318 of the Leader of the Council. **(Enclosure)**

12 **CABINET FORWARD PLAN** (Pages 161 - 172)
Report number LDS319 of the Leader of the Council. **(Enclosure)**

13 **ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**

MINUTES

CABINET

THURSDAY, 6 SEPTEMBER 2018



SOUTH
KESTEVEN
DISTRICT
COUNCIL

THE LEADER: Councillor Matthew Lee (Chairman)

THE DEPUTY LEADER: Councillor Kelham Cooke

CABINET MEMBERS PRESENT

Councillor Helen Goral

Councillor Dr Peter Moseley

Councillor Nick Neilson

Councillor Jacky Smith

Councillor Adam Stokes

NON-CABINET MEMBERS PRESENT

Councillor Ashley Baxter

Councillor Phil Dilks

Councillor David Taylor

Councillor Rosemary Trollope-Bellew

Councillor Linda Wootten

OFFICERS

Chief Executive (Aidan Rave)

Strategic Director, Growth (Paul Thomas)

Solicitor to the Council (Lucy Youles)

Assistant Chief Executive, Transformation & Change (Lee Sirdifield)

Assistant Director, Commercial & Operational (Ian Yates)

Assistant Director, Housing (Harry Rai)

Assistant Director Resources (Richard Wyles)

Head of Communications (Adrian Smith)

Head of Growth (Jane McDaid)

Principal Democracy Officer (Jo Toomey)

CO21. APOLOGIES

An apology for absence was received from Councillor Robins.

Apologies were also submitted by three Overview and Scrutiny Committee Chairman: Councillors Exton, Sampson and Ray Wootten.

CO22. MINUTES OF THE MEETING HELD ON 12 JULY 2018

The minutes of the meeting held on 12 July 2018 were agreed as a correct record.

CO23. DISCLOSURE OF INTERESTS (IF ANY)

No interests were disclosed.

CO24. *DELIVERSK

Decision:

- 1. Cabinet supports and approves the establishment of DeliverSK as described in report DSK002**
- 2. Cabinet delegates to the Cabinet Member for Growth and Communications, in consultation with the Strategic Director for Growth and the Strategic Director for Resources, authority to select and confirm the private sector partner for DeliverSK as discussed in report DSK002**
- 3. Cabinet delegates to the Cabinet Member for Growth and Communications, in consultation with the Strategic Director for Growth and the Strategic Director for Resources, authority to set up DeliverSK as detailed in report DSK002, entering into any necessary legal agreements needed to facilitate this**
- 4. Cabinet recommends to Council the approval of a budget of up to £100k for initial set-up costs and up to £500k as initial working capital for DeliverSK, and to delegate to the Cabinet Member for Growth and Communications, in consultation with the Strategic Director for Growth and the Strategic Director for Resources, authority to invest up to £500k (i.e. the working capital) in Deliver SK, once the company has been set up**
- 5. Cabinet seeks to recover a portion of the establishment costs for DeliverSK from the Partnership's future profits**
- 6. Cabinet approves the appointment of the Leader of the Council and the Chief Executive as the Council's nominated Board Members for DeliverSK, and the Deputy Leader of the Council as an observer on the Board and nominated substitute for the Leader and Chief Executive**
- 7. Cabinet requests that the Governance and Audit Committee considers any changes necessary to the Council's Treasury Management Strategy to allow the initial and future investments in DeliverSK activities and projects**
- 8. Cabinet authorises a governance review of all of the Council-owned companies and DeliverSK to ensure that decision-making is transparent**

and open, and that those companies are empowered to fulfil their stated purpose

Considerations/reasons for decision

1. Report number DSK002 of the Leader of the Council
2. The Council is seeking to add a further £1.2 billion to South Kesteven's economy by 2040
3. An announcement made by the Leader in October 2017 regarding £40m investment in strategic projects to be delivered or underway by 2020
4. The opportunity for the Council to work with an experienced private sector partner on a more agile, commercial basis on larger development projects
5. Detailed business cases would need to be approved for all projects
6. Potential inputs different partners could bring to DeliverSK and their benefits to the district
7. Working with a partner would share the ownership and risk
8. Companies seeking to be prospective partners would be considered as part of a selection process
9. Returns would be used to pay off project costs, then investments from both partners, then any profits would be split according to the proportion of investment made by each partner
10. The proposed management structure for the company as set out in report DSK002
11. Indicative timelines for the formation of DeliverSK and commencement of activity
12. Assessment of risk and controls in place to mitigate identified risks
13. The role of the Governance and Audit Committee, which is to "monitor, review and amend as appropriate the Council's approved Treasury Management Strategy paying particular attention to the inherent risks of the prevailing economic/financial climate"
14. Comments and recommendations made by the Growth Overview and Scrutiny Committee at its meeting on 29 August 2018 and subsequent legal advice taken in respect of those recommendations

Other options considered and assessed

- **Option 1:** Do nothing

The Council could continue to serve primarily as a facilitator for growth, setting policy and creating a framework for the district's regeneration, but not take an active, participatory role. This has a number of disadvantages, not least of which is that the type of growth that comes forward and in what order will be something over which the Council has limited influence. SKDC's land assets will also remain unused. This approach is also inconsistent with the progressive, forward-thinking ethos that SKDC has embraced in recent times and will not unlock the district's potential. This option was therefore discarded.

- **Option 2:** Create a wholly owned company

The Council has created other companies – most recently InvestSK – that are wholly-owned, i.e. not formed with an external partner. This would mean all decisions around what DeliverSK did remained, effectively, in Council control, whereas in the LLP model proposed in this report decision-making is by consensus of both parties. Creating a wholly-owned company would see all of the risks associated with finance and development sitting with the Council, whereas in the proposed LLP model the Council would share the risk and have access to commercial skills and expertise it lacks.

- **Option 3:** Create a traditional Local Asset Backed Vehicle (LABV)

An LABV is a form of partnership or joint venture between a public body and a private sector investment partner, normally over the medium or long-term. The public partner generally inputs assets, with the private sector partner providing finance and technical expertise, including development management skills and also potentially the construction supply chain. There have been some high-profile examples created in the UK previously, but the LLP model proposed has some significant differences that create a better fit for SKDC.

For example, SKDC would not be procuring development management skills or contractors; DeliverSK would engage its own consultants/contractors as it moves forward with individual projects. In addition, it is common that LABVs have significant land assets transferred to them at inception, and that this drives the pipeline. This not only means more upfront commitment than is needed in the model proposed for DeliverSK, it also means it is more complex to create and operate, and that the Council is likely to have less control.

This type of vehicle tends to be lengthy and costly to set up and does not offer the Council the concentrated investment focus that it requires.

* * *

The Leader introduced report DSK002, stating that he saw the formation of DeliverSK as a key tool to help meet the Council's growth ambitions. Reference was made to a meeting of the Growth Overview and Scrutiny Committee at which the formation of DeliverSK had been considered.

The Overview and Scrutiny Committee had made a number of recommendations, which Cabinet Members considered. The Cabinet agreed to incorporate recommendations about recovering a portion of establishment costs through the partnership's future profits and that there should be a review of the governance arrangements for DeliverSK and all of the Council's other companies. There was also recognition that as well as profits, any losses would be split between the partners in accordance with their investment inputs. Cabinet Members did not support the Committee's recommendation about the inclusion of a clause that 5% of the investment amount be provided upfront by the investor as surety should the project fail as there was concern that this could deter potential partners. The Growth Overview and Scrutiny Committee also raised concerns regarding individual Cabinet Members having sole responsibility for decision-making on selection of a partner and

entry into the partnership but reassurance was given that the Cabinet Member would be supported in decision-making by Cabinet colleagues.

Cabinet Members agreed the recommendations in the report together with the two recommendations based on the comments made by the Growth Overview and Scrutiny Committee regarding governance and offsetting establishment costs.

CO25. DATA PROTECTION POLICY

Decision:

Cabinet approves the draft Data Protection Policy attached as Appendix 1 to report number LDS309

Considerations/reasons for decision

1. Report number LDS309 of the Deputy Leader of the Council and appendices, including the draft Data Protection Policy (Appendix 1) and procedure documents
2. The Data Protection Policy was last revised in 2015
3. The introduction of the Data Protection Act 2018 which implemented the General Data Protection Regulations (GDPR) into law on 25 May 2018
4. Comments and recommendations made by the Communities and Wellbeing Overview and Scrutiny Committee at its meeting on 31 July 2018
5. The six data protection principles with which anyone processing personal data must comply

Other options considered and assessed

There are no other options to consider

* * *

In presenting report number LDS309, the Deputy Leader explained that it had been necessary to review the Council's Data Protection policy in light of new legislation. Cabinet Members approved the draft Data Protection Policy which was attached as appendix 1 to report LDS309.

CO26. RECTORY FARM - SUPPLEMENTARY PLANNING DOCUMENT

Decision:

The Cabinet approves the draft Rectory Farm Planning Brief (appended to report number DM13) for the purposes of consultation

Considerations/reasons for decision

1. Report number DM13 of the Cabinet Member for Growth and Communications including the appended draft Rectory Farm Planning Brief and associated masterplans

2. The adoption of a planning brief provides a tool to ensure that the development of parts of the site do not prejudice the delivery of the remainder of the site and that development is undertaken in a cohesive and comprehensive manner
3. Rectory Farm forms a phase of the Grantham North West Quadrant development
4. The drafting of the Supplementary Planning Document (SPD) has been supported by AECOM
5. The consultation process set out in Appendix 4 of report DM13
6. The equality analysis attached at Appendix 3 of report number DM13

Other options considered and assessed

- **To not proceed with the preparation of the Supplementary Planning Document**

An alternative would be to rely on developers to submit a planning application and hopefully engage in pre-application discussions. The preparation of the SPD is a more positive and proactive approach in that it provides guidance to developers, SKDC officers and the general public on the key issues and impacts to consider when assessing and submitting a planning application for phase 2 of the North West Quadrant

* * *

The Cabinet Member for Growth and Communications presented the recommendations in report number DM13 and explained that this was a draft document for public consultation that would, once it was approved, add detail to the policies set out in the emerging local plan which could be applied when the Council was considering planning applications. The draft plan was intended to provide a tool to ensure cohesive, high quality development across a large site which comprised land across a number of different ownerships.

Cabinet Members spoke about the standards of design and reference was made to a design guide for the district that was in development. Cabinet Members also felt that it was important to learn from experiences of other sites in multiple ownership had been developed across the district. It was noted that once the document had been subject to consultation, the document would be re-presented to Cabinet, together with the results of the consultation, for approval.

The Cabinet approved the recommendation as set out in report DM13.

CO27. MATTERS REFERRED TO CABINET BY THE COUNCIL OR OVERVIEW & SCRUTINY COMMITTEES

Report number LDS310 of the Leader of the Council summarised the activity of the Overview and Scrutiny Committees since the last report was presented to Cabinet on 12 July 2018.

Communities and Wellbeing Overview and Scrutiny Committee

Further to the update provided in report LDS310, Members were advised that the Committee was holding a workshop to which all Councillors were invited to receive further information in connection with health and wellbeing across the district.

Culture and Visitor Economy Overview and Scrutiny Committee

The Chairman of the Culture and Visitor Economy Overview and Scrutiny Committee referred to items considered at the Committee's previous meeting and gave a brief synopsis of the agenda items for the Committee's meeting taking place on 13 September 2018. Reference was also made to the opening of the Wyndham Park Visitor Centre on Sunday 9 September 2018.

CO28. ITEMS RAISED BY CABINET MEMBERS INCLUDING REPORTS ON KEY AND NON KEY DECISIONS TAKEN UNDER DELEGATED POWERS.

Report number LDS311 of the Leader of the Council informed the Cabinet of decisions that had been taken by individual Members since the last meeting of the Cabinet was held on 12 July 2018.

Appendix A related to the food and health and safety work plan 2018/19 and Appendix B to the approval (subject to consultation) of a proposed new lease with Stamford Bridge Club for the extension of their existing parking area.

CO29. REPRESENTATIONS RECEIVED FROM NON CABINET MEMBERS

Report number LDS312 of the Leader of the Council informed Cabinet Members that no non-Cabinet Members had submitted requests to speak prior to the publication of the agenda. Since the publication of the agenda, one Member, Councillor Baxter, had requested to make representations at the meeting, seeking to raise three issues.

The Brambles Development, Market Deeping

Reference was made to the Brambles development site in Market Deeping and a planning condition that related to works required to roads to bring them up to adoptable standard that should have been undertaken prior to the occupation of the development. The Cabinet Member for Growth and Communications provided an update, stating that the developer had been given a week to formally respond, if they did not a breach of condition notice would be issued by the end of September. In the meantime negotiations with the developer would continue to try and each a solution outside the enforcement process.

Deepings Saturday Market

An update was given on the progress of the proposal for a Saturday market in the Deepings. The initial consultation process had been completed and the outcome had been sent to Lincolnshire County Council Highways for them to carry out their own consultation on the closure of the short stay car park in the Market Place, which would be required to enable the market to proceed. Work was also under way to try to identify prospective traders for a Saturday market in the Deepings.

Deepings Leisure Centre

Members were advised that proposals for a new leisure centre in the Deepings had moved from the feasibility to business planning stage, which also included consideration of possible sites. It was still intended for construction to begin by 2020-21. Consideration was also being undertaken about leisure facilities in the other towns in the district.

CO30. CABINET FORWARD PLAN

Report number LDS313 of the Leader of the Council gave an indication of the items that would be presented to Cabinet. The report also included items that were scheduled to be considered at Council meetings during the municipal year.

15:07-15:23 – the meeting adjourned.

EXCLUSION OF THE PRESS AND PUBLIC

The Cabinet agreed to exclude the press and public during consideration of the following item of business because of the likelihood that information that was exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) would be disclosed to them.

CO31. *STRATEGIC REGENERATION ACQUISITIONS - LAND IN SOUTH KESTEVEN

Decision:

Cabinet authorises the acquisition of a parcel of land in the South Kesteven area (a) subject to contract, satisfactory replies to searches and enquiries and to the terms negotiated; and (b) subject to approval by Council of the necessary budget allocation.

Considerations/reasons for decision

1. Report number PD0095 of the Deputy Leader of the Council and the exempt appendices to the report
2. The Council's growth ambitions and the strategic importance of the site
3. Recommendations for financing the acquisition of the site and associated arrangements set out in the Council's Treasury Management Strategy and prudential indicators
4. Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972
5. Support of the proposal by the relevant Ward members

Other options considered and assessed

- Consideration has been given to not purchasing the site in question. However, in order to promote sustainable economic development in the area, this is regarded as an essential site.

* * *

The Leader presented report number PD0095 and its exempt appendices. Cabinet Members approved the recommendations.

CO32. CLOSE OF MEETING

The meeting was closed at 15:30.

DATE DECISIONS EFFECTIVE:

Items CO24(1-3 and 5-8), CO25, CO26 and CO31(a) as made on Thursday 6 September 2018 can be implemented on Monday 17 September 2018 unless subject to call-in by the Chairman of the relevant Overview and Scrutiny Committee or any five Members of the Council from any political group. Items CO24(4) and CO31(b) stand referred to Council on 27 September 2018.

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Report of: Councillor Dr Peter Moseley
Cabinet Member for Environment

Report to:	Cabinet
Date:	4th October 2018
Subject:	Taxi Licensing and the Equality Act 2010 – CSL/131

Decision Proposal:	Key Decision
Relevant Cabinet Member:	Councillor Dr Peter Moseley Cabinet Member for Environment
Report author:	Mandy Braithwaite Legal Executive 01476 406106 m.braithwaite@southkesteven.gov.uk Date: 18 July 2018
Reviewed by:	Anne-Marie Coulthard, Head of Environmental 01476 406319 a.coulthard@southkesteven.gov.uk Date: 19 September 2018
Signed off by:	Lucy Youles Solicitor to the Council 01476 406105 l.youles@southkesteven.gov.uk Date: 19 September 2018
Approved for publication	Councillor Dr Peter Moseley Date: 24 September 2018

SUMMARY

The provisions of the Equality Act 2010 (“the Act”), have been amended in respect of wheelchair accessible hackney carriages and private hire vehicles. “Wheelchair accessible vehicles” are cars/vans with wheelchair access that have been converted with a ramp or lift so that access is easy and the wheelchair user is able to remain in their own chair for the journey. The provisions allow a licensing authority to create a list of “designated vehicles”, which are capable of carrying passengers in wheelchairs (section 167) and requires drivers of those vehicles to provide mobility assistance (section 165).

Section 172 of the Act enables vehicle owners to appeal to the Magistrates Court against the decision of a local authority to include their vehicles on a designated list.

Once an authority decides to create an 'approved list of designated vehicles' it would be an offence for a licensed driver of a designated vehicle, unless they have been granted a medical exemption by the local authority, to fail to comply with the duty to provide mobility assistance. Drivers may appeal under Section 172 of the Act, to the Magistrates Court against the decision of a Local Authority not to issue an exemption certificate.

By creating a list of designated vehicles, the Council will be able to publish and make clear to the public, vehicle operators and drivers, the licensed vehicles capable of carrying a passenger in a wheelchair and the assistance the drivers of those vehicles will be required to provide.

RECOMMENDATION

It is recommended that Cabinet:

Implement the provisions of section 165, 166 and 167 of the Equality Act 2010 and that the draft policy as set out at Appendix E of this report is adopted and included in the Hackney Carriage and Private Hire Licensing Policy.

1. BACKGROUND TO REPORT

- 1.1 The Government has introduced provisions in the Equality Act in relation to the assistance of passengers in wheelchairs using designated taxi and private hire vehicles. Statutory guidance has been issued by the Department of Transport in support of this to which local authorities must have regard.
- 1.2 These provisions allow a licensing authority to create a list of "designated vehicles" which is a list of "wheelchair accessible vehicles" (cars/vans with wheelchair access that have been converted with a ramp or lift so that access is easy and the wheelchair user is able to remain in their own chair for the journey), (section 167) and then require drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits drivers from charging extra for this service, (section 165). The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is in force. Section 166 allows local authorities' to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with those duties. A copy of sections 165, 166 and 167 of the Act is attached at **Appendix A**.
- 1.3 Section 167 of the Act states that a local authority "**may** maintain a list of vehicles". This is a discretionary power rather than a duty. Unless the Cabinet determines the Council is under no legal obligation to establish and maintain a list. The guidance issued by the Department for Transport "**recommends**

strongly" that licensing authorities do maintain such a list. Section 1.12 states "Whilst licensing authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users; fail to provide them with assistance; or charge them extra".

- 1.4 Section 172 of the Act enables vehicle owners to appeal against the decision of a local authority to include their vehicle(s) on the designated list. The appeal must be made to the Magistrates court within 28 days of the vehicle in question being included on the published list.
- 1.5 There are currently 342 hackney carriage vehicles and 33 private hire vehicles. Of those, 3 hackney carriage vehicles and 3 private hire vehicles are classed as able to carry passengers in their wheelchairs.
- 1.6 S165 sets out the duties placed on drivers of designated wheelchair accessible taxis and private hire vehicles. These duties are:-
 - To carry the passenger while in the wheelchair;
 - Not to make any additional charge for doing so;
 - If the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
 - To give the passenger such mobility as is reasonably necessary.

"Mobility assistance" is defined in the Act as assistance:

- To enable the passenger to get into or out of the vehicle;
- If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- To load the passenger's luggage into or out of the vehicle;
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

- 1.7 It is an offence for a licensed driver, driving a vehicle on the designated list, unless exempt, to fail to comply with the duties outlined at paragraph 1.6 above.
- 1.8 Where a driver has a medical or physical condition, which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require, the local authority may grant exemptions from the duties to individual drivers under the provisions of section 166 of the Act. Drivers who are granted exemptions will be issued with an exemption certificate and a notice to display on the vehicle. The purpose of the notice is to clearly communicate with passengers in wheelchairs that the driver has been exempted from the duties to provide assistance.
- 1.9 The driver's obligations to comply with section 165 apply regardless of where the journey starts or ends. If a driver fails to comply with their duties, it would be appropriate for the licensing authority to review whether or not the driver remains a fit and proper person to hold a licence.

1.10 South Kesteven District Council does not currently publish a list of designated wheelchair accessible vehicles, although the South Kesteven District Council Hackney Carriage and Private Hire Policy does encourage the provision of wheelchair accessible vehicles. A copy of paragraph 2.3 of the Policy is attached at **Appendix B**.

1.11 If it is determined that the licensing authority should maintain such a list, a number of steps will be taken as outlined below:-

- Prepare a draft list of wheelchair accessible vehicles
- Set out policy for exempting drivers on medical and physical condition grounds
- Inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties
- Drivers apply for exemptions where necessary
- Licensing authority issues driver exemptions where necessary
- Licensing authority publishes list of designated wheelchair accessible vehicles and duties on drivers then take effect

1.12 In accordance with the Act, all of the Council's licensed drivers, proprietors and operators have been notified of accessibility requirements which licensing authorities should apply in relation to the provision and other aspects of our function under this new approach prior to determining whether we will maintain a designated list and place all our wheelchair accessible vehicles on this list. The notification is at **Appendix C**. No responses were received to the notification.

1.13 The report went to Licensing Committee on 7th September 2018 for information and they welcomed the proposal to adopt the provisions of the Act and include the draft policy in the Council's Hackney Carriage and Private Hire Licensing Policy.

1.14 The report went to the Environment Overview and Scrutiny Committee on 11th September 2018 and they welcomed the proposal as per the recommendation on this report.

2. OTHER OPTIONS CONSIDERED

2.1 The Council could determine not to implement the provisions of the Act.

3. RESOURCE IMPLICATIONS

3.1 There are no resource implications other than the cost of appeals against the decisions made to include a vehicle on the designated list.

4. RISK AND MITIGATION

4.1 Risk has been considered as part of this report and no specific risks have been identified.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

5.1 These measures within the Equality Act are designed to prevent discrimination and improve equality for people who are disabled. An equality impact analysis has been carried out. A published list of designated wheelchair accessible taxis will enable people to identify accessible vehicles which are able to carry passengers in their wheelchairs. **Appendix D**

6. CRIME AND DISORDER IMPLICATIONS

6.1 The new requirements, if enacted, carry a criminal penalty if a licensed driver on the designated list fails to comply with the provisions of the Act by refusing to carry out the duties listed in paragraph 1.6 above and doesn't have an exemption certificate to excuse him/her from those duties.

7. COMMENTS OF FINANCIAL SERVICES

7.1 There are no specific financial implications associated with this report, however, in the event of licensed vehicle owners making an appeal against a decision of the local authority to include their vehicle(s) on the designated list, which was then subsequently upheld, the council may incur legal costs.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 The implementation of the provisions are discretionary rather than a legal duty. There is an option for the Council not to implement the provisions. The implementation will assist those with a disability to establish which taxi are suitable for their use and provide them with assistance which would not otherwise be available.

8.2 A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with the requirements to carry and assist passengers who use a wheelchair, (if implemented), and if found guilty will be liable on summary conviction to a fine.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None.

10. APPENDICES

Appendix A – Equality Act 2010 ss. 165, 166 and 167

Appendix B – Extract (paragraph 2.3) SKDC Hackney Carriage and Private Hire Licensing Policy

Appendix C – Letter of notification to drivers, proprietors and operators

Appendix D – Equality Impact Assessment

Appendix E – Draft Medical Exemption Policy

11. BACKGROUND PAPERS

Access for Wheelchair Users to Taxis and Private Hire Vehicles – Statutory Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf

South Kesteven District Council Hackney and Private Hire Licensing Policy

<http://www.southkesteven.gov.uk/chttphandler.ashx?id=5215&p=0>

Equality Act 2010

165 Passengers in wheelchairs

(1) This section imposes duties on the driver of a designated taxi which has been hired—

(a) by or for a disabled person who is in a wheelchair, or

(b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

(2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph

(a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.

(3) For the purposes of this section—

(a) a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167;

(b) “the passenger” means the disabled person concerned.

(4) The duties are—

(a) to carry the passenger while in the wheelchair;

(b) not to make any additional charge for doing so;

(c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;

(d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;

(e) to give the passenger such mobility assistance as is reasonably required.

(5) Mobility assistance is assistance—

(a) to enable the passenger to get into or out of the vehicle;

(b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;

(c) to load the passenger's luggage into or out of the vehicle;

(d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

(6) This section does not require the driver—

(a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;

(b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.

(7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9)It is a defence for a person charged with the offence to show that at the time of the alleged offence—

(a)the vehicle conformed to the accessibility requirements which applied to it, but

(b)it would not have been possible for the wheelchair to be carried safely in the vehicle.

(10)In this section and sections 166 and 167 “private hire vehicle” means—

(a)a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;

(b)a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;

(c)a vehicle licensed under an equivalent provision of a local enactment;

(d)a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

166Passengers in wheelchairs: exemption certificates

(1)A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an “exemption certificate”) if satisfied that it is appropriate to do so—

(a)on medical grounds, or

(b)on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.

(2)An exemption certificate is valid for such period as is specified in the certificate.

(3)The driver of a designated taxi is exempt from the duties imposed by section 165 if—

(a)an exemption certificate issued to the driver is in force, and

(b)the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.

(4)The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—

(a)an exemption certificate issued to the driver is in force, and

(b)the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.

(5)For the purposes of this section, a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167.

(6)In this section and section 167 “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

167Lists of wheelchair-accessible vehicles

(1)For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).

(2)A vehicle falls within this subsection if—

(a) it is either a taxi or a private hire vehicle, and

(b) it conforms to such accessibility requirements as the licensing authority thinks fit.

(3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.

(4) In subsection (3) "special licence" has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).

(5) "Accessibility requirements" are requirements for securing that it is possible for disabled persons in wheelchairs—

(a) to get into and out of vehicles in safety, and

(b) to travel in vehicles in safety and reasonable comfort,

either staying in their wheelchairs or not (depending on which they prefer).

(6) The Secretary of State may issue guidance to licensing authorities as to—

(a) the accessibility requirements which they should apply for the purposes of this section;

(b) any other aspect of their functions under or by virtue of this section.

(7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

Extract (paragraph 2.3) SKDC Hackney Carriage and Private Hire Licensing Policy

2.3 Accessibility

2.3.1 Hackney carriages and private hire vehicles are an essential mode of transport for many disabled and older people. The combination of the personal service they offer, their wide availability and door to door operations enable them to respond particularly well to the travelling needs of people with disabilities.

2.3.2 The Authority encourages the provision of wheelchair accessible vehicles. There will be a 10%* reduction from the application fee for such vehicles.

2.3.3 The Authority is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life.

2.3.4 The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination, - including disability discrimination. The Authority considers it important that people with disabilities have access to all forms of public transportation.

2.3.5 In addition to the general conditions, accessibility for people with disabilities (including, but not only people, who need to travel in a wheelchair) is, therefore, an important consideration in respect of vehicles licensed as hackney carriages/private hire vehicles.

*NB – Fees and Charges increased discount to 20%

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Equality Act 2010 - Designated List of Wheelchair Accessible Taxis and Private Hire Vehicles (PHVs)

From 1 April 2017 The Equality Act 2010, sections 165 & 167 places duties on the drivers of designated wheelchair accessible taxis and PHVs to provide physical assistance to passengers in wheelchairs.

The duties will apply to the driver of any wheelchair accessible taxi or PHV which is on the licensing authority's list of "designated vehicles".

South Kesteven District Council will consider the detailed guidance issued by the Department for Transport about the accessibility requirements which licensing authorities should apply in relation to the provision and other aspects of our function under this new approach before making our decision on whether we will maintain a designated list and place all our wheelchair accessible vehicles on this list. If this proposal goes ahead, the following provisions will apply:

What are the duties?

Under the Equality Act 2010 drivers of what are termed Wheelchair Accessible Vehicles (WAVs) taxis and private hire vehicles (PHVs) have a duty to:

- to carry the passenger while in a wheelchair
- not to make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

Drivers will be liable to a fine if they refuse to do this.

What does mobility assistance mean?

Mobility assistance essentially means helping passengers who use wheelchairs by providing physical assistance.

If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get into and out of the vehicle.

If the passenger wants to transfer to a seat, the driver must help him or her to get out of the wheelchair and into a seat and back into the wheelchair; the driver must also load the wheelchair into the vehicle.

The driver must also offer to load the passenger's luggage into and out of the vehicle.

What if my licensing authority does not intend to keep a list of designated vehicles?

If a licensing authority does not intend to maintain a list of designated vehicles then the duties will not apply; the duties only apply to drivers of vehicles which are on the licensing authority's list of designated vehicles.

What if I have a back condition which makes it impossible for me to help a passenger in a wheelchair get into a cab?

The new Act allows for exemptions from the duties on medical grounds or if the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with those duties.

It is the responsibility of drivers who require an exemption to apply for one from their licensing authority before the duties come into force; they will have at least six months to go through this process.

As an absolute minimum we expect the evidence provided should be in the form of a letter or report from your general practitioner.

Who decides if a driver is exempt?

The local licensing authority decides if a driver should be exempt from the duties.

What if the licensing authority says that I am ok to carry out the duties and I disagree?

The legislation allows a driver to appeal to the Magistrates' Court within 28 days if the licensing authority decides not to issue an exemption certificate.

How will passengers know that I am exempt from the duties to assist passengers?

The Department for Transport have issued special Exemption Notices which exempted drivers must display on their vehicles in order that passengers will know that the driver is exempt from duties.

What is classed as a wheelchair accessible vehicle?

Wheelchair accessibility regulations for access to public transport use a specific "reference wheelchair". The reference wheelchair has:

- total length of 1200mm, including extra-long footplates
- total width of 700mm
- sitting height (from ground to top of head) of 1350mm
- height of footrest above floor of 150mm

The vehicle should be capable of carrying a passenger in their wheelchairs should they prefer.

Before the duties are brought into force, any drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance can apply for an exemption from the duties to offer assistance.



South Kesteven District Council

Equality Impact (Initial Analysis)

Access for wheelchair users to Taxis and Private Hire Vehicles

Service Area:	Lead officer: Anne-Marie Coulthard	Date of Meeting
Neighbourhoods (Licensing)	Assessors: Anne-Marie Coulthard Mandy Braithwaite	08/02/18
	Neutral Assessor: Carol Drury	

1. Name and description of policy/service/function/strategy

Access for wheelchair users to Taxis and Private Hire Vehicles

Section 167 of the Equality Act provides Licensing Authorities with the power to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.

The legislation came into force in April 2017 and the Council is considering whether to establish a list of designated vehicles.

If it is agreed the South Kesteven District Council Hackney Carriage and Private Hire Licensing policy will need to be amended to reflect the provisions.

Is this a new or existing policy? Existing

2. Complete the table below, considering whether the proposed policy/service/function/strategy could have any potential positive, or negative impacts on groups from any of the protected characteristics (or diversity strands) listed, using demographic data, user surveys, local consultations evaluation forms, comments and complaints etc.

Equality Group	Does this policy/service/function/strategy have a positive or negative impact on any of the equality groups? Please state which for each group	Please describe why the impact is positive or negative. If you consider this policy etc is not relevant to a specific characteristic please explain why
Age	Neutral	Not a determinant of this policy
Disability	Positive	A published list of designated wheelchair accessible taxis will enable people to identify accessible vehicles which are able to carry passengers in their wheel chairs
	Positive	Designated wheelchair accessible vehicles will be required to display a notice informing passengers that they

	Positive	carry passengers in wheelchairs making identification easier. Where there is a list of designated wheel chair accessible vehicles, drivers of these vehicles will be unable to refuse carriage of wheelchair users, charge them more or fail to provide them with assistance
	Positive	Wheelchair users will be able to choose whether to travel in their wheelchair or be assisted to transfer from their wheelchair into the vehicle.
	Positive	Drivers of hackney or private hire vehicles that are designated vehicles, but who are unable to assist passengers due to their own disability, medical condition or physical conditions will be able to apply for an exemption to the provisions. Drivers may appeal to the Magistrates Court against a decision not to award an exemption.
Race	Neutral	Not a determinant of this policy
Gender Reassignment	Neutral	Not a determinant of this policy
Religion or Belief	Neutral	Not a determinant of this policy
Sex	Neutral	Not a determinant of this policy
Sexual Orientation	Neutral	Not a determinant of this policy

Pregnancy and Maternity	Neutral	Not a determinant of this policy
Marriage and Civil Partnership	Neutral	Not a determinant of this policy
Carers	Neutral	Not a determinant of this policy
Other Groups (e.g. those from deprived (IMD*) communities; those from rural communities, those with an offending past) *(IMD = Indices of multiple deprivation)	Low income households – positive	Where there is a list of designated wheel chair accessible vehicles, drivers of these vehicles will be unable to charge wheelchair users more
General comments	<p>Wheelchair users are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.</p> <p>To be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. A "reference wheelchair" is defined as a wheelchair which has a total length of 1200mm (including extra-long footplates); a total width of 700mm and a sitting height (from ground to top of head) of 1350mm. The footrest height above the floor is 150mm. This approach means that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the list.</p>	

3. What equality data/information did you use to inform the outcomes of the proposed policy/service/function/strategy? (Note any relevant consultation who took part and key findings)

The Civica Authority Public Protection database which is used by the Licensing team to maintain information relating to taxi licensing has been used to identify vehicles which would be considered accessible under the Equality Act. Letter to vehicle licence holders informing them that the Council is considering publishing a list. No responses have been received.

If there are any gaps in the consultation/monitoring data, how will this be addressed?

Individual drivers who have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require will be able to apply for exemptions from the duties.

4. Outcomes of analysis and recommendations (please note you will be required to provide evidence to support the recommendations made): Please check one of the options.

a)	No major change needed: equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken	<input checked="" type="checkbox"/>
<i>If you have checked option a) you can now send this form to the Lead Officer and your Neutral Assessor for sign off</i>		
b)	Adjust the proposal to remove barriers identified by equality analysis or to better promote equality.	<input type="checkbox"/>
<i>If you have checked option b) you will need to answer questions b.1 and b.2</i>		
c)	Adverse impact but continue	<input type="checkbox"/>
<i>If you have checked option c) you will need to answer questions c.1</i>		
d)	Stop and remove the policy/function/service/strategy as equality analysis has shown actual or potential unlawful	<input type="checkbox"/>

b.1 In brief, what changes are you planning to make to your proposed policy/service/function/strategy to minimise or eliminate the negative equality impacts?

b.2 Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision.

If you have checked option b) you will need to complete a Stage 2 equality analysis

c.1 **Please provide an explanation in the box below that clearly sets out your justification for continuing with the proposed policy/function/service/strategy.**

If you have checked option c) you will need to complete a Stage 2 equality analysis. You should consider in stage 2 whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.

Signed (Lead Officer):
(*Name and title*)

AM Coulthard

Anne-Marie Coulthard. Business Manager, Environmental Health

Date completed: **08/02/18**

Signed (Neutral Assessor):
(*Name and title*)

Carol Drury

Community Engagement and Policy Development Officer

Date signed off: **09/02/18**

APPENDIX E

South Kesteven District Council

Equality Act 2010

Policy in Relation to Hackney Carriage Drivers and Private Hire Vehicle Drivers

Applications for Wheelchair Exemptions

(Draft)

June 2018



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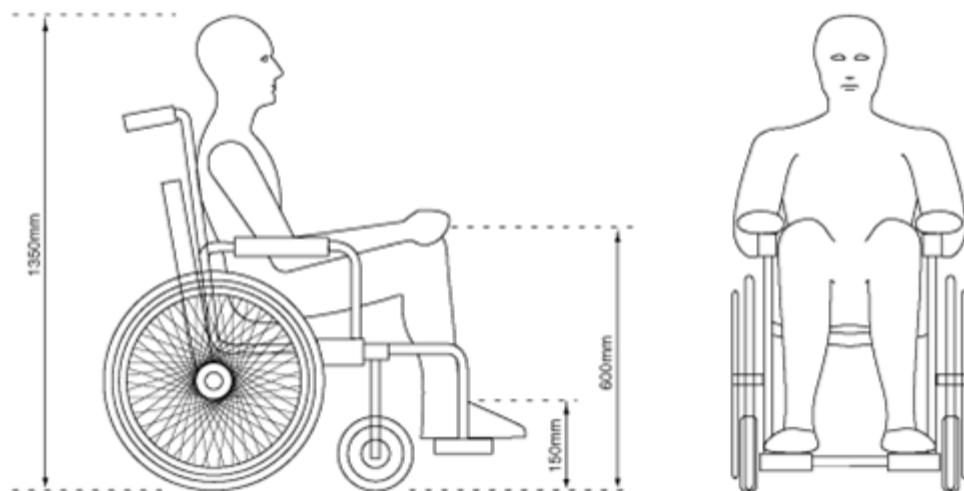
Section 8 – Summary

1 INTRODUCTION THE EQUALITY ACT 2010

1.1 Section 165 of the Equality Act 2010 places the following duties on drivers whose vehicles are on the list of designated wheelchair accessible hackney carriage (taxi) and private hire vehicles:

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required.

1.2 Section 167 of The Act permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The Department for Transport's Statutory Guidance on Access for wheelchair users recommends that vehicles should only be included in the list if it would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. A reference wheelchair is illustrated below:



1.3 All hackney carriage drivers have an obligation under Section 53 of the Town Police Clauses Act 1847 without reasonable excuse, to carry any person wishing to hire them within the licensing area.

- 1.4 Under the Equality Act 2010, it is now a separate lawful requirement for all drivers of designated wheelchair accessible taxis or private hire vehicles to carry wheelchair users, unless they are in possession of an exemption certificate issued by the Council in accordance with that Act.
- 1.5 A licensed driver who fails to comply with any of the above Equality Act provisions (unless he/she holds a relevant exemption certificate) is guilty of an offence and may receive a fine if convicted.

2. SOUTH KESTEVEN DISTRICT COUNCIL

- 2.1 South Kesteven District Council is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the accessible transport chain. It is important that disabled people who use wheelchairs can have confidence that the taxi they find on a rank, or hail on the street, will accept them and carry them in their wheelchair at no extra charge. The same is true in relation to a wheelchair accessible private hire vehicle that they may seek to book in advance.

3. MEDICAL EXEMPTIONS

- 3.1 Under the terms of Section 166 of the 2010 Act the Council may provide an exemption to these wheelchair duties, to drivers who have genuine medical conditions which are aggravated by assisting people in wheelchairs.
- 3.2 The Council is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do so on medical grounds.
- 3.3 In circumstances where a driver either has a temporary or permanent medical condition preventing the performance of their duty towards disabled passengers the driver may apply for a medical exemption certificate from the Council.
- 3.4 However, at the same time drivers are reminded that the Authority reserves the right to review the status of a driver's licence if the medical condition detailed on the exemption application indicates that it may not be appropriate for the individual to continue to hold a driver's licence with the Authority.
- 3.5 In exempting drivers from the duties to assist passengers in wheelchairs the Council needs to be satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

- 3.6 All applicants for a long or short term medical exemption certificate will be required to have their application determined by the Council's Licensing Officers acting under delegated powers.
- 3.7 The Licensing Officer will normally abide by the GP or qualified medical assessor's opinion on whether an exemption is to be issued or not and whether the exemption is permanent or temporary. Any disputes regarding their decision may be appealed to the Council's Licensing Committee.

4. HOW TO APPLY FOR A MEDICAL EXEMPTION

- 4.1 The Council will consider two types of exemption – a temporary exemption or a lifetime exemption. Lifetime exemptions will only be granted in exceptional circumstances.
- 4.2 In accordance with the statutory guidance issued by the Department for Transport (DFT) as an absolute minimum, we require drivers to undergo medical assessments by a GP or in certain circumstances, such as disputed GP assessments, by a professional who has been specifically trained, who holds appropriate professional qualifications and who are independent of the applicant such as Blue Badge Scheme assessors.
- 4.3 The assessment report must detail exactly what duties can not be undertaken and why.
- 4.4 The process undertaken by applicants for an exemption is that they complete an application form (available from the Council's Website) [LINK](#) and their medical practitioner or qualified assessor completes a separate part of the same form which outlines the medical condition.
- 4.5 The cost of the certification must be borne by the applicant.

5. NOTICE OF EXEMPTION

- 5.1 Following a grant of an exemption, the driver will be sent a letter informing them of the grant and an official vehicle notice will be issued to them. By law this notice must be put on public view in the vehicle to inform wheelchair users that the driver has an exemption.
- 5.2 In addition, this Authority has decided that the driver will be issued with an A5 sized laminated card carrying a photo of the driver plus their licence number and other relevant information. The driver will be asked to carry this A5 sized card in order to prevent the exemption being fraudulently transferred, and for other relevant compliance purposes.
- 5.3 Upon expiry of a temporary exemption, this Authority will deem the driver fit to undertake all duties unless a second application for exemption and Doctor's note is received.

6. MEDICAL CERTIFICATES

6.1 All expired exemption notices and identity cards must be returned to the Licensing Team as soon as possible and no later than 5 working days or SKDC penalty points will be issued. Repeated failure to return the documents may result in the driver being referred to the Council's Licensing Committee for them to determine whether or not the driver remains a fit and proper person to continue to drive a hackney carriage or private hire vehicle in the South Kesteven District.

7. SUMMARY

7.1 In summary, hackney carriage drivers and private hire vehicle drivers whose vehicles are on the designated wheelchair accessible hackney carriage (taxi) and private hire vehicles list are not permitted to refuse disabled persons, unless the driver holds a medical exemption certificate issued by the Council excusing him/her from such duties.



Report of: Councillor Dr Peter Moseley
Cabinet Member for Environment

Report to:	Cabinet
Date:	4 October 2018
Subject:	ENV703 - The formation of a new company to deliver grounds maintenance services

Decision Proposal:	Key Decision
Relevant Cabinet Member:	Councillor Dr. Peter Moseley Cabinet Member for Environment
Report author:	Tracey Blackwell - Strategic Advisor (Housing Led Regeneration) t.blackwell@southkesteven.gov.uk 01476 405068 Date: 18 September 2018
Reviewed by:	Richard Wyles - Assistant Director for Resources r.wyles@southkesteven.gov.uk 01476 406210 Date: 18 September 2018
Signed off by:	Ian Yates - Assistant Director Commercial and Operational i.yates@southkesteven.gov.uk 01476 406201 Date: 19 September 2018
Approved for publication:	Councillor Dr Moseley – Cabinet Member for Environment Date: 19 September 2018

SUMMARY

The Council's new Corporate Strategy has commercialism as one of its core building blocks. Making the most of our assets and knowledge to generate income is now an important factor in the way we think about the design and delivery of our services. If approved, the new council owned company "Environment SK" will provide a new concept for the Council. Customer focus, agility and flexibility will be at the heart of every aspect of its design. It will simultaneously both complement and challenge traditional methods of service delivery; providing a benchmark against which a range of services and various delivery methods could be compared.

The grounds maintenance service is currently provided through a contract with Glendale Grounds Management Limited (“Glendale”) which expires at the end of February 2019. The contract covers grounds maintenance services for all the District Council owned parks, gardens, public amenity grass areas and the Council’s housing related stock.

The Cabinet previously approved the principle of the creation of a new trading company to provide grounds maintenance services across the District. This report outlines proposals to establish the new wholly-owned company structure for “Environment SK” in time for a commencement of the service on the 1st March 2019.

Key points of the report include:

- Stability in the initial scope of service delivered by the new entity – effectively a “like for like” service in comparison with the existing contract service specification.
- A commitment to review the specification and key performance measures during the course of 2019/20 once the new delivery model has become established.
- Use of standard incorporation documentation and appointment of Executive Directors to enable early registration of the company structure.
- Potential benefit of utilising a group structure to deliver the core service and develop new commercial offers.

RECOMMENDATIONS

1. Cabinet approve the incorporation of the Environment SK companies (limited by shares) utilising standard Model articles of association.
2. Cabinet approve the appointment of the following as Directors of Environment SK Ltd and Environment SK Commercial Services Ltd
 - Cabinet Member for Environment - Councillor Dr. Peter Moseley
 - Assistant Director Commercial and Operational – Ian Yates
 - Strategic Advisor (Housing Led Regeneration) – Tracey Blackwell
3. Cabinet approve the appointment of a Non-Executive Director to the Board of Environment SK Commercial Services Ltd.

1. BACKGROUND TO REPORT

- 1.1 The grounds maintenance service is currently provided through a contract with Glendale Grounds Management Limited (“Glendale”) which expires at the end of February 2019. The contract covers grounds maintenance services for all the District Council owned parks, gardens, public amenity grass areas and the Council’s housing related stock.
- 1.2 Future service delivery options have been reviewed by the Environment Overview and Scrutiny Committee which supported the option to deliver the service through a local authority owned company.

- 1.3 On the 12 July 2018 Cabinet considered the options as reviewed and decided to deliver the service through a company that is wholly owned by South Kesteven District Council and recommended an amendment to the 2018/19 budget framework to enable vehicles and equipment to be purchased. Members considered the recommendations at the meeting of the Council on 26 July 2018 and approved the changes.
- 1.4 Initial legal advice has been commissioned to assist with the design of the company structure.

2. SCOPE OF THE SERVICE AND TRANSITION

- 2.1 The Council's new Corporate Strategy has commercialism as one of its core building blocks. Making the most of our assets and knowledge to generate income is now an important factor in the way we think about the design and delivery of our services. However the timescale to achieve this transition from Glendale is challenging and as a consequence the initial scope of the service to be delivered by Environment SK (from the 1st of March 2019) should remain the same as the current contract specification. Once the new delivery arrangement has become established there will be the opportunity to review the outputs being delivered by the core contract and develop a detailed business plan to drive change and create new income opportunities.
- 2.2 Glendale operates from a base in Grantham and have identified up to 39 employees who work on the contract for the Council and those of other nearby clients. The Transfer of Undertakings Protection of Employment Regulations will apply to the transfer of the undertaking to Environment SK. Negotiation and consultation will be undertaken with Glendale and its employees to identify who is eligible for and willing to transfer to the new entity. Contingencies are being developed to address the risks posed by the transfer process and the potential for employees with key skills not transferring to Environment SK on 1 March 2019.
- 2.3 The Head of Service for Street Scene has been responsible for the management of the existing grounds maintenance contract since 2017 with the support of staff who are technically qualified and experienced with the current "client-side" role. Whilst Environment SK will be a separate corporate entity from the Council's Street Scene service in practice Council teams will be in close liaison and will provide strategic oversight for the delivery of the core service.
- 2.4 Performance measures and monitoring arrangements will remain the same during the initial phase of delivery by Environment SK. A new suite of performance measures will be developed when the service is reviewed during the 2019/20 financial year.
- 2.5 The new arrangements will require input from a range of the Council's support teams including, HR, accountancy, legal and IT. Service Level Agreements are being prepared to clarify the arrangements between both parties and provide a basis for the recharge of the cost of services provided by the Council's teams to the companies.

2.6 If the recommendation is approved, Environment SK will provide a significant platform for fundamental change in the way the Council approaches service delivery. The structures proposed in this report could be used as the delivery vehicles for a range of Council services including waste and recycling collections, street cleansing and enforcement activity. Options to expand of the scope of activities delivered in this more agile and flexible framework will be developed and evaluated following the transition of the grounds maintenance function.

3. COMPANY STRUCTURE AND ROLES

3.1 The Council has the power to establish a separate trading vehicle by virtue of section 1 of the Localism Act 2011 which gives the Council the power to do:-

- anything that an individual may do;
- anywhere in the United Kingdom or elsewhere;
- for a commercial purpose or otherwise for a charge; and
- for the benefit of other areas than the Council's administrative areas

3.2 Whilst the delivery of the Council's core grounds maintenance contract requirements will be the focus for the new company the ability to carry out commercial work will be an essential feature and the Council would be using the general power of competence 'for a commercial purpose' and, accordingly, it must establish a company to do so.

3.3 The Council can award a contract to a company without the requirement for a regulated procurement process provided that:

- the Council can be shown to exercise control over that company;
- at least 80% of the activities of the company are carried out for the Council; and
- there is no private sector participation in the ownership of the company

3.4 Of the two types of company, the company limited by shares is more suitable to achieve the Council's objectives. This is because a company limited by guarantee is incapable of ownership and not capable of distributing profit to its members.

3.5 A company limited by shares will allow the Council to own and control the environmental services vehicle and to allocate any profits for use in the Council's wider activities. It will also bring with it the benefit to the Council of limited liability, meaning trading risk is confined to the trading vehicle and no call will be able to be made on the Council's resources in respect of company losses should the company suffer financial hardship. Given the scale of the Council's commercial ambitions advice suggests that it would be appropriate to establish two entities at this stage – one to deliver the core service and the other to focus on solely commercial activity.

3.6 It is also considered beneficial to the Council to consider establishing a group structure separating out the discrete classes of activity i.e. the core Council service requirements from the purely commercial future activities with a holding company above. The structure could be entirely flexible and may be

adjusted or evolve over time to incorporate or remove specific vehicles. The use of a holding company could provide tax and operational benefits – for example the level at which within the group structure assets and resources are held. Further advice has been commissioned to understand the optimum approach for all of the Council's wholly owned companies.

- 3.7 It is proposed that initially the Council makes provision for the appointment of Executive Directors to the Boards and that these appointments are brought into effect as soon as possible to enable the companies to be established at an early stage to facilitate applications for taxation and professional services. The proposed appointees are as follows:
 - Cabinet Member for Environment - Cllr Dr Peter Moseley
 - Assistant Director Commercial and Operational – Ian Yates
 - Strategic Advisor (Housing Led Regeneration) – Tracey Blackwell.
- 3.8 Provision should also be made for the recruitment of a Non-Executive Director to the Board of the commercial company to benefit from complementary experience and skills and enable constructive challenge and debate to feed into decisions of the Board.
- 3.9 Each of the directors will have a duty to act in the best interests of the company and subject to the duties set out in the Companies Act 2006.
- 3.10 Members and officers will also owe duties to the Council under the Code of Conduct for Members or the provisions of a contract of employment. Because of this, a mechanism for dealing with conflicts will need to be developed and incorporated within the constitutional documents of the companies.
- 3.11 It is proposed to use the “Model” articles of association provided by Companies House to enable the companies to be incorporated. There will be an opportunity to review the articles and associated documentation to identify the need for specific changes. Such changes can be made in due course as the Council will, as sole shareholder, have authority to make changes at any point.

4. GOVERNANCE REVIEW

- 4.1 The Shareholder Committee was initially developed in response to the creation of Gravitas Housing Ltd, the Council's wholly owned housing company. Since that time Invest SK, a business focused economic growth entity, has also been established. The decision to create a company to deliver environmental services, such as grounds maintenance, is a further evolution of the Council's commercial ambitions as set out in the recently adopted Corporate Strategy. There may be some commercial and governance advantages in establishing a group structure to encompass the individual council owned companies, streamlining reporting and strengthening strategic leadership at the same time.
- 4.2 More recently Cabinet approved the establishment of Deliver SK, a joint venture vehicle in partnership with a private sector partner, to bring forward large-scale regeneration and development projects. As this will not be a wholly owned entity of the Council the Shareholder Committee's remit will not extend

to its activities in the same way although appropriate scrutiny arrangements need to be in place to support future decisions of the Cabinet.

4.3 A review of the governance arrangements for each of the Council's companies would provide an opportunity to understand the options available together with the need for any changes to the Council's Constitution.

5. RESOURCES

5.1 Amendments to the budget framework for 2018/19 were made by Council at its meeting in July. A capital budget of £450k was approved to cover the purchase of essential vehicles and equipment. A revenue budget of £40k was approved to cover expenditure on new depot premises prior to cessation of the existing contract. In respect of the £40K, this will be funded from existing service budgets in the first instance and then supplemented by the priorities reserve.

5.2 The Street Care Service operational reserve is being used to fund legal, pensions and commercial advice together with other start-up costs including insurance, purchase of ICT equipment and related systems, consumables, etc.

5.3 A funding agreement will need to be developed to ensure that the company has the necessary funding available to commence operations. Any loans will be at commercial interest rates.

6. OTHER OPTIONS CONSIDERED

6.1 The core grounds maintenance service could be delivered by establishing one company – Environment SK without the need for a separate commercial entity. The advice received to date indicates that the Council would need to be assured that commercial trading levels would not be at risk of exceeding the thresholds set out in procurement regulations. Effectively this could limit the ambition of the company in terms of developing its commercial strategy and competing for new contracts. From the Council's perspective this could limit the opportunities available to derive new revenue streams and therefore its ability to cross subsidise other corporate services or invest in local priorities.

7. RESOURCE IMPLICATIONS

7.1 An internal project team has been established to carry out the wide range of tasks required to enable the smooth transition of the service in March next year. A Project Board consisting of the Cabinet Members for Environment, Growth and Communications and the Assistant Director for Commercial and Operational services is monitoring progress and tracking the delivery of project objectives.

8. RISK AND MITIGATION

8.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Failure to set up the required company structure and operational arrangements in time for transition of the service on the 1 st March 2018	Early decision required to enable the company to be registered.
The structure of the company does not maximise its commercial potential	Advice has been commissioned to design the optimum arrangements as detailed in the report.

9. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

9.1 There are no issues arising.

10. CRIME AND DISORDER IMPLICATIONS

10.1 There are no crime and disorder issues arising from this report.

11. COMMENTS OF FINANCIAL SERVICES

11.1 The financial implications of establishing the company were contained in the report presented to Cabinet on 12 July 2018. The report can be accessed following the links provided at paragraph 15. During the medium term period, the funding and delivery financial model will be developed to fully establish the operational costs of providing the service and the overheads that will be incurred. Any services provided by the Council to the company will be fully charged on a cost recovery basis. Any commercial lending that is undertaken will be structured within the operating framework of the Treasury Management Strategy that has previously been approved by Council.

12. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

12.1 The Council has the power to create a company by virtue of S.1 of the Localism Act 2011 which provides for local authorities to do anything that individuals generally may do. S. 4.2 of that Act confirms that where, in exercise of the general power, a local authority does things for a commercial purpose, and the authority must do them through a company.

12.2 As the current grounds maintenance service is provided through an external contractor, the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply to the proposed provision of the grounds maintenance service through a company wholly owned by the Council. TUPE regulations have the effect that:

- Employees employed by the previous employer when the undertaking changes hands automatically become employees of the new employer on the same terms and conditions. It is as if their contracts of employment had originally been made with the new employer. The employees' continuity of employment is preserved, as are their terms

and conditions of employment under their contracts of employment (except for certain occupational pension rights); and

- Representatives of employees affected have a right to be informed about the transfer. They must also be consulted about any measures which the old or new employer envisages taking concerning affected employees

12.3 Where the Council intends to procure services from another organization, generally this must be done in accordance with the Public Contract Regulations 2015 (2015 Regulations) and the Council's Contract and Procurement Procedure Rules. The 2015 Regulations provide an exemption from the 2015 Regulations where the contracting authority has sufficient control of a separate entity established to provide the service which carries out at least 80% of its activities for the owner authority. The criteria for the application of the exemption should be considered on the formation of the proposed company.

12.4 All limited companies must have articles of association. These set the rules company officers must follow when running their companies. "Model" articles of association are the standard default articles a company can use. They are prescribed by The Companies (Model Articles) Regulations 2008.

13. COMMENTS OF OTHER RELEVANT SERVICES

13.1 This option will provide the flexibility to support the delivery of any future changes in the service specification.

14. APPENDICES

14.1 Appendix 1 - Model Articles of Association for a Company Limited by Shares.

15. BACKGROUND PAPERS

[Report ENV 696 - Report ENV 696 Grounds Maintenance Service – Delivery Model Review](#)

[Report ENV 700 - Report ENV 700 Grounds Maintenance Service – Delivery Model Review](#)

SCHEDULE 1

Regulation 2

MODEL ARTICLES FOR PRIVATE COMPANIES LIMITED BY SHARES

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PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles, unless the context requires otherwise—
“articles” means the company’s articles of association;
“bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
“chairman” has the meaning given in article 12;
“chairman of the meeting” has the meaning given in article 39;
“Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
“director” means a director of the company, and includes any person occupying the position of director, by whatever name called;
“distribution recipient” has the meaning given in article 31;
“document” includes, unless otherwise specified, any document sent or supplied in electronic form;
“electronic form” has the meaning given in section 1168 of the Companies Act 2006;
“fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
“hard copy form” has the meaning given in section 1168 of the Companies Act 2006;
“holder” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
“instrument” means a document in hard copy form;
“ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;
“paid” means paid or credited as paid;
“participate”, in relation to a directors’ meeting, has the meaning given in article 10;

“proxy notice” has the meaning given in article 45;

“shareholder” means a person who is the holder of a share;

“shares” means shares in the company;

“special resolution” has the meaning given in section 283 of the Companies Act 2006;

“subsidiary” has the meaning given in section 1159 of the Companies Act 2006;

“transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and

“writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

Liability of members

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

PART 2

DIRECTORS

DIRECTORS’ POWERS AND RESPONSIBILITIES

Directors’ general authority

3. Subject to the articles, the directors are responsible for the management of the company’s business, for which purpose they may exercise all the powers of the company.

Shareholders’ reserve power

4.—(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.

(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

5.—(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles—

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions;

as they think fit.

- (2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- (3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.—(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7.—(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

- (2) If—
 - (a) the company only has one director, and
 - (b) no provision of the articles requires it to have more than one director, the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Unanimous decisions

8.—(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.
- (3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9.—(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate—

- (a) its proposed date and time;
- (b) where it is to take place; and
- (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

10.—(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—

- (a) the meeting has been called and takes place in accordance with the articles, and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

11.—(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision—

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors' meetings

12.—(1) The directors may appoint a director to chair their meetings.
(2) The person so appointed for the time being is known as the chairman.
(3) The directors may terminate the chairman's appointment at any time.
(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

13.—(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.
(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest

14.—(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
(2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
(3) This paragraph applies when—
(a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
(b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
(c) the director's conflict of interest arises from a permitted cause.
(4) For the purposes of this article, the following are permitted causes—
(a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
(b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
(c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.
(5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
(6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the

meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

(7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

17.—(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—

- (a) by ordinary resolution, or
- (b) by a decision of the directors.

(2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.

(3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances

rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as—

- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become

physically or mentally incapable of acting as a director and may remain so for more than three months;

(e) [paragraph omitted pursuant to *The Mental Health (Discrimination) Act 2013*]

(f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

Directors' remuneration

19.—(1) Directors may undertake any services for the company that the directors decide.

(2) Directors are entitled to such remuneration as the directors determine—

- (a) for their services to the company as directors, and
- (b) for any other service which they undertake for the company.

(3) Subject to the articles, a director's remuneration may—

- (a) take any form, and
- (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.

(4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.

(5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—

- (a) meetings of directors or committees of directors,
- (b) general meetings, or
- (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3

SHARES AND DISTRIBUTIONS

SHARES

All shares to be fully paid up

21.—(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
(2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

22.—(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
(2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

24.—(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
(2) Every certificate must specify—
 (a) in respect of how many shares, of what class, it is issued;
 (b) the nominal value of those shares;
 (c) that the shares are fully paid; and
 (d) any distinguishing numbers assigned to them.
(3) No certificate may be issued in respect of shares of more than one class.
(4) If more than one person holds a share, only one certificate may be issued in respect of it.
(5) Certificates must—
 (a) have affixed to them the company's common seal, or
 (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

25.—(1) If a certificate issued in respect of a shareholder's shares is—
 (a) damaged or defaced, or
 (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
(2) A shareholder exercising the right to be issued with such a replacement certificate—

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

26.—(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

(2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

(3) The company may retain any instrument of transfer which is registered.

(4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

(5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

27.—(1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.

(2) A transmittee who produces such evidence of entitlement to shares as the directors may properly require—

- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
- (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.

(3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transmittees' rights

28.—(1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.

(2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.

(3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

30.—(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.

(2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

(3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.

(4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.

(5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

(6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

(7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

31.—(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means—

- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or

(d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.

(2) In the articles, “the distribution recipient” means, in respect of a share in respect of which a dividend or other sum is payable—

- (a) the holder of the share; or
- (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
- (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—

- (a) the terms on which the share was issued, or
- (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

33.—(1) All dividends or other sums which are—

- (a) payable in respect of shares, and
- (b) unclaimed after having been declared or become payable, may be invested or otherwise made use of by the directors for the benefit of the company until claimed.

(2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

(3) If—

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
- (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

34.—(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

(2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

(c) vesting any assets in trustees.

Waiver of distributions

35. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if—

- (a) the share has more than one holder, or
- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

36.—(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution—

- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
- (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.

(2) Capitalised sums must be applied—

- (a) on behalf of the persons entitled, and
- (b) in the same proportions as a dividend would have been distributed to them.

(3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

(4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.

(5) Subject to the articles the directors may—

- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
- (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and

(c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4

DECISION-MAKING BY SHAREHOLDERS

ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

37.—(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

(2) A person is able to exercise the right to vote at a general meeting when—

- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
- (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

(3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

(4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

(5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

38. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

Chairing general meetings

39.—(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

(2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

- (a) the directors present, or
- (b) (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

(3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

Attendance and speaking by directors and non-shareholders

40.—(1) Directors may attend and speak at general meetings, whether or not they are shareholders.

(2) The chairman of the meeting may permit other persons who are not—
(a) shareholders of the company, or
(b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
to attend and speak at a general meeting.

Adjournment

41.—(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.

(2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if—

(a) the meeting consents to an adjournment, or
(b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

(3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

(4) When adjourning a general meeting, the chairman of the meeting must—
(a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
(b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

(5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—

(a) to the same persons to whom notice of the company's general meetings is required to be given, and
(b) containing the same information which such notice is required to contain.

(6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

Voting: general

42. A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

Errors and disputes

43.—(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid. (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll votes

44.—(1) A poll on a resolution may be demanded—
(a) in advance of the general meeting where it is to be put to the vote, or
(b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
(2) A poll may be demanded by—
(a) the chairman of the meeting;
(b) the directors;
(c) two or more persons having the right to vote on the resolution; or
(d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
(3) A demand for a poll may be withdrawn if—
(a) the poll has not yet been taken, and
(b) the chairman of the meeting consents to the withdrawal.
(4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

45.—(1) Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which—
(a) states the name and address of the shareholder appointing the proxy;
(b) identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;
(c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and

- (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as—
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

46.—(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.

(2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

(3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

(4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Amendments to resolutions

47.—(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—

- (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
- (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.

(2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—

- (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
- (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

(3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5

ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

48.—(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49.—(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is—
(a) any director of the company;
(b) the company secretary (if any); or
(c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

50. Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Provision for employees on cessation of business

51. The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

Indemnity

52.—(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against—

- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article—

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a “relevant director” means any director or former director of the company or an associated company.

Insurance

53.—(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article—

- (a) a “relevant director” means any director or former director of the company or an associated company,
- (b) a “relevant loss” means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.



Report of: Councillor Nick Neilson
Cabinet Member for Housing

Report to:	Cabinet
Date:	4th October 2018
Subject:	Housing Policies (Report number HSG 134)

Decision Proposal:	<i>Key decision</i>
Relevant Cabinet Member:	<i>Councillor Nick Neilson Cabinet Member for Housing</i>
Report author:	<i>Celia Bown Senior Housing Service Improvement Officer c.bown@southkesteven.gov.uk Tel: 01476 406063 Date: 13th September 2018</i>
Reviewed by:	<i>Harrinder Rai Assistant Director – Housing harry.rai@southkesteven.gov.uk Tel: 01476 406299 Date: 13th September 2018</i>
Signed off by:	<i>Paul Thomas Strategic Director for Growth p.thomas@southkesteven.gov.uk Tel: 01476 406375 Date: 14th September 2018</i>
Approved for publication:	<i>Councillor Nick Neilson Cabinet Member for Housing N.Neilson@southkesteven.gov.uk Tel: 01476 406408 Date: 17th September 2018</i>

SUMMARY

The purpose of this report is to recommend for approval the housing policies in the associated appendices.

The housing policies were taken to the Communities and Wellbeing Overview and Scrutiny Committee on the 31st July 2017 (report number HSG133).

Whilst the council has been providing mutual exchange; assignment and succession services referencing any guidance and direction available, there have been no comprehensive policies and procedures. It is good practice and helpful for members of the public and staff to have these policies and procedures in place to be clear on how we implement these functions.

The policies are as follows:

Mutual exchange – one of our Council tenants would like to exchange with another Council tenant or another Registered Provider tenant.

Assignment – when a tenant assigns a tenancy to someone else (most commonly joint tenants to a sole tenant or vice versa in cases of relationship breakdown)

Succession – when a tenant dies and someone succeeds to the tenancy.

RECOMMENDATION

It is recommended that Cabinet approves the Mutual Exchange, Assignment and Succession Policies as appended to report number HSG134.

1. BACKGROUND TO REPORT

- 1.1** The proposed policies and procedures will give greater transparency to members of the public, and greater guidance to staff, on how we implement mutual exchanges; assignments and successions.
- 1.2** As part of the Mutual Exchange policy, an administration charge was proposed for the processing of mutual exchange applications to encourage only genuine applications to be made.
- 1.3** We receive an average of 2 applications per week, equating to approximately 100 per annum. Any charge would contribute to some of the administration costs for providing this service.
- 1.4** The Overview and Scrutiny Committee (OSC) members approved the policies and had debated the administration charge. Members of the OSC were concerned around vulnerable tenants and asked that the charge be applied on a case by case basis. OSC members felt that some tenants may find it difficult to pay the charge, such as those on low incomes or people needing to leave their current home on a non-voluntary basis (eg. people fleeing domestic abuse).

1.5 Following the debate and subsequent recommendation from the OSC, further work was undertaken which concluded that the administration time it would take to assess and process who would be eligible for the charge to be waived, would defeat the purpose of making an administration charge and would yield only a fraction of the projected revenue. Therefore, Cabinet is asked to approve the policies without a charge for Mutual Exchanges.

2. OTHER OPTIONS CONSIDERED

2.1 The original intention of the mutual exchange charge was to apply it to all applicants with the allowance of 'exceptional reasons' to waive it.

3. RESOURCE IMPLICATIONS

3.1 None

4. RISK AND MITIGATION

4.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
None	

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

5.1 None. See Appendix 4

6. CRIME AND DISORDER IMPLICATIONS

6.1 None

7. COMMENTS OF FINANCIAL SERVICES

7.1 No direct implications as the policies will be delivered through existing budgets.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 Subject to the provisions of the Housing Act 1996 (the Act), a housing authority may make such provision for the allocation of housing in such a manner as it considers appropriate. The Act requires that every authority shall have a scheme for determining priorities and the procedure to be followed in allocating housing accommodation. These Policies and Procedures support the Council's Allocation Policy.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None

10. APPENDICES

- Appendix 1 Mutual Exchange Policy and Procedures
- Appendix 2 Assignment Policy and Procedures
- Appendix 3 Succession Policy and Procedures
- Appendix 4 Equality Impact Assessments

11. BACKGROUND PAPERS

Communities and Wellbeing Overview and Scrutiny Committee Report HSG 133

<http://moderngov.southkesteven.gov.uk/ieListDocuments.aspx?CId=628&MId=3633&Ver=4>

South Kesteven District Council

Mutual Exchange Policy

Policy Owner	Harrinder Rai
Authorised by	Cabinet
Service Area	Housing
Date	4 th October 2018
Review date	4 th October 2019
Linked policies	Tenancy Policy Allocations Policy Assignment Policy Succession Policy Repair Policy Fair Collection and Debt Recovery Policy

Contents

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1. PURPOSE

- 1.1 South Kesteven District Council recognises that because our customers' needs change throughout their lives and tenancies, this may result in a need to move homes. Exchanging homes is often the easiest and quickest way to move.
- 1.2 This policy sets out the approach to be taken by South Kesteven District Council in enabling tenants to exchange their tenancy with another tenant. This could be with either: another South Kesteven District Council tenant, another Local Authority tenant or a tenant of another registered provider.

2. POLICY STATEMENT

- 2.1 South Kesteven District Council will maximise the opportunities for mutual exchange. We will meet our obligations under legislation and those set out in tenancy agreements on mutual exchange.
- 2.2 We will participate in national and local mobility/exchange schemes (details are on our website). We will provide tenants with access to these mobility/exchange schemes, where there is value for money for tenants and South Kesteven District Council, to do so.
- 2.3 Tenants can mutually exchange to any part of the UK. However, tenants may be restricted from moving to a property not suited to their housing needs. For example, moving to a property which results in under occupation or overcrowding may be withheld.
- 2.4 We will carry out an electric and gas safety check on all our properties. The electric check will take place prior to a move and we will carry out the gas safety check within 5 working days post the mutual exchange taking place.

3. CONTEXT

- 3.1 South Kesteven District Council's tenants on secure and fixed term tenancies have a legal right to exchange their home (statutorily and through rights given in the tenancy agreement). Introductory tenants have no right in law to mutual exchange. However, South Kesteven District Council, through this policy, will consider exceptional circumstances.
- 3.2 Tenants are not being offered a new tenancy but 'swapping' (assigning by way of exchange) an existing tenancy, regardless of whether it is a secure, assured or fixed term tenancy, except where s.158 of the Localism Act, 2011 applies. Tenants take over the terms and conditions of each other's tenancy and could, for example, be swapping a secure tenancy for a fixed term tenancy.

4. POLICY OUTLINE

4.1 Landlord's Consent

- 4.1.1 The written consent of all applicant's landlords involved with an exchange is required before exchange can take place.
- 4.1.2 If consent is to be withheld, a notice must be served within 42 days of the tenant's application to exchange. The notice must specify the ground for withholding consent and give reasons for it.
- 4.1.3 If the other landlord of a mutual exchange refuses consent and there is reason to believe that the refusal was not reasonable, it is the responsibility of the other tenant, and not South Kesteven District Council or South Kesteven District Council's tenant, to pursue this. This right can be legally enforced only by the tenant against the landlord.

4.2 Tenant's Responsibilities

- 4.2.1 It is the tenant's responsibility to pursue potential exchanges.
- 4.2.2 A tenant needs to discuss the condition they are willing to accept the property in, with the person they are exchanging with, before a move takes place. If tenants are not happy to accept the property in the condition it is in, then the tenants should not agree to move.
- 4.2.3 South Kesteven District Council may potentially refuse to rectify repair works which are accepted by the incoming tenant.

4.3 Implications of assignments of Mutual Exchange

- 4.3.1 Each tenant takes on the terms and conditions of the other party's tenancy.
- 4.3.2 The exchange may result in a change of tenancy type eg. from secure to assured. Consequently tenancy rights will alter, e.g. loss of Right to Buy and a fair rent. We will fully explain the implications prior to any exchange.
- 4.3.3 The incoming tenant cannot be held responsible for liabilities under the tenancy prior to the date of exchange, e.g. rent arrears.
- 4.3.4 The incoming tenant accepts the property in the condition, as per the signed disclaimer.
- 4.3.5 Other than repairs which South Kesteven District Council will carry out (and recharge the outgoing tenant), South Kesteven District Council will not undertake any other work to the property including internal redecoration or cleaning.

4.3.6 Tenants moving by mutual exchange will not qualify to receive decoration vouchers offered by South Kesteven District Council and will be expected to cover their own removal costs.

4.4 Handling Mutual Exchange Applications

4.4.1 We will determine an application to exchange within 42 days (6 weeks) of receipt of the fully completed original application.

4.4.2 Written permission must be obtained from all landlords involved in the mutual exchange before any exchange takes place.

4.4.3 We will not unreasonably refuse consent. Grounds by which a request to exchange is refused or granted conditional consent, are detailed in Appendix 2 and 3. Applicants need to be eligible to go on our housing register.

4.4.4 If South Kesteven District Council tenants are not happy with the way in which their mutual exchange application has been dealt with (rather than the decision, as this is made in accordance with the grounds in appendix 2 and 3) they have the right to make a complaint. Any feedback can be addressed to the Housing Strategy & Needs Team.

4.5 Mutual Exchanges without permission

4.5.1 If tenants exchange without permission from all landlords concerned, the exchange is not legal. The options available to the landlords involved are:

- to confirm the exchange and ask the tenants to complete the paperwork (this option will only be in exceptional circumstances);
- to take action and the tenants return to their original property (if the original property is still available)

4.5.2 Failure to ask for permission to exchange can result in legal action and charges incurred.

4.6 Conditional Consent

4.6.1 Providing the tenant is notified within the statutory 42 days, South Kesteven District Council can attach a condition to any consent. We will notify the tenant of the condition in writing and the timescales for completion.

4.7 Mutual Exchange Withheld

4.7.1 The grounds by which a request to exchange is withheld are detailed in Appendix 2 and 3.

4.8 Waive the right to refuse a Mutual Exchange

4.8.1 South Kesteven District Council will endeavour to work with tenants affected by any extenuating circumstances (considered on a case by case basis) including, but not limited to, welfare reform, including applicants who are under-occupying.

4.8.2 This means that South Kesteven District Council may choose to approve an exchange, even if they have grounds by which they could refuse it, if the exchange is into a South Kesteven District Council property and would:

- improve the tenant's financial situation
- resolve under-occupation
- result in a repayment of arrears outstanding to South Kesteven District Council

4.8.3 If South Kesteven District Council exercises a waiver, this would happen prior to completion of the mutual exchange with approval from a senior officer. If there are rent arrears, there will also be a requirement to repay these through a repayment plan.

4.8.4 Prior to any mutual exchange being finalised, the tenant will need to sign a declaration to demonstrate to South Kesteven District Council that s/he has been formally informed and they understand the requirement to pay the debt. Also, the tenant has been notified that failure to adhere to the terms of repayment of this debt may result in further actions being taken against them.

4.9 Safeguarding

4.9.1 Where an exchange involves a tenant who is considered to be vulnerable, particular care and consideration will be given to ensure there is no coercion, exploitation or safeguarding concerns.

5. ELIGIBILITY

5.1 Secure Tenancies

5.1.1 The Housing Act 1985, s.92 (as amended by the Local Government and Housing Act 1989, s.163) states that every secure tenant may, with the consent of their landlord, assign their tenancy to another secure or assured tenant, who also has the written consent of their landlord and satisfies the conditions under the aforementioned legislation.

5.2 Assured Tenancies

5.2.1 The Local Government and Housing Act 1989, s.163 allowed assured tenants to exchange with secure tenants.

5.2.2 Schedule 3 of the Housing Act, 1985 (refer to Appendix 2) lists the grounds by which a mutual exchange request can be refused in cases where one tenant is a secure or assured tenant.

5.3 Fixed Term Tenancies of 2+ years

5.3.1 The Localism Act 2011 allowed social landlords to grant tenancies for a fixed length of time. Section 158 and section 159 of the Act relate to the transfer of tenancies.

5.3.2 Section 158 of the 2011 Act does not apply in relation to—

- (a) an assured shorthold tenancy for a fixed term of less than two years,
- (b) a periodic assured shorthold tenancy,
- (c) an assured shorthold tenancy where the rent payable under the tenancy is—
 - (i)Affordable Rent;
 - (ii)Intermediate Rent;
 - (iii)Mortgage Rescue rent; or
 - (iv)Shared ownership rent

(and accordingly, the transfer of tenancy provisions in that section do not apply in relation to assured shorthold tenancies of those kinds).

5.3.3 Example of exchange with fixed term tenant: if Tenant A (a secure or assured lifetime tenant, whose tenancy was granted prior to 1 April 2012) and Tenant B (a fixed term tenant) wish to exchange, and consent is given, then Tenant A must be granted another tenancy, which is the same as their original tenancy (secure or assured). This only works once and so will not be possible on subsequent mutual exchanges.

5.3.4 Tenant B is not protected; it is up to the landlord to decide what type of tenancy to offer Tenant B. South Kesteven District Council's position is set out in the Tenancy Policy.

5.3.5 Schedule 14 of the Localism Act 2011 (refer to Appendix 3) lists the grounds by which a mutual exchange request can be refused in cases where one tenant is a fixed term tenant.

5.4 Introductory tenancies

5.4.1 South Kesteven District Council introductory tenants can only exchange in exceptional circumstances. Each tenant's circumstances will be considered on

their own merit. The Assistant Director- Housing will determine cases that are considered exceptional. In order to enable a mutual exchange to take place, both tenants must gain landlord's consent to formally exchange.

5.5 Exchanging with tenants of different tenure

- 5.5.1 The Localism Act 2011, s.158 introduced a protection for secure and assured lifetime tenants, who were granted their tenancy prior to 1 April 2012. This means that if they exchange with another tenant, they keep the same tenure, regardless of the tenure of the other tenant they are exchanging with.
- 5.5.2 Mutual exchanges will take effect by either an assignment of tenancies or by surrender and re-grant of each tenancy, in accordance with the relevant legal and regulatory provision. The appropriate mechanism of exchange is based on tenure types. This is explained in a table (Appendix 4).

6. AFFORDABILITY ASSESSMENT

- 6.1 Applicants must demonstrate that they will be financially able to meet their rent payments. Applicants will be required to go through an assessment to determine their financial status. This will include an income and expenditure check, details of any existing rent arrears, debts and loans, any benefit overpayments, any future restrictions to benefits and any change to the rent.

7. IMPLEMENTATION OF THE POLICY

- 7.1 The effective implementation of this policy and the procedures includes responsibility for ensuring all requests are regularly maintained; relevant aspects of the Council's website in relation to mutual exchange are kept up to date; and all options for a customer to consider are made available to them.
- 7.2 Once a mutual exchange application is made, we will keep in regular contact with applicants and adhere to the customer service standards in the handling of the mutual exchange within the legal timescales (42 days).
- 7.3 We will monitor the effectiveness of the Mutual Exchange Policy and Procedures through annual review.

8. EQUALITY AND DIVERSITY

- 8.1 South Kesteven District Council is committed to delivering quality services to all, responding positively to the needs and expectations of all users to the service. We are dedicated to providing an accessible service for all applicants regardless of factors such as:
 - Age

- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexuality

8.2 Equal Opportunities information will be requested from all applicants. This information will be monitored to ensure we promote equal opportunities, value diversity and tackle social exclusion to enable the availability of the mutual exchange service to all client groups.

9. MONITORING AND REVIEW

- 9.1 South Kesteven District Council is committed to continuous improvement of the services we offer. We will use several methods to monitor performance and customer satisfaction to ensure we continue to assist customers to exchange and that the customers' journey is transparent and efficient.
- 9.2 The review will ensure that South Kesteven District Council is in line with the most up to date Government legislation and meets the needs of our customers.
- 9.3 This policy will be reviewed annually after implementation in order to ensure it is aligned with any legislation changes and remains relevant.

10. APPENDICES

1. Mutual exchange procedures
2. Grounds for withholding consent for a mutual exchange (secure and assured tenancies)
3. Grounds for withholding consent for a mutual exchange (fixed term tenancies)
4. Mechanism of exchange table

DRAFT

Appendix 1 – Procedures

Stage 1 – Making an application to exchange
Stage 2 – Tenancy report and property inspection
Stage 3 – Considering the other parties application, consent, conditional consent or refusal
Stage 4 – Completion

Stage 1 - Making an application to exchange

- 1.1 Once a tenant has identified a suitable person to swap with, and having viewed each other's homes are happy to proceed, they will be able to notify South Kesteven District Council by completion of an application form. This can be completed by visiting the website: www.southkesteven.gov.uk Paper forms are available upon request from Customer Services.
- 1.2 All personal data collected as part of a housing application will be used for the purpose of that application and, in addition, to update our records as per our legal duty under the Data Protection Act (2018).
- 1.3 When a mutual exchange application is received, an officer will register this, provide the applicants with a case reference number and begin to monitor the mutual exchange request.
- 1.4 The applicants will then receive a standard reply informing them what will happen next. The deadline for a decision on your application is 42 days (6 weeks).

Stage 2 - Tenancy Report and Property Inspection

- 2.1 An officer will carry out the necessary checks to ensure there is no reason for the exchange to be refused (please refer to grounds of refusal – Appendix 2 & 3). If there are reasons why an exchange cannot go ahead, South Kesteven District Council will notify the tenant of these reasons in writing.
- 2.2 If the application is to progress, an officer will make arrangements to undertake an inspection of the tenant's property. The purpose of this visit is to check thoroughly for any repairs, poor decorative state and cleanliness; any re-chargeables and check for anti-social behaviour issues (photos will be taken during the home visit to show the property condition). During this visit, an officer will complete a Mutual Exchange Home Visit form. A housing register application form will be completed at the home visit, where relevant. An electric check is also arranged and carried out at this stage.

2.3 If initial checks determine that South Kesteven District Council can proceed with the mutual exchange request, a letter with the home visit form, containing all details relevant to the tenancy, will be sent to the other landlord (if the transfer is not with another South Kesteven District Council tenant). This letter also requests the same information about their tenant in the form of a tenancy reference. The information request includes information about the type of tenancy held, occupants, rental costs and general tenancy management information. All information sent and received will be treated in confidence and in line with data protection legislation. A housing register application form will be sent to any relevant people as part of the mutual exchange, if they are not one of our tenants and not already registered.

Stage 3 – Considering the other parties application, consent, conditional consent or refusal

Considering the Prospective Tenant's Application

3.1 An officer will consider the mutual exchange application in light of the other landlord's tenancy reference. If any items are highlighted which may prevent the exchange, but conditional consent could be given, the officer will list these conditions and insert into a disclaimer prior to an exchange being permitted.

Recommendation

3.2 An officer will make a recommendation to a senior officer at least 5 days before the end of the 42-day period, along with a recommendation. The recommendation will be to either grant consent, give conditional consent, or refuse consent. The senior officer will authorise which action is appropriate.

3.3 Landlords have a duty (under s.92 of the Housing Act , 1985) to inform the tenant within the maximum of 42 days if their mutual exchange application has been granted, conditionally granted or refused.

Consent

3.4 If we grant consent, we will write to all applicants advising them of this. Final consent would only be granted in writing if:

- all paperwork has been returned from the other person's landlord
- all items required as part of a conditional consent are met

Conditional Consent

3.5 If conditional consent is granted, South Kesteven District Council will write to the tenant advising of these conditions. The agreement can be made conditional upon rent arrears being paid/repairs (that are the tenant's responsibility) being rectified, prior to the exchange taking place.

Alternatively, the rent arrears would need to be re-paid as part of a repayment plan and/or, a works order raised regarding any repairs. These conditions would be inserted into a disclaimer prior to approval of the mutual exchange.

Refusal

- 3.6 If South Kesteven District Council is unable to support the application any further due to the information received by the other landlord at this stage, the tenant and their landlord will be informed of this. South Kesteven District Council will also write to our tenant to inform them of our decision.

Stage 4 - Completion

- 4.1 Within 5 working days of the completion date, a safety check and servicing will be organised. The tenant must give access on the arranged dates for checks to take place. South Kesteven District Council reserves the right to recharge the tenant if, on the agreed visit date, the tenant fails to give access to the property and this results in an additional cost in order to arrange a second visit.
- 4.2 An appointment time will be agreed between the tenants and the landlords for the day of completion. The paperwork should be completed on the same day at one of the Council offices (unless in exceptional circumstances it needs to be completed at one of the properties). If the landlord for both properties is South Kesteven District Council, checks will be carried out at both properties before the mutual exchange completion paperwork is signed.
- 4.3 The full sign up procedure is carried out. Dependent upon the tenure of the existing tenants (please refer to the table in Appendix 4), either the existing tenancies are surrendered and a new tenancy is re-granted, or a new tenancy agreement is signed along with the completion of a Deed of Assignment. A month's rent will be payable, in advance, when exchanging.
- 4.4 The officer will confirm that the property is to be accepted as per the signed disclaimer and will explain the differences between the tenancy agreements and the implications.
- 4.5 On completion of an exchange, relevant paperwork will be given to the incoming and outgoing tenants. Any new tenant will be expected to sign a new tenancy agreement. A settling in visit will be arranged by an officer after 6 weeks of a new tenant moving in.

Appendix 2 - Grounds for Withholding Consent for a Mutual Exchange: Secure and Assured Tenancies (Housing Act 1985, s.92, schedule 3)

Ground 1

The tenant or the proposed assignee is subject to an order of the court for the possession of the dwelling-house of which he is the secure tenant.

Ground 2

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in Part I of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 or 83ZA (notice of proceedings for possession) which specifies one or more of those grounds and is still in force.

Ground 2ZA

Proceedings have begun for possession of the dwelling-house, of which the tenant or the proposed assignee is the secure tenant, under section 84A (absolute ground for possession for anti-social behaviour), or there has been served on the tenant or the proposed assignee a notice under section 83ZA (notice requirements in relation to proceedings for possession on absolute ground for anti-social behaviour) which is still in force.

Ground 2A

Either—

- (a) a relevant order (a suspended anti-social behaviour possession order or a suspended riot-related possession order) is in force, or
- (b) an application is pending before any court for a relevant order, a demotion order (an anti-social behaviour possession order or a riot-related possession order) to be made, in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

- an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);
- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);
- an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);
- an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998;
- an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003 (or section 27 of the Police and Justice Act 2006).
- an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014;
- an order under section 22 of that Act.

An “anti-social behaviour possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A “riot-related possession order” means an order for possession under Ground 2ZA in Schedule 2 to this Act or Ground 14ZA in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.

Ground 2B

The dwelling-house is subject to a closure notice or closure order under Chapter 3 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

Ground 3

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

Ground 4

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

Ground 5

The dwelling-house—

(a) forms part of or is within the curtilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and

(b) was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of—

the landlord,

a local authority

a development corporation

a housing action trust

a Mayoral development corporation

an urban development corporation or

the governors of an aided school

Ground 6

The landlord is a charity and the proposed assignee's occupation of the dwelling-house would conflict with the objects of the charity.

Ground 7

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 8

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 9

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

Ground 10

The dwelling-house is the subject of a management agreement under which the manager is a housing association of which at least half the members are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association.

Reference to a management agreement includes a section 247 or 249 arrangement, as defined by section 250A(6) of the Housing and Regeneration Act 2008.

Appendix 3 Grounds for Withholding Consent for a Mutual Exchange: Fixed Term Tenancies (Localism Act 2011, s.158, schedule 14)

Ground 1

This ground is that any rent lawfully due from a tenant under one of the existing tenancies has not been paid.

Ground 2

This ground is that an obligation under one of the existing tenancies has been broken or not performed.

Ground 3

This ground is that any of the relevant tenants is subject to an order of the court for possession of the dwelling-house let on that tenant's existing tenancy.

Ground 4

(1) This ground is that either of the following conditions is met.

(2) The first condition is that—

(a) proceedings have begun for possession of a dwelling-house let on an existing tenancy which is a secure tenancy, and

(b) possession is sought on one or more of grounds 1 to 6 in Part 1 of Schedule 2 to the Housing Act 1985 (grounds on which possession may be ordered despite absence of suitable accommodation).

(3) The second condition is that—

(a) a notice has been served on a relevant tenant under section 83 of that Act (notice of proceedings for possession), and

(b) the notice specifies one or more of those grounds and is still in force.

Ground 5

(1) This ground is that either of the following conditions is met.

(2) The first condition is that—

(a) proceedings have begun for possession of a dwelling-house let on an existing tenancy which is an assured tenancy, and

(b) possession is sought on one or more of the grounds in Part 2 of Schedule 2 to the Housing Act 1988 (grounds on which the court may order possession)

(3) The second condition is that—

(a) a notice has been served on a relevant tenant under section 8 of that Act (notice of proceedings for possession), and

(b) the notice specifies one or more of those grounds and is still in force.

Ground 6

(1) This ground is that either of the following conditions is met.

(2) The first condition is that a relevant order or suspended Ground 2 or 14 possession order is in force in respect of a relevant tenant or a person residing with a relevant tenant.

(3) The second condition is that an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made in respect of a relevant tenant or a person residing with a relevant tenant.

(4) In this paragraph—

a “relevant order” means—

(a) an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour),

(b) an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour),

(c) an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords),

(d) an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998, or

(e) an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003

a "demotion order" means a demotion order under section 82A of the Housing Act 1985 or section 6A of the Housing Act 1988;

a "Ground 2 or 14 possession order" means an order for possession under Ground 2 in Schedule 2 to the Housing Act 1985 or Ground 14 in Schedule 2 to the Housing Act 1988.

Ground 7

This ground is that the accommodation afforded by the dwelling-house proposed to be let on the new tenancy is substantially more extensive than is reasonably required by the existing tenant or tenants to whom the tenancy is proposed to be granted.

Ground 8

This ground is that the extent of the accommodation afforded by the dwelling-house proposed to be let on the new tenancy is not reasonably suitable to the needs of—

- (a)the existing tenant or tenants to whom the tenancy is proposed to be granted, and
- (b)the family of that tenant or those tenants.

Ground 9

(1)This ground is that the dwelling house proposed to be let on the new tenancy meets both of the following conditions.

(2)The first condition is that the dwelling-house—

- (a)forms part of or is within the curtilage of a building that, or so much of it as is held by the landlord—
- (i)is held mainly for purposes other than housing purposes, and
- (ii)consists mainly of accommodation other than housing accommodation, or
- (b)is situated in a cemetery.

(3)The second condition is that the dwelling-house was let to any tenant under the existing tenancy of that dwelling-house, or a predecessor in title of the tenant, in consequence of the tenant or the predecessor being in the employment of—

- (a)the landlord under the tenancy,
- (b)a local authority,
- (c)a development corporation,
- (d)a housing action trust,
- (e)an urban development corporation, or
- (f)the governors of an aided school

Ground 10

This ground is that the landlord is a charity and the occupation of the dwelling-house proposed to be let on the new tenancy by the relevant tenant or tenants to whom the new tenancy is proposed to be granted would conflict with the objects of the charity.

Ground 11

(1)This ground is that both of the following conditions are met.

(2)The first condition is that the dwelling-house proposed to be let on the new tenancy has features that—

- (a)are substantially different from those of ordinary dwelling-houses, and
- (b)are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house.

(3)The second condition is that if the new tenancy were granted there would no longer be such a person residing in the dwelling-house.

Ground 12

- (1) This ground is that both of the following conditions are met.
- (2) The first condition is that the landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to meet their need for housing.
- (3) The second condition is that, if the new tenancy were granted, there would no longer be such a person residing in the dwelling-house proposed to be let on the new tenancy.

Ground 13

- (1) This ground is that all of the following conditions are met.
- (2) The first condition is that the dwelling-house proposed to be let on the new tenancy is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs.
- (3) The second condition is that a social service or special facility is provided in close proximity to the group of dwelling-houses to assist persons with those special needs.
- (4) The third condition is that if the new tenancy were granted there would no longer be a person with those special needs residing in the dwelling-house.

Ground 14

- (1) This ground is that all of the following conditions are met.
- (2) The first condition is that—
 - (a) the dwelling-house proposed to be let on the new tenancy is the subject of a management agreement under which the manager is a housing association, and
 - (b) at least half the members of the association are tenants of dwelling-houses subject to the agreement.
- (3) The second condition is that at least half the tenants of the dwelling-houses are members of the association.
- (4) The third condition is that no relevant tenant to whom the new tenancy is proposed to be granted is, or is willing to become, a member of the association.
- (5) References in this paragraph to a management agreement include a section 247 or 249 arrangement as defined by 250A(6) of the Housing and Regeneration Act 2008.

Appendix 4 Mutual Exchanges and Flexible Tenure

	Full secure (pre 01/04/2012)	Full secure (post 01/04/2012)	Secure flexible (ie fixed term)	Full assured (pre 01/04/2012)	Full assured (post 01/04/2012)	Fixed assured
Full secure (pre 01/04/2012)	Deed of assignment Swap (same) tenure	Deed of assignment (Swap (same) tenure)	Surrender & re-grant Full: retains full tenure Flex: discretionary tenure (i.e. re-grant flex tenure to them or even upgrade to full)*	Deed of assignment Swap tenures	Deed of assignment Swap tenures	Surrender & re-grant Full: retains full tenure Fixed: discretionary tenure (i.e. re-grant existing tenure to them or even upgrade to full)*
Full secure (post 01/04/2012)	Deed of assignment Swap (same) tenure	Deed of assignment Swap (same) tenure	Deed of assignment Swap tenures	Deed of assignment Swap tenures	Deed of assignment Swap tenures	Deed of assignment Swap tenures
Secure flexible (ie fixed term)	Surrender & re- grant Full: retains full tenure Flex: discretionary tenure (i.e. re-grant flex tenure to them or even upgrade to full)*	Deed of assignment Swap tenures	Deed of assignment Swap (same) tenure	Surrender & re- grant Full: retains full tenure Flex: discretionary tenure (i.e. re-grant flex tenure to them or even upgrade to full)*	Deed of assignment Swap tenures	Deed of assignment Swap tenures

* NB: In the event this Council grants fixed term tenancies, the remaining term of the fixed term tenancy is irrelevant. This is because the surrender ends the pre-existing tenancy. A re-grant of the full term may occur.

In all the above circumstances, the tenant will be required to sign a new tenancy agreement as good practice to ensure they understand their obligations arising from the tenancy.

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South Kesteven District Council

Assignment Policy & Procedures

Policy Owner	Harrinder Rai
Authorised by	Cabinet
Service Area	Housing
Date	4th October 2018
Review date	4th October 2019
Linked policies	Tenancy Policy Mutual Exchange Policy Succession Policy Allocations Policy

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1. INTRODUCTION

1.1 An assignment is where a tenancy is legally transferred to another person during his/her lifetime. The incoming tenant (the 'assignee') occupies the property under the same terms as the previous tenant (the 'assignor') and becomes the tenant, with the same rights and responsibilities of the assignor. It can transfer from an existing Council tenant to a new tenant or between existing Council tenants.

2. FORMS OF ASSIGNMENT

2.1 The following types of assignment will be considered:

- General Assignment, which is usually assignment to a potential successor (further details in the Succession Policy).
- An assignment by way of a mutual exchange with another South Kesteven District Council tenant or another Local Authority tenant or other Registered Provider tenant (further details in the Mutual Exchange Policy).
- By a court order following a relationship or matrimonial breakdown or orders relating to children. For example, a County Court Property Adjustment Order where an instruction is given by the courts to assign the tenancy from one parent to the other.

2.2 South Kesteven District Council may not consent to the assignment of a secure tenancy in the following circumstances:

- Where an introductory tenancy is in place;
- The assignor is not intending to live in the property permanently or as his/her main principal home;
- There are arrears of rent of at least 8 weeks or other breaches of tenancy and legal action has been taken to avoid the breach continuing, this can include letters before Court action;
- The assignee has former tenancy arrears;
- The tenancy is subject to Court action being taken by South Kesteven District Council and/or there is an Injunction Order or Possession Order in force.

- If the property is not suitable for the needs of the assignor (including, but not limited to, the size of the property if it caused overcrowding or under-occupation, or their disability needs, as recommended by an Occupational Therapist) ; or
- The property is specially adapted and the adaptations are not required by the proposed new tenant or a member of their household.

2.3 Reference will be made to the tenancy agreement in all cases where a request for an assignment is received. Different agreements give tenants different rights with regard to assignments.

2.4 The Assistant Director-Housing will consider any discretionary succession cases for determination.

3 MARRIAGE AND CIVIL PARTNERSHIPS

3.1 If a tenant changes his or her name, there is no assignment. The tenant will simply be required to provide evidence of this name change with the original marriage/civil partnership certificate or a certified copy of such. The tenant's name will be changed on the rent account and a note will be made and attached to the tenancy agreement of the change of name and the date on which it came into effect.

3.2 There is no statutory provision for the assignment of a sole to joint-tenancy assignment. However, South Kesteven District Council will recognise the desire of an existing tenant to make such a request and will not reasonably refuse it, if we are satisfied that:

- The existing tenant, free from coercion or duress, agrees to the request, and
- The existing tenant and his/her spouse or civil partner have lived together at the property for not less than 12 consecutive months prior to the date of the request, and the existing tenancy is not subject to an order for possession of the property, or no other steps have been taken against the existing tenant with regard to an alleged breach of tenancy and
- The potential assignee can fully satisfy the requirements under Part VI of the Housing Act 1996.

4 RELATIONSHIP BREAKDOWN

4.1 South Kesteven District Council acknowledges there will be times when relationships breakdown and we will offer appropriate housing advice to tenants and/or spouse/partners.

- 4.2 This policy applies equally to circumstances with married and cohabiting couples; households with and without children; and all joint tenancies with varying circumstances such as family relationships and friends.
- 4.3 In any joint tenancy, if an agreement is reached over housing arrangements following a relationship breakdown, the tenancy may be assigned into a sole tenancy (see 6.1 of this policy). If the property is suitable for the needs of the family household, South Kesteven District Council will always aim to ensure the tenancy is assigned to the sole tenancy of the parent / guardian who will have main care and responsibility of any children, or other dependants or where the Court directs by way of a Court Order. Under these circumstances, South Kesteven District Council will provide suitable advice to the departing tenant.
- 4.4 In the event of a relationship breakdown and the tenancy is in a sole name, South Kesteven District Council recognises the right of the named tenant to remain at the property. Advice will be given to the departing person to find alternative accommodation.

5 PROPERTY ADJUSTMENT ORDERS (COURT ORDERED ASSIGNMENT)

- 5.1 The Matrimonial and Family Proceedings Act 1984 (as amended); and the Matrimonial Causes Act 1973 (as amended) both state that a Property Adjustment Order can be made when the Court:
 - Makes a decree nullifying a marriage
 - Makes a decree of judicial separation
 - Makes a decree of divorceThe Courts can also make Orders for cohabiting couples and civil partners.
- 5.2 The Courts can order an actual transfer of the property under the Family Law Act 1996 (as amended) / Childrens and Families Act 2014, which can also allow for the transfer of any liabilities such as rent arrears, etc. In addition, under the Children Act 1989, the Court can make Orders in favour of children under 18, and allows a property to be assigned from one parent to another.
- 5.3 In a joint tenancy, South Kesteven District Council is not able to arbitrate between two partners who are unable to reach an agreement in a relationship breakdown. In these circumstances, both partners will be informed to seek separate independent legal advice from a family and/or housing solicitor or specialist advisor with a view to seeking to make such an Order. South Kesteven District Council will abide by any Property Adjustment Order made by the Court.

6 ASSIGNING A JOINT TENANCY TO A SOLE TENANCY

- 6.1 South Kesteven District Council do not give a contractual right on a standard joint tenancy (each request to assign will be dealt with on a case by case basis) for a joint tenancy to be assigned to a sole tenant. Where both joint tenants have reached an agreement for a joint tenancy to be assigned to one of the existing tenants, South Kesteven District Council will consider a written request. We will not unreasonably refuse such requests, as long as there are no breaches of tenancy and this does not contravene South Kesteven's Allocations Policy.
- 6.2 If a tenant is in breach of the secure tenancy, South Kesteven District Council may reasonably refuse or withhold its permission to the request until the breach is resolved. In some circumstances, South Kesteven District Council may permit the assignment under the following circumstances:
 - The tenancy is not subject to a possession / money judgment/debt relief order, and/or;
 - The remaining tenant assumes full signed responsibility for the liability of the tenancy breach (with the exception of rent arrears) and/or;
 - Any decision is subject to a full property inspection and both parties agree to facilitate access for these purposes.
- 6.3 South Kesteven District Council will not transfer any outstanding arrears or debt to the tenant assigning to the tenancy. Any agreement reached between the joint tenants to address the breach/arrears is an informal agreement between themselves, which is not recognised by South Kesteven District Council, for the purposes of reaching a decision on the request to assign. Any outstanding rent will remain the liability of the joint tenants.
- 6.4 The only exception to this is if it is evident that the breach is deemed to be the sole responsibility of one party and it would not be reasonable to penalise the other party for the breach.
- 6.5 If this breach includes a possession order and/or a money adjustment order, it will remain the responsibility of both joint tenants to satisfactorily resolve this matter by addressing the breach and seeking to have any Orders discharged in the County Court.
- 6.6 An assignment right would be exercised when assigning a joint tenancy to a sole tenancy. In circumstances where one party to the joint tenancy is absent from the property, then the emphasis will be on the remaining party to seek a Property Adjustment Order via the County Courts.

7 ASSIGNING A SOLE TENANCY TO A JOINT TENANCY

- 7.1 South Kesteven District Council will consider a request for assignment from sole to joint tenancy for tenants and their spouse/civil partner.
- 7.2 South Kesteven District Council will use our discretion on deciding if consent will be given to a generational or intergenerational assignment of sole to joint tenancy.
 - Generational (assignment between tenant & brother; sister; cousin or non- relation).
 - Intergenerational (assignment between tenant with daughter; son; niece; nephew or grandchildren)

8 ASSIGNING A SOLE TENANCY TO SOLE TENANCY

- 8.1 South Kesteven District Council will consider a request for assignment from sole to sole tenancy for tenants and their spouse/civil partner.
- 8.2 South Kesteven District Council will use our discretion on deciding if consent will be given to a generational or intergenerational assignment of sole to sole tenancy.
 - Generational (assignment between tenant & brother; sister; cousin or non- relation).
 - Intergenerational (assignment between tenant with daughter; son; niece; nephew or grandchildren)

9 EQUALITY AND DIVERSITY

- 9.1 South Kesteven District Council is committed to delivering quality services to all, responding positively to the needs and expectations of all users to the service. We are dedicated to providing an accessible service for all applicants regardless of factors such as:
 - Age
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexuality

9.2 Equal Opportunities information will be requested from all applicants. This information will be monitored to ensure assignments are accessible to all client groups, that we promote equal opportunities, value diversity and tackle social exclusion.

10. MONITORING AND REVIEW

10.1 South Kesteven District Council is committed to continuous improvement of the services we offer. We will use several methods to monitor performance and customer satisfaction to ensure we continue to assist customers to exchange and that the customers' journey is transparent and efficient.

10.2 The review will ensure that South Kesteven District Council is in line with the most up to date Government legislation and meets the needs of our customers.

10.3 This policy will be reviewed annually after implementation in order to ensure it is aligned with any legislation changes and remains relevant.

11. APPENDIX 1 - PROCEDURES

1 Applying for assignment

- 1.1 Potential assignees will be interviewed and asked for details to confirm their claim to assignment. An officer will check that the person making the request has a legal right to assign. The potential 'assignee' will be invited to an interview and an 'Assignment of Tenancy Request and Approval Form' will be completed at the interview and scanned to the property file.
- 1.2 All personal data collected as part of a housing application will be used for the purpose of that application and, in addition, to update our records as per our legal duty under the Data Protection Act 2018).
- 1.3 The following information is required:
 - photo ID
 - proof of residency, e.g. bank statements, utility bills, etc.
 - proof of income
 - any other documents which the interviewer will advise on

2 Assignment application decision

- 2.1 If the application is approved, the assignee will need to sign a document to show agreement and understanding they must comply with the terms of the tenancy agreement. An officer will explain the tenancy agreement to the assignee so they understand their rights and responsibilities and vice versa in an interview.
- 2.2 Deeds of assignment will be sent to the new tenant for their signature. If the assignee needs to claim welfare benefits, they will need to be signposted to the Department for Work and Pensions (DWP).
- 2.3 Where assignment is refused, a refusal letter will be sent to the applicant giving full reasons.

3 Rent arrears on the account

- 3.1 Joint tenants - if there are rent arrears outstanding at the time of assignment, both tenants will remain responsible for the debt outstanding.
- 3.2 Sole tenants – the assignor will remain liable for any outstanding rent arrears accumulated whilst they were a tenant. However, discretion may be exercised, dependent upon the tenant's circumstances.

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South Kesteven District Council

Succession Policy & Procedures

Policy Owner	Harrinder Rai
Authorised by	Cabinet
Service Area	Housing
Date	4th October 2018
Review date	4th October 2019
Linked policies	Mutual Exchange Policy Assignment Policy Allocations Policy Tenancy Policy

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1 INTRODUCTION

- 1.1 When a Council tenant dies it may be possible for a joint tenant, husband/wife/civil partner, or other family member to take over the tenancy – this is known as a succession. The rights of tenants to succeed to a secure tenancy are laid down in section 87 of the Housing Act 1985.
- 1.2 The Localism Act 2011 (s.160) limits who can succeed to a tenancy unless a landlord specifically permits succession to others as part of its tenancy agreement. The changes made by the Localism Act are not retrospective and can only take effect for new tenancies created after April 1st 2012.

2 THE RIGHT TO SUCCEED – ALL SECURE TENANCIES

- 2.1 There can only be one succession to a secure tenancy, so if the deceased tenant was a successor to the tenancy, there are no further succession rights in law. However, the Council does have discretion on this, as set out in the 'Discretionary Successions' section below (section 4).
- 2.2 Certain conditions must be met to allow a succession to take place. These are: the deceased tenant must have been using the property as their only home before their death. The person wishing to succeed to the tenancy must be a spouse/civil partner or a member of the family.
- 2.3 A successor fulfilling the requirements set out in Section 160 of the Localism Act 2011 to succeed automatically becomes the tenant and therefore succeeds to all the responsibilities, liabilities and duties of the tenancy including the obligation to pay the ongoing rent and the service charges.
- 2.4 Where more than one family member has succession rights, it is expected that the family will decide who should succeed to the tenancy. Where they are unable to agree, the Council will make the decision based on the criteria in section 4 of this document.
- 2.5 The successor succeeds to the tenancy, not the property. A successor who is the joint tenant, spouse or civil partner of the deceased may be requested to move to a different property if it is more suitable. Full reasons will be given in these circumstances. A suitable property will be offered instead.
- 2.6 Deciding whether a successor should be asked to move will be made by the Council on a case by case basis. A decision to ask a successor to move will usually (but is not restricted to) be because:
 - a property will be under occupied by the successor by more than one bedroom;
 - the property is designated for older people;
 - the property is adapted for a person with a disability.

2.7 The following factors will also be considered in making the decision:

- whether a suitable alternative property is available;
- whether the successor meets the requirement for an older persons or adapted property;
- whether the successor has a health or disability concern which would make a move to an alternative property undesirable and have an adverse impact on their health.

2.8 Where a succession is granted, but the successor is required to move to more suitable accommodation, the successor will be given additional priority on the Council's housing register to assist them to move quickly. Two suitable offers will be made, which if refused and it is considered to be an unreasonable refusal, this will result in a notice to commence eviction proceedings if the tenant will not move.

2.9 The target for a decision to be made on an application is 6 weeks from the date of the request.

3 THE RIGHT TO SUCCEED – WHO QUALIFIES

3.1 Tenancies signed up on or before 31st March 2012:

3.1.1 These rights apply to people who were signed up for an introductory tenancy, or whose introductory tenancy was converted to a secure tenancy before 31st March 2012.

3.1.2 Where a tenant dies the legal title to the tenancy can pass to a successor in the following order of priority:

1. A joint tenant (Survivorship);
2. The tenants spouse or civil partner, if they were living in the property at the time of the tenant's death;
3. The tenants common law partner, parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew or niece, including step, adoptive or half-blood relations who are 18 years of age or over (or 16 and 17 year olds to be considered on a case by case basis) and have resided at the property for at least 12 months prior to the date of death and remains there at the time of death.

3.1.3 A tenant whose tenancy agreement began before 31st March 2012, who later transfers to another property owned by South Kesteven District Council under a secure tenancy, will keep their original succession rights as set out above.

3.1.4 Mutual exchange tenants will not keep succession rights to the original tenancy.

3.2 Tenancies signed up on or after 1st April 2012:

3.2.1 Where a tenant dies the legal title to the tenancy passes to a successor in the following order of priority:

1. A joint tenant (Survivorship);
2. The tenant's spouse or civil partner. In this case a cohabitee is considered to have the same status as a spouse or civil partner.

4 DISCRETIONARY SUCCESSIONS

4.1 For tenancies which started on or after the 1st April 2012, the Council may, at its own discretion, consider a request to grant a discretionary succession to a tenancy. Discretionary succession rights apply to: child, brother, sister (including step or adoptive) who have resided at the property for at least 12 months prior to the date of death and remains there at the time of death.

4.2 The Council will consider each case on its own merit, but key factors in deciding whether to grant a discretionary succession may include, but will not be limited to, the following:

- The length of time the applicant has shared the former tenant's home.
- The vulnerability and needs of the applicant.
- The housing needs and housing rights to any other accommodation of the applicant and any relevant child.
- The financial resources of the applicant.
- The likely effect of any decision by the Council not to exercise its powers on the health, safety, or well-being of the parties and of any relevant child.
- The nature of the applicant's relationship to the deceased.
- The suitability of the applicants as tenants.
- The demand for housing in the area the property is in.
- Whether granting of a discretionary tenancy would be the best use of the Council's stock.

4.3 The Assistant Director-Housing will consider any discretionary succession cases for determination.

5 WHERE NO SUCCESSION IS PERMITTED

5.1 Where a tenant has died, and there are other people still resident in the property who are not entitled to succeed to the tenancy, the Council will:

- Investigate whether the occupant is eligible under homelessness legislation to be re-housed. If this is the case, the Council will allow a reasonable amount of time for an offer of a suitable property to be made.

If the offer of a suitable property is unreasonably refused, the Council may serve notice to commence eviction proceedings.

- Give appropriate advice and assistance to the occupant to find suitable alternative accommodation. This will include, but is not restricted to, liaison with private landlords. After 28 days, the Council will serve notice to commence eviction proceedings in order that the property can return into the Council's housing stock. If there are personal representatives of the deceased tenant, a copy of the notice to quit will also be served upon the Public Trustee and/or the personal representatives.

5.2 Whilst a succession application is being considered and the occupant is still resident in the property, the Council will grant a 'Use and Occupation' licence to allow the Council to collect income from the property. This licence does not constitute a tenancy and this will be made clear to the occupant.

6 IMPLEMENTATION OF THE POLICY

- 6.1 We will ensure the implementation of this policy and the procedure is effective. We will do this by ensuring that once a succession application is made, we keep in regular contact with applicants and adhere to the customer service standards in the handling of the application.
- 6.2 We will also monitor the effectiveness of the Successions Policy and Procedures through regular review and updating of caseload activity.

7. EQUALITY AND DIVERSITY

- 7.1 South Kesteven District Council is committed to delivering quality services to all, responding positively to the needs and expectations of all users to the service. We are dedicated to providing an accessible service for all applicants regardless of factors such as:
 - Age
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexuality
- 7.2 Equal Opportunities information will be requested from all applicants. This information will be monitored to ensure successions are accessible to all

client groups, that we promote equal opportunities, value diversity and tackle social exclusion.

8. IMPLEMENTATION AND REVIEW

- 8.1 South Kesteven District Council is committed to continuous improvement of the services we offer. We will use several methods to monitor performance and customer satisfaction to ensure we continue to assist customers and that the customers' journey is transparent and efficient.
- 8.2 The review will ensure that South Kesteven District Council is in line with the most up to date Government legislation and meets the needs of our customers.
- 8.3 This policy will be reviewed annually after implementation in order to ensure it is aligned with any legislation changes and remains relevant.

9. APPENDICES

Succession procedures

APPENDIX 1 - PROCEDURES

In all cases when the Council is notified that a tenant has died and that there may be succession, they will treat the spouse or family member sympathetically.

1 Applying for succession

- 1.1 Potential successors will be asked for details to confirm their claim to succession. An officer will check that the person making the request has a legal right to succeed. A 'Succession to Tenancy Request and Approval Form' and affordability assessment form needs to be completed.
- 1.2 All personal data collected as part of a housing application will be used for the purpose of that application and, in addition, to update our records as per our legal duty under the Data Protection Act (2018).
- 1.3 The following information is required to succeed:
 - photo ID
 - proof of residency, e.g. bank statements, utility bills, etc. These should show that the person has been living in the property for at least one year up to the date of death (the burden of proof is on the applicant to prove at least one year occupation)
 - death certificate
 - proof of priority over other possible successors eg. marriage certificate
- 1.4 A 'Use and Occupation' licence will be issued to the succession applicant, whilst an application is being considered.

2 Succession application decision

- 2.1 In making the decision of who is eligible to succeed to a tenancy, the officer must disregard any previous successions/survivorship in the case of a joint tenant. Succession is only permitted once, except in the case of a joint tenant where the joint tenant survives the tenancy upon every death.
- 2.2 If the application for succession is approved, the successor will need to sign a new tenancy agreement. An officer will explain the tenancy agreement to the successor so they understand their rights and responsibilities and vice versa in an interview and they will be asked to sign to show that they fully understand the terms of the tenancy agreement.

- 2.3 A letter approving the succession and a 'form of assignment' will be sent to the new tenant. If the successor needs to claim welfare benefits, they will need to be signposted to the Department for Work and Pensions (DWP).
- 2.4 Where succession is refused, a refusal letter will be sent to the applicant giving the reason why.
- 2.5 The target for a decision to be made on an application is 6 weeks from the date the notification is received.

3 Rent arrears on a deceased account

- 3.1 If there are rent arrears outstanding and the tenancy was a joint tenancy at the time of death, the remaining tenant will be wholly responsible for the debt outstanding. In the case of a surviving joint tenant, they will be liable for the whole of the outstanding rent arrears.
- 3.2 If the successor was not a joint tenant, then any other successors would need to clear any outstanding arrears, from the deceased's estate. However, discretion may be exercised, dependent upon the deceased's and successor's circumstances.
- 3.3 Legal action can be taken against the deceased tenant's estate to recover the debt. A decision will be made as to whether or not arrears on the account at the time of death will be written off or not and reasons will be given.

4 Moves to alternative accommodation

- 4.1 Where it is decided to request that the successor moves to a different property, a direct offer needs to be made to the successor. If the successor refuses the offer and it is considered to be a reasonable offer, the Council must start legal proceedings by serving a notice no earlier than 6 months and no later than 12 months after the death of the tenant is known. If there are personal representatives of the deceased tenant, a copy of the notice will also be served upon the Public Trustee and/or the personal representatives.

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South Kesteven District Council

Equality Impact (Initial Analysis)

Mutual Exchange Policy and Procedures

Service Area:	Lead officer: Harrinder Rai	Date of Meeting
Housing	Assessors: Celia Bown	16.05.2018
	Neutral Assessor: Carol Drury	

1. Name and description of policy/service/function/strategy

Mutual Exchange Policy and Procedures.

This policy sets out the approach to be taken by South Kesteven District Council in enabling tenants to exchange their tenancy with another tenant. This could be with either: another South Kesteven District Council tenant, another Local Authority tenant or a tenant of another registered provider.

Is this a new or existing policy?

New

2. Complete the table below, considering whether the proposed policy/service/function/strategy could have any potential positive, or negative impacts on groups from any of the protected characteristics (or diversity strands) listed, using demographic data, user surveys, local consultations evaluation forms, comments and complaints etc.

Equality Group	Does this policy/service/function/strategy have a positive or negative impact on any of the equality groups? Please state which for each group	Please describe why the impact is positive or negative. If you consider this policy etc is not relevant to a specific characteristic please explain why
Age	Positive	This policy allows people to move home, as their household changes. This is often in the case of older people who would like to downsize when they no longer have other family living in the property
Disability	Positive	This policy has taken into account homes which have been adapted for disabled people. This is because it only allows (on the whole) for people to move into an adapted home, if those household members need the adaptations.
Race	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Gender Reassignment	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.

Religion or Belief	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Sex	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Sexual Orientation	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Pregnancy and Maternity	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Marriage and Civil Partnership	Neutral	This protected characteristic would not be a determinant in the implementation of this policy.
Carers	Neutral	This would not be a determinant in the implementation of this policy.
Other Groups (e.g. those from deprived (IMD*) communities; those from rural communities, those with an offending past) *(IMD = Indices of multiple deprivation)	Neutral	This would not be a determinant in the implementation of this policy.
General comments	This policy also allows for tenants who are affected by welfare reform changes and have built up rent arrears as a consequence in, for example, cases of under-occupying to move to a smaller property, where possible.	

3. **What equality data/information did you use to inform the outcomes of the proposed policy/service/function/strategy? (Note any relevant consultation who took part and key findings)**

Demographic data

If there are any gaps in the consultation/monitoring data, how will this be addressed?

N/A

4. **Outcomes of analysis and recommendations (please note you will be required to provide evidence to support the recommendations made): Please check one of the options.**

a)	No major change needed: equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken	<input checked="" type="checkbox"/>
<i>If you have checked option a) you can now send this form to the Lead Officer and your Neutral Assessor for sign off</i>		
b)	Adjust the proposal to remove barriers identified by equality analysis or to better promote equality.	<input type="checkbox"/>
<i>If you have checked option b) you will need to answer questions b.1 and b.2</i>		
c)	Adverse impact but continue	<input type="checkbox"/>
<i>If you have checked option c) you will need to answer questions c.1</i>		
d	Stop and remove the policy/function/service/strategy as equality analysis has shown actual or potential unlawful	<input type="checkbox"/>

b.1 **In brief, what changes are you planning to make to your proposed policy/service/function/strategy to minimise or eliminate the negative equality impacts?**

b.2 **Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision.**

If you have checked option b) you will need to complete a Stage 2 equality analysis

c.1 Please provide an explanation in the box below that clearly sets out your justification for continuing with the proposed policy/function/service/strategy.

If you have checked option c) you will need to complete a Stage 2 equality analysis. You should consider in stage 2 whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.

Signed (Lead Officer): Harrinder Rai
(*Name and title*) Assistant Director - Housing

Date completed: 16.05.2018

Signed (Neutral Assessor): Carol Drury
(*Name and title*) Community Engagement and Policy Development Officer

Date signed off: 30th May 2018

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South Kesteven District Council

Equality Impact (Initial Analysis)

Assignment Policy and Procedures Succession Policy and Procedures

Service Area:	Lead officer: Harrinder Rai	Date of Meeting
Housing	Assessors: Celia Bown	16.05.2018
	Neutral Assessor: Carol Drury	

1. Name and description of policy/service/function/strategy

Assignment Policy and Procedures

An assignment is where a tenancy is legally transferred to another person.

Succession Policy and Procedures

A succession is when a Council tenant dies and the joint tenant, husband/wife/civil partner, or other family member takes over the tenancy.

Is this a new or existing policy?

New

2. Complete the table below, considering whether the proposed policy/service/function/strategy could have any potential positive, or negative impacts on groups from any of the protected characteristics (or diversity strands) listed, using demographic data, user surveys, local consultations evaluation forms, comments and complaints etc.

Equality Group	Does this policy/service/function/strategy have a positive or negative impact on any of the equality groups? Please state which for each group	Please describe why the impact is positive or negative. If you consider this policy etc is not relevant to a specific characteristic please explain why
Age	Positive	The succession policy allows for people who are 16 or 17 years of age (in some cases) to remain in their family home.
Disability	Positive	These policies have taken into account homes which have been adapted for disabled people. This is because they only allow (on the whole) for people to move into an adapted home, if those household members need the adaptations.
Race	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Gender Reassignment	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.

Religion or Belief	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Sex	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Sexual Orientation	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Pregnancy and Maternity	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Marriage and Civil Partnership	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Carers	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
Other Groups (e.g. those from deprived (IMD*) communities; those from rural communities, those with an offending past) *(IMD = Indices of multiple deprivation)	Neutral	This protected characteristic would not be a determinant in the implementation of these policies.
General comments		

3. **What equality data/information did you use to inform the outcomes of the proposed policy/service/function/strategy? (Note any relevant consultation who took part and key findings)**

Demographic data

If there are any gaps in the consultation/monitoring data, how will this be addressed?

N/A

4. **Outcomes of analysis and recommendations (please note you will be required to provide evidence to support the recommendations made): Please check one of the options.**

a)	No major change needed: equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken	<input checked="" type="checkbox"/>
<i>If you have checked option a) you can now send this form to the Lead Officer and your Neutral Assessor for sign off</i>		
b)	Adjust the proposal to remove barriers identified by equality analysis or to better promote equality.	<input type="checkbox"/>
<i>If you have checked option b) you will need to answer questions b.1 and b.2</i>		
c)	Adverse impact but continue	<input type="checkbox"/>
<i>If you have checked option c) you will need to answer questions c.1</i>		
d	Stop and remove the policy/function/service/strategy as equality analysis has shown actual or potential unlawful	<input type="checkbox"/>

b.1 **In brief, what changes are you planning to make to your proposed policy/service/function/strategy to minimise or eliminate the negative equality impacts?**

b.2 **Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision.**

If you have checked option b) you will need to complete a Stage 2 equality analysis

c.1 Please provide an explanation in the box below that clearly sets out your justification for continuing with the proposed policy/function/service/strategy.

If you have checked option c) you will need to complete a Stage 2 equality analysis. You should consider in stage 2 whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.

Signed (Lead Officer):
(Name and title)

Harrinder Rai
Assistant Director - Housing

Date completed: 16.05.2018

Signed (Neutral Assessor):
(Name and title)

Carol Drury
Community Engagement and Policy Development Officer

Date signed off: 30th May 2018

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Cabinet

Report of: Councillor Dr Peter Moseley
Cabinet Member for Environment

Report to:	Cabinet
Date:	4th October 2018
Subject:	Report ENV 702 Health and Safety General Policy

Decision Proposal:	Key Decision
Relevant Cabinet Member:	Councillor Dr Peter Moseley Cabinet Member for Environment
Report author:	Keith Rowe – Head of Street Scene Tel: 01476 406370 E-mail: k.rowe@southkesteven.gov.uk Date: 11 th September 2018
Reviewed by:	Ian Yates – Assistant Director, Commercial and Operational Tel: 01476 406201 E-mail: i.yates@southkesteven.gov.uk Date: 13 th September 2018
Signed off by:	Aidan Rave – Chief Executive Tel: 01476 406100 E-mail: aidan.rave@southkesteven.gov.uk Date: 20 th September 2018
Approved for publication	Councillor Dr Peter Moseley, Cabinet Member for Environment Date: 20 th September 2018

SUMMARY

South Kesteven District Council's Corporate Strategy sets out the Authority's vision to serve the best interests of its residents. Our Health and Safety General Policy underpins this by setting out our commitment to delivering high standards of health and safety. This report presents the policy for approval.

RECOMMENDATION

That Cabinet approves and fully endorses its commitment to the Council's Health and Safety General Policy Statement.

1. BACKGROUND TO REPORT

- 1.1 The Council's Governance and Audit Committee has responsibility for the overview of the Council's health and safety arrangements. The Committee receives an annual report which sets out the management arrangements and details the organisation's retrospective health and safety performance. Key performance data including accident rates are reported along with areas identified for improvement.
- 1.2 The Health and Safety at Work Act 1974 sets out the minimum requirements against which the Council has to deliver. The purpose of this report is to demonstrate our commitment to delivering against those requirements through the approval of an organisation-wide Health and Safety General Policy Statement.

Values and Behaviours

- 1.3 Delivery of the Council's Corporate Strategy is underpinned by good health and safety arrangements. Our values and behaviours are key to delivering a good health and safety culture, which is an enabler for delivery. Avoiding accidents is good business for all. Accountability is a key building block in the delivery of a good culture. Everyone, regardless of level within the organisation, will need to be responsible for what they do and this includes doing it safely.
- 1.4 Responsibility for approving the General Policy Statement and for ensuring necessary resources are available to implement its requirements sit with Cabinet. Accountability for delivering the Policy Statement sits overall with the Council's Chief Executive. Cabinet and the Chief Executive are, in turn, supported by the Senior Team (ST). Once approved the intention is that all members of the Senior Team will sign up to delivering the Statement.
- 1.5 The Health and Safety General Policy Statement (appendix 1) sets out the Authority's commitment and is itself reinforced by a broad range of supporting policies and guides. These form the Council's health and safety handbook which every member of staff is asked to read and acknowledge as to their own individual responsibilities. The areas covered by the supporting handbook are detailed in appendix 2.

2. OPTIONS CONSIDERED

- 2.1 The requirements of the Health and Safety at Work Act 1974 underpin the requirement to have in place appropriate policies. No other options have therefore been considered.

3. RESOURCE IMPLICATIONS

3.1 The Authority has provided the resources as part of its requirements to deliver the Health and Safety General Policy Statement. It is an integral part of the roles and responsibilities of all employees and the corporate health and safety support team provides advice and guidance.

4. RISK AND MITIGATION

4.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
The approval of a health and safety policy is a legal requirement and the Council would be in breach of legislation if not approved.	Cabinet report demonstrates compliance with legislation and commitment to high levels of health and safety
Without an overriding policy the underpinning arrangements may not be effective.	The health and safety general policy is supported by a comprehensive range of supporting arrangements and guidance documents.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

5.1 Health and safety considerations are required to protect all employees and elected members of this Council. In implementing this Policy, officers will need to be mindful of the need to make reasonable adjustments in order to meet the requirements of individuals with disabilities and literacy issues. Individual risk assessments and safe systems of work should take into account any impacts associated with identified needs.

6. CRIME AND DISORDER IMPLICATIONS

6.1 None.

7. COMMENTS OF FINANCIAL SERVICES

7.1 The financial implications of the management and the implementation of any reasonable adjustments to ensure the necessary policy compliance will be met from existing budgetary allocations.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 Management of Health and Safety at Work Regulations 1999 (Regulation 5) identifies that:

Health and safety arrangements

5.—(1) Every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) Where the employer employs five or more employees, he shall record the arrangements referred to in paragraph (1).

This policy has been produced to underpin those arrangements.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None.

10. APPENDICES

10.1 Appendix 1 Health and Safety General Policy Statement
Appendix 2 Health and Safety Policy Handbook content list

11. BACKGROUND PAPERS

11.1 None.

Appendix 1

SOUTH KESTEVEN DISTRICT COUNCIL HEALTH AND SAFETY

General Policy Statement

South Kesteven District Council recognises and accepts its responsibilities under the Health and Safety at Work Act 1974 and gives its full commitment to doing everything reasonably practicable to protect the safety, health and welfare of all its employees and other persons whose health and safety may be affected by the Council's activities. The Council will take reasonable steps to ensure that its contractors and partners in service provision conduct their activities in a manner that is safe and without risk to health.

Values and Behaviours

High standards of health and safety are an integral part of our organisation's vision, values and performance standards. We are committed to the continuous improvement of our health and safety systems, building a positive health and safety culture for the benefit of our employees, customers and the efficiency of our service delivery.

Policy

It is the policy of the Council, in so far as it is reasonably practicable:

- To provide and maintain equipment and systems of work that are safe and without risks to health.
- To ensure safety and the absence of risks to health in connection with the use, handling, storage and transport of materials, equipment and substances.
- To provide a competent source of health and safety advice to managers and to supply such information, instruction, training and supervision as is necessary to provide for the health and safety at work of its employees.
- To maintain all places of work under the Council's control, including means of access and egress, in a condition that is safe and without risk to health
- To provide appropriate facilities for welfare.
- To provide for the identification and assessment of health and safety risks and to eliminate or control those risks.
- To comply with the statutory requirements as a minimum standard of health, safety and welfare of employees at work and any other persons affected by our actions.
- To ensure that the roles of managers towards health, safety and welfare are defined with responsibilities clearly assigned and communicated.
- To ensure that its employees are aware that they have a duty to work safely and to co-operate in all matters that affect their health and safety at work.

The Council recognises the link between efficiency, safety and health and aims to minimise the costs, losses and disruption which arise from work related accidents, ill health and dangerous occurrences.

Consulting and working in partnership with its employees on health and safety matters is important in creating and maintaining a safe working environment. In acknowledgement of this, the Council will work collaboratively with employees at all

levels to ensure understanding and ownership of health and safety requirements. It will maintain suitable arrangements for joint discussion and employee involvement.

The Council will provide the necessary resources to implement this policy. Procedures and systems will be maintained to monitor health and safety performance with all necessary feedback provided to Members, managers and staff representatives in order to manage the effective implementation of this policy.

Implementation

Managers are responsible for ensuring that the Council's Health and Safety Policy and applicable corporate and local health and safety arrangements are implemented in their areas of responsibility. This includes communicating the requirements with all team members whether directly or indirectly employed by the Council. The specific responsibilities are detailed within the Health and Safety arrangements.

Appendix 2

The Council's Health and Safety General Policy Statement is supported by a more detailed Health and Safety Handbook.

The contents of the Handbook are as follows:

1. The General Policy Statement
2. Duties and responsibilities
3. Performance
4. Consultation
5. Training and supervision
6. Risk assessments
7. First Aid
8. Accident and Incident Reporting
9. Fire and evacuation procedures
10. Housekeeping
11. Slips, Trips and Falls
12. Smoking Policy
13. Work Equipment
14. Display Screen Equipment (DSE)
15. Driving and Workplace Transport
16. Contractors and Sub-contractors
17. Hazardous Substances
18. Asbestos
19. Legionella
20. Personal Protective Equipment (PPE)
21. Manual Handling
22. The Manual Handling
23. Unacceptable Behaviour
24. Lone Working
25. Work Related Stress
26. Working Time
27. Health, Work and Wellbeing
28. Employee Acknowledgment

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**Report of: Councillor Helen Goral
Cabinet Member for Growth and Communications**

Report to:	Cabinet
Date:	4th October 2018
Subject:	ACEX007 – SKDC Survey of Residents 2018

Decision Proposal:	For Information
Relevant Cabinet Member:	Councillor Helen Goral Cabinet Member for Growth and Communications
Report author:	Deborah Wyles – Consultation Officer - Communications & Consultation 01476 406502 d.wyles@southkesteven.gov.uk Date: 11 September 2018
Reviewed by:	Fiona Truman – Team Leader, Communications and Consultation 01476 406440 f.truman@southkesteven.gov.uk Date: 12 September 2018
Signed off by:	Lee Sirdifield – Assistant Chief Executive 01476 406524 l.sirdifield@southkesteven.gov.uk Date: 13 September 2018
Approved for publication	Councillor Helen Goral Cabinet Member for Growth and Communications Date: 18 September 2018

SUMMARY

This report provides Cabinet with an update on the results of the Resident Survey which was undertaken in May 2018. Just under 4,000 local people, selected at random from the Open Electoral Register, were contacted and 1,466 responses were received – a response rate of 37%. This allows the Council to be confident statistically that the views collected are representative of the district as a whole.

There was strong support for the priorities that have been identified by the Council, with the percentage of respondents identifying them as being either very or quite important ranging from 74.4% for “providing homes” through to 97.9% choosing either very or quite important for “improving our surroundings”.

When asked if there was anything else that was important, respondents identified a number of common themes. The top five (predominantly the responsibility of Lincolnshire County Council) were road repairs and potholes, grass verges, street lights and having the appropriate infrastructure in place before allowing development.

Respondents were asked how satisfied they were with a wide range of services including planning, arts and leisure centres, markets, toilets, refuse collection and recycling. The percentage of respondents satisfied varied. 70.8% of respondents were satisfied with recycling and 77.4% were satisfied with refuse collection.

The percentage of respondents using council services within the last six months also varied - ranging from 10.3% for housing services up to 81.7% for car parks.

To ensure that the views of all stakeholders were taken into account and had been reflected in the responses, the demographic characteristics of respondents were compared to the most up to date census information available. The sample was representative in terms of gender, but those under the age of 35 were under-represented.

An analysis of postcode sector revealed responses had been received from across the district, thereby ensuring that views had been received from both rural and urban areas.

RECOMMENDATION

Cabinet is asked to note the contents of the report and make the following recommendations:

- (i) To undertake benchmarking with other local authorities who have followed a similar approach via the Local Government Association (LGA), so the council can gauge its performance against that of other local authorities.
- (ii) To provide information on the services that are provided by the District and County Councils and communicate these to our residents.
- (iii) To consider the rates of satisfaction across different council services in order to investigate where improvements to satisfaction can be made.
- (iv) To suggest that the relevant Overview and Scrutiny Committees seek to undertake a more detailed analysis of any areas of concern and make recommendations back to Cabinet.

1. BACKGROUND TO REPORT

1.1 The overall purpose of the consultation was to ensure that local people were given an opportunity to feedback and comment on the services provided by the Council and the priorities that have been identified.

1.2 To ensure that the consultation achieved its objectives, a scoping exercise was undertaken which set out the objectives, timescale, methodology, outcomes and deliverables for this project. The objectives of the consultation were identified as:

- To find out what people who live in this area think of the area where they live
- To establish what they think of the Council and how it runs things
- To understand how important the priorities (identified by the Council as being the areas it wants to focus on) are to local people
- To measure satisfaction with some of the core services it provides
- To measure the usage of the core services we provide (as level of usage may well have an impact on levels of satisfaction)
- To establish a baseline against which progress can be measured

1.3 Both the methodology and the content of this survey were determined in part by the desire to be able to benchmark with other authorities using data collated by the Local Government Association (LGA)¹, to understand how important the priorities set by the administration were to local people and also to measure satisfaction with, and usage of, some of the key services provided by the Council.

1.4 The approach and content were approved by the Cabinet Member for Growth and Communications. The consultation was open for 3 weeks from 10 May 2018 to 31 May 2018.

1.5 Just under 4,000 local people (selected at random from the Open Electoral Register) were contacted by post with an introductory letter, a printed copy of the survey and a pre-paid envelope. To make it as easy as possible to participate, residents were given a choice – they could either go on line and fill in the survey, or complete the printed copy and return it using the pre-paid envelope provided.

1.6 To ensure that anyone else who wanted to take part was able to, the survey was also promoted via social media and through traditional media channels

¹ Are you being served? Benchmarking resident satisfaction data: question set and guidance from the Local Government Association (LGA). The guidance contains a number of resident satisfaction questions that councils have to use, along with some that they can use, and the methodologies that should be followed if the council wants to be able to benchmark its results against those of other local authorities.

with articles promoting the chance to participate in both the Stamford Mercury and the Grantham Journal on 11 and 18 May 2018 respectively.

1.7 1,466 responses were received – a response rate of 37%. Of these, 503 (34.3%) were completed via the web link, with 963 (65.7%) respondents submitting a printed copy.

1.8 To ensure that the sample was statistically representative of the population as a whole, the Council needed 1100 responses – a response rate of 27.8%. This target was achieved.

Summary of results

1.9 The first three questions on the survey were included to ensure that the council would be able to benchmark against other authorities should it wish to. This is a prerequisite of the guidance issued by the LGA. These questions were designed to gauge what respondents think of their local area and Council and included the following question:

- Overall, how satisfied or dissatisfied are you with your local area as a place to live?

1.10 Over three quarters of local people (77.4%) were satisfied with their local area as a place to live.

The Council's priorities

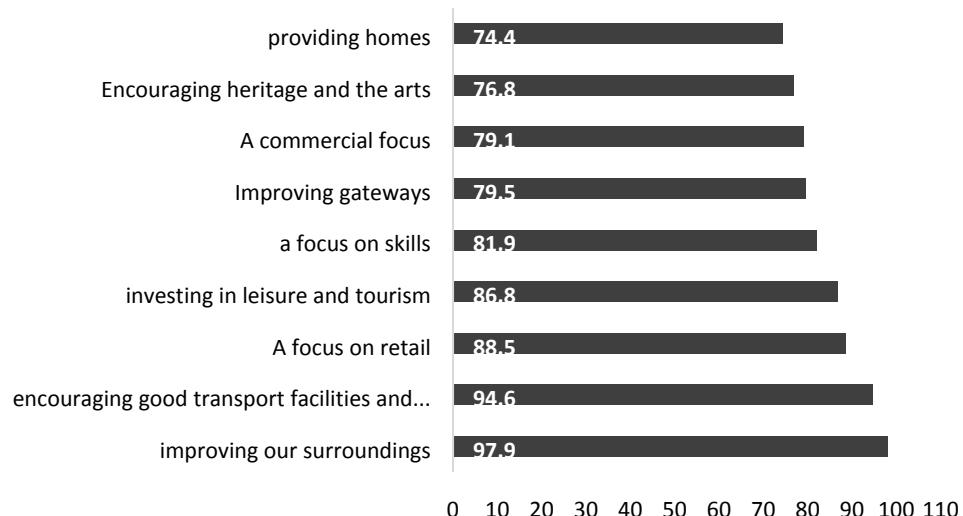
1.11 The Council was keen to understand how important the priorities they have chosen were to local people. Question 7 outlined the Council's main areas of focus and asked respondents how important each of them are to them. The areas were:

- A commercial focus
- Encouraging heritage and the arts
- Investing in leisure and tourism
- A focus on retail
- Improving our surroundings
- Providing homes
- Encouraging good transport facilities and connections
- A focus on skills
- Improving gateways

1.12 There was strong support for the priorities that have been identified by the Council, with the percentage of respondents identifying them as being either very or quite important ranging from 74.4% for “providing homes” through to 97.9% choosing either very or quite important for “improving our surroundings”. This is illustrated in ascending order in Figure 1 overleaf and

shows how important keeping the district's streets clean and the work undertaken as part of the "Big Clean" initiative is to respondents:

Figure 1: The percentage of respondents who thought priorities were either very or quite important.



1.13 When asked if there was anything else that was important to them, there were a number of common themes. The top five (predominantly the responsibility of Lincolnshire County Council) were road repairs and potholes, grass verges, street lights and having the appropriate infrastructure in place before allowing development. These are illustrated in the word cloud shown in Figure 2.

Figure 2: Residents Priorities



1.14 The feedback received from residents, relating to services provided by Lincolnshire County Council, will be passed onto them so that they are aware of the issues that have been highlighted by respondents.

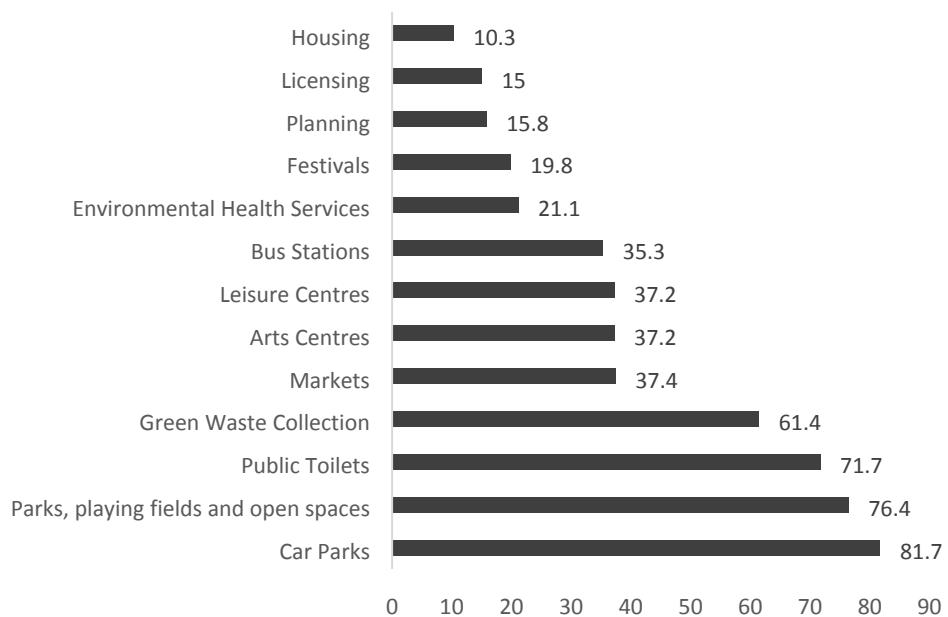
Satisfaction with and usage of council services

1.15 To be able to measure the impact of the improvements that are planned by the Council, focus was given to how satisfied or dissatisfied local people were with some of the core services provided. Respondents were asked about a wide range of services including planning, arts and leisure centres, markets, toilets, refuse collection and recycling.

1.16 The percentage of respondents satisfied with the council's services varied. 70.8% of respondents were satisfied with recycling. Over three quarters (77.4%) were satisfied with refuse collection. Nearly half of respondents (48.9%) were dissatisfied with public toilets, with around 40% stating that they were dissatisfied with car parks. Further work needs to be undertaken to understand why this is the case and if it is a local or a national issue. Benchmarking with other local authorities (via the LGA) should help with this by providing additional context.

1.17 Respondents were then asked to state how frequently, if at all, they had used the following services. Usage (someone who had used the service in the last six months) varied widely ranging from 10.3% for housing services up to 81.7% for car parks as shown in Figure 3.

Figure 3: The percentage of respondents who have used the service in the last six months



Demographic Information

1.18 To ensure that the views of all stakeholders were taken into account and had been reflected in the responses, the demographic characteristics of respondents were compared to the most up to date census information available. The sample was representative in terms of gender, but those under the age of 35 were under-represented.

1.19 13.2% considered themselves to have a disability in accordance with the definition contained within the Equality Act 2010. According to the Department of Work and Pensions (DWP) Family Resources Survey 2015² the percentage of people nationwide who consider themselves disabled is around 21% of the population. Disability is therefore under-represented in this sample, as are respondents from a black or minority ethnic background.

1.20 An analysis of postcode sector revealed responses had been received from across the district, thereby ensuring that views had been received from both rural and urban areas.

² Please click here to view survey

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600465/family-resources-survey-2015-16.pdf

1.21 Respondents were then given an opportunity to raise any particular issues they might have, and if they wanted a response to their enquiry, there was a space for them to provide their contact details.

Conclusion

1.22 This consultation has fulfilled the objectives which were set out at the start of the process. The Council now know what local people think of the area where they live and that there is strong support within the local community for the priorities that have been identified.

1.23 The Council has a clear measure of satisfaction for some of the core services provided, and a good idea of where things are working well along with an indication of areas where improvements are needed. This feedback will enable the Council to measure its progress going forward and ensure that what it does makes a positive difference to local communities.

1.24 Given the response rate, the Council can be confident statistically that the views it has received are representative of the area as a whole, and as such can be used to inform and shape the decisions made going forward.

1.25 Following the methodology set out by the LGA will also enable the Council to benchmark against other authorities. This task, along with responding to the issues that have been raised by respondents, is being undertaken currently.

2. OTHER OPTIONS CONSIDERED

2.1 No other options were considered.

3. RESOURCE IMPLICATIONS

3.1 No additional resource implications have been identified.

4. RISK AND MITIGATION

4.1 No risks have been identified. As such no mitigation is required.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

5.1 No issues have been identified from the impact analysis.

6. CRIME AND DISORDER IMPLICATIONS

6.1 No crime and disorder implications have been identified.

7. COMMENTS OF FINANCIAL SERVICES

7.1 The feedback and views of the residents of the district are of assistance to the Cabinet as it prepares and develops its spending proposals for the forthcoming financial year. It provides valuable information with respect to the services the Council provides in terms of satisfaction and relative importance.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 By virtue of regulation 110 of the Representation of People Regulations 2001, the Electoral Registration Officer is obliged to sell a copy of the open register of electors to anybody for use for any purpose on payment of a fee.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None

10. APPENDICES

10.1 None

11. BACKGROUND PAPERS

11.1 A copy of the letter sent to those selected to participate.

11.2 A copy of the survey sent to those selected to participate.

11.3 A copy of the results in tabular format.

[LINK TO THE ABOVE DOCUMENTS](#)

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Report of: Councillor Matthew Lee
The Leader of the Council

Report to:	Cabinet
Date:	4 October 2018
Subject:	Matters referred to Cabinet by the Council or Overview and Scrutiny Committees since 6 September 2018 (LDS316)

Decision Proposal:	Report for information
Relevant Cabinet Member:	Councillor Matthew Lee, the Leader of the Council
Report author:	Jo Toomey, Principal Democracy Officer Tel: 01476 40 61 52 E-mail: j.toomey@southkesteven.gov.uk Date: 12 September 2018
Reviewed by:	Margaret Welton, Senior Research and Support Assistant Tel: 01476 406415 Email: margaret.welton@southkesteven.gov.uk Date: 20 September 2018
Signed off by:	Lucy Youles, Solicitor to the Council Tel: 01476 40 61 05 E-mail: l.youles@southkesteven.gov.uk Date: 20 September 2018
Approved for publication	Councillor Matthew Lee, the Leader of the Council Date: 20 September 2018

SUMMARY

This report highlights any matters referred to the Cabinet by the Council or by the Council's Overview and Scrutiny Committees since the Cabinet's last meeting on 6 September 2018, as set out in Appendix A.

RECOMMENDATION

It is recommended that the Cabinet notes the contents of the report and the matters referred to in Appendix A.

1. BACKGROUND TO REPORT

Council:

1.1 Any matters referred by Council to the Cabinet at the last meeting of Council are contained in Appendix A.

Overview and Scrutiny Committees:

1.2 The Council operates the Executive decision-making arrangements as set out in the Local Government Act 2000, which means it is required to have at least one scrutiny committee in place. The Council currently has five Overview and Scrutiny Committees. They meet regularly (and may hold additional meetings as necessary) to discuss items within their remit.

1.3 Any recommendations made, or an overview of the topics discussed, by the Council's Overview and Scrutiny Committees since the last meeting of Cabinet are contained in Appendix A.

1.4 Where an Overview and Scrutiny Committee has met after the publication of this Cabinet agenda, any outstanding recommendations to the Cabinet will be provided in an addendum to the Cabinet meeting or a synopsis provided with the agenda for the next Cabinet meeting depending on the timing of the Overview and Scrutiny Committee meeting.

2. OTHER OPTIONS CONSIDERED

2.1 This report is a standing item on the agenda for meetings of the Cabinet. No other options were considered.

3. RESOURCE IMPLICATIONS

3.1 There are no resource implications arising from this report.

4. RISK AND MITIGATION

4.1 Risk has been considered as part of this report and no specific high risks were identified in its production.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

5.1 This report draws together any matters referred to the Cabinet from Council and the recommendations that have been made by all of the Council's Overview and Scrutiny Committees. Where appropriate, impact analysis is

carried out as part of the development process and presented to Cabinet when it receives the final reports.

6. CRIME AND DISORDER IMPLICATIONS

6.1 None.

7. COMMENTS OF FINANCIAL SERVICES

7.1 There are no financial comments arising from this report.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 This report offers the Cabinet an opportunity to consider matters which have been raised by other Members at meetings of the Council and committees that operate within the executive function of the Council.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None

10. APPENDICES

- Appendix A: Matters referred from Council (Part 1) and Overview and Scrutiny Committees (Part 2)

11. BACKGROUND PAPERS

11.1 None

MATTERS REFERRED FROM COUNCIL AND OVERVIEW AND SCRUTINY COMMITTEES

Part 1: Matters referred from Council

There are no matters referred by Council to Cabinet on this occasion.

Part 2: Matters referred from Overview and Scrutiny Committees

Communities and Wellbeing Overview and Scrutiny Committee

There are no matters referred by the Communities and Wellbeing Overview and Scrutiny to Cabinet on this occasion.

Culture and Visitor Economy Overview and Scrutiny Committee

Date of Meeting: 13 September 2018

Chairman of Meeting: Councillor Linda Wootten

The items discussed at that meeting and referred to Cabinet are summarised below.

Arts and Cultural Strategy

Considerations

- The Committee received a verbal update from the Head of Arts
- Outcomes from a discussion with the Leader (Cabinet Member for Cultural Services)
- Discussions with colleagues
- The number of significant events taking place over the next few months
- Online questionnaire

Outcomes

- To continue with wider engagement with strategic partners and colleagues in arts and heritage organisations
- To defer going out to public consultation to early 2019
- Members will also be invited to a series of workshops and events
- The Cultural Strategy to include a more considered approach to sport
- The online questionnaire would be made available to the public

Recommendations

The Cultural and Visitor Economy Overview and Scrutiny Committee recommend to Cabinet that engagement with strategic partners and organisations continues and to defer public consultation to early 2019.

Gravity Fields

Considerations

- Members were shown the short promotion video
- Members received two presentations that provided an overview of events infrastructure and star attractions
- Press and media coverage
- Ticket availability and charges
- The potential for events in all of the towns and possible impact on current events
- Funding for the event

Outcomes

- All secondary schools in Grantham had been engaged with
- The potential for economic benefits for the District and local businesses
- Gravity Fields has now become a national event

Recommendations

The Cultural and Visitor Economy Overview and Scrutiny Committee notes the update.

Environment Overview and Scrutiny Committee

Date of Meeting: 11 September 2018

Chairman of Meeting: Councillor Mike Exton

The items discussed at that meeting and referred to Cabinet are summarised below.

Taxi Licensing and the Equality Act 2010

Considerations

- Report number CSL131 of the Cabinet Member for Environment
- Provisions within the Equality Act 2010
- There were six vehicles within the district that would be designated should the Council choose to adopt the legislation
- Comments of the Licensing Committee

Recommendations

The Environment Overview and Scrutiny Committee recommend to Cabinet the implementation of the provisions of section 165, 166 and 167 of the Equality Act 2010 and that the draft policy as set out at Appendix E to report CSL131 is adopted and included in the Hackney Carriage and Private Hire Licensing Policy.

Link to relevant papers:

- Report CSL131
<http://moderngov.southkesteven.gov.uk/documents/s21162/CSL131%20taxi%20disability%20access%20-FINAL.pdf>
- Report CSL131, Appendix A
<http://moderngov.southkesteven.gov.uk/documents/s21163/APPENDIX%20A.pdf>
- Report CSL131, Appendix B
<http://moderngov.southkesteven.gov.uk/documents/s21164/APPENDIX%20B.pdf>
- Report CSL131, Appendix C
<http://moderngov.southkesteven.gov.uk/documents/s21165/APPENDIX%20C.pdf>
- Report CSL131, Appendix D
<http://moderngov.southkesteven.gov.uk/documents/s21166/APPENDIX%20D.pdf>
- Report CSL131, Appendix E
<http://moderngov.southkesteven.gov.uk/documents/s21167/APPENDIX%20E.pdf>

Food Inspections

Considerations

- Presentation by the Food Health and Safety Officer on the work carried out by the Environmental Health Commercial Team
- In South Kesteven there were over 1300 registered food businesses
- The food hygiene rating scheme was a partnership scheme between the local authority and the Food Standards Agency
- 99% businesses within South Kesteven were broadly compliant with scores between 3 and 5; businesses were scored in line with national guidance
- The number of inspections carried out depended on the potential risk to public health

Outcomes

- None

Recommendations

- None

Food Waste Trial Update

Considerations

- Update on the scheme provided by the Cabinet Member for Environment
- While there was insufficient data to share with the Committee on the scheme overall, it was noted that the trial had seen reduced contamination with recycling streams
- Following the conclusion of the trial period, discussions with the disposal authority would be required

Outcomes

- That, at its next meeting, the Committee receive a presentation on recycling which highlighted the challenges faced with the recycling process
- That a visit to the Materials Recycling Facility be arranged

Recommendations

- None

Growth Overview and Scrutiny Committee

There are no matters referred by Council to Cabinet on this occasion.

Rural Overview and Scrutiny Committee

Date of Meeting: 19 September 2018

Chairman of Meeting: Councillor Bob Sampson

The items discussed at that meeting and referred to Cabinet are summarised below.

Armed Forces Officer Presentation

Considerations

- The Committee received a presentation that outlined the wide area of work being undertaken by the Armed Forces Liaison Officer
- Reference was made to the Armed Forces Covenant and pledges
- Ways of engaging with veterans and army families
- Access to NHS appointments, housing and education for personnel and families
- Discount scheme with local and national businesses
- Support available for defence personnel and families and veterans in rural areas
- Support has a double impact, supports the personnel and families as well as local businesses
- Long serving civilians on camps eligibility for a discount scheme

Outcomes

- Discussions to be undertaken by InvestSK with local businesses and Chamber of Commerce regarding widening the discount schemes to other towns/areas
- Engagement with support organisations such as RAFA and SSAFA
- Identifying the “hidden” veterans
- Design of a military survey
- Award schemes for businesses
- Interaction with other Liaison Officers in neighbouring areas in the Midlands

Recommendations

The Rural Overview and Scrutiny Committee recommended that:

- This could be a potential item for a future All Councillor Briefing
- The Committee receives an update on progress before the end of the municipal year

Broadband Connectivity Update

Considerations

- Information provided by Broadband Delivery UK (BDUK) at the November 2017 meeting
- Delivery methods of broadband
- Phases, 2, 3 and potentially 4
- Future Government Funding
- Issues relating to reception
- The provision of access to broadband in respect of future developments

Outcomes

- Wait until the Government announce whether further funding will be available after Phase 3
- Mapping of “not-spots” and issues arising from being a rural district
- Monitor further updates from BDUK in respect of rollout plans

Recommendations

After consideration of the report and subsequent discussions, the Rural Overview and Scrutiny Committee recommend that:

1. Further updates of the rollout plans are obtained from BDUK (Broadband Delivery UK), and
2. That the rollout plans from DBUK are considered by the Committee prior to consideration being given to alternative broadband solutions.

Link to relevant papers:

- ACEX005

<http://moderngov.southkesteven.gov.uk/documents/s21348/ACEX005%20-%20Broadband%20in%20South%20Kesteven.pdf>

Rural Engagement Vehicle

Considerations

- Responsibility of the deployment of the trailer
- Proposals to visit the 16 largest villages
- How visiting the largest villages would help engaging with smaller rural villages
- Staffing, costs and charging
- Arrangements for booking the trailer
- Available dates
- Events for deployment
- Advertising the trailer
- Engagement with parish councils

Outcomes

- The Committee would monitor the usage of the trailer
- Categories of deployment

Recommendations

- None

Tackling loneliness and social exclusion

Considerations

- Engagement with people who may be isolated
- The causes of isolation, loneliness and social exclusion
- Interaction with organisations and partners
- Consideration of a workshop to include organisations currently involved with this area of work
- Nationally, the 65 population in Lincolnshire was expected to exceed the national average by 2039 rising to 30%
- The challenges on public services
- Social exclusion did not just apply to rural areas but also occurred in towns

Outcomes

- A joint Workshop with Communities and Wellbeing OSC to include an invitation to appropriate partners and organisations

Recommendations

The Rural Overview and Scrutiny Committee recommended that a joint workshop be arranged with the Communities and Wellbeing Overview and Scrutiny Committee and that appropriate organisations are invited in order to consider ways of addressing loneliness and social exclusions.

Link to relevant papers:

- Report ACEX006
<http://moderngov.southkesteven.gov.uk/documents/s21349/ACEX006%20-%20Tackling%20Loneliness%20and%20Social%20Exclusion.pdf>



Report of: Councillor Matthew Lee
The Leader of the Council

Report to:	Cabinet
Date:	4 October 2018
Subject:	Decisions taken by individual Cabinet Members (LDS317)

Decision Proposal:	Report for information
Relevant Cabinet Member:	Councillor Matthew Lee, the Leader of the Council
Report author:	Jo Toomey, Principal Democracy Officer Tel: 01476 40 61 52 E-mail: j.toomey@southkesteven.gov.uk Date: 14 September 2018
Reviewed by:	Margaret Welton, Senior Research and Support Assistant Tel: 01476 40 64 15 E-mail: margaret.welton@southkesteven.gov.uk Date: 19 September 2018
Signed off by:	Lucy Youles, Solicitor to the Council Tel: 01476 40 61 05 E-mail: l.youles@southkesteven.gov.uk Date: 19 September 2018
Approved for publication	Councillor Matthew Lee, the Leader of the Council Date: 19 September 2018

SUMMARY

This report informs Cabinet that no decisions have been taken by individual Cabinet Members since the last meeting of the Cabinet on 6 September 2018.

RECOMMENDATION

It is recommended that the Cabinet notes that prior to the publication of the agenda for Cabinet on 4 October 2018 no decisions have been taken by individual Cabinet Members since the last meeting of the Cabinet was held on 6 September 2018.

1. BACKGROUND TO REPORT

- 1.1 Under the strong Leader model of governance the Leader can allocate decision-making power to the Cabinet and individual Cabinet Members. Decisions of the Cabinet will be made during Cabinet meetings while individual Cabinet Members may make decisions at any time in accordance with the relevant regulations.
- 1.2 Those decisions made by individual Cabinet Members are included within the agenda papers at the next available Cabinet meeting to bring them to the attention of Members.

2. OTHER OPTIONS CONSIDERED

- 2.1 This report is a standing item on the agenda for meetings of the Cabinet. No other options were considered.

3. RESOURCE IMPLICATIONS

- 3.1 There are no resource implications arising from this report.

4. RISK AND MITIGATION

- 4.1 Risk has been considered as part of this report and no specific high risks were identified in the production of this report.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

- 5.1 This report provides an overview of decisions that have been made. Where appropriate impact analysis will have been undertaken on the reports on which decisions are based.

6. CRIME AND DISORDER IMPLICATIONS

- 6.1 None

7. COMMENTS OF FINANCIAL SERVICES

- 7.1 There are no financial comments arising from this report.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

- 8.1 The provisions relating to the Cabinet, its Members and delegations by the Leader are as set out at Article 8 of the Constitution. The Strong Leader and Cabinet model to carry out executive functions was adopted by the Council in

accordance with the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Regeneration and Construction Act 2009.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None

10. APPENDICES

10.1 None

11. BACKGROUND PAPERS

11.1 None; relevant background papers are listed on the report for each decision.

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Report of: Councillor Matthew Lee
The Leader of the Council

Report to:	Cabinet
Date:	4 October 2018
Subject:	Representations received from non-Cabinet Members (LDS318)

Decision Proposal:	Report for information
Relevant Cabinet Member:	Councillor Matthew Lee, the Leader of the Council
Report author:	Jo Toomey, Principal Democracy Officer Tel: 01476 40 61 52 E-mail: j.toomey@southkesteven.gov.uk Date: 6 September 2018
Reviewed by:	Margaret Welton, Senior Research and Support Assistant Tel: 01476 40 64 15 E-mail: margaret.welton@southkesteven.gov.uk Date: 19 September 2018
Signed off by:	Lucy Youles, Solicitor to the Council Tel: 01476 40 61 05 E-mail: l.youles@southkesteven.gov.uk Date: 19 September 2018
Approved for publication	Councillor Matthew Lee, the Leader of the Council Date: 19 September 2018

SUMMARY

This report highlights any representations received from non-Cabinet Members since the Cabinet met on 6 September 2018.

RECOMMENDATION

1. The Cabinet notes that prior to the publication of this agenda no representations had been received from non-Cabinet Members since the last meeting of the Cabinet held on 66 September 2018.
2. The Cabinet considers any representations received from non-Cabinet Members following publication of the agenda for this meeting.

1. BACKGROUND TO REPORT

- 1.1 The Council's Constitution provides a facility for Councillors who are not Cabinet Members to make representations to the Cabinet. While it is not necessary for these Councillors to give notice that they intend to make a representation to the Cabinet, notice may be given as a courtesy. When notice has been given, details will be captured in this report.
- 1.2 Members will be updated on any representations received following the publication of the agenda and prior to the Cabinet's meeting through an update report.

2. OTHER OPTIONS CONSIDERED

- 2.1 This report has been introduced as a standing item on the agenda for meetings of the Cabinet. No other options were considered.

3. RESOURCE IMPLICATIONS

- 3.1 There are no resource implications arising from this report.

4. RISK AND MITIGATION

- 4.1 Risk has been considered as part of this report and no specific high risks were identified in its production.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

- 5.1 No analysis has been completed. This report captures requests made by non-Cabinet Members to make representations.

6. CRIME AND DISORDER IMPLICATIONS

- 6.1 None.

7. COMMENTS OF FINANCIAL SERVICES

- 7.1 There are no financial comments arising from this report.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 The agenda for Cabinet meetings provides an opportunity for Councillors who are not Cabinet Members to make representations to the Cabinet. There is no requirement for any Member of the Council who wishes to make a representation to the Cabinet to give notice of their intentions.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None

10. APPENDICES

10.1 None

11. BACKGROUND PAPERS

11.1 None

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Report of: Councillor Matthew Lee
The Leader of the Council

Report to:	Cabinet
Date:	4 October 2018
Subject:	Cabinet Forward Plan for the period 1 October 2018 and 30 September 2019 (LDS319)

Decision Proposal:	Report for information
Relevant Cabinet Member:	Councillor Matthew Lee, the Leader of the Council
Report author:	Jo Toomey, Principal Democracy Officer Tel: 01476 40 61 52 E-mail: j.toomey@southkesteven.gov.uk Date: 14 September 2018
Reviewed by:	Margaret Welton, Senior Research and Support Assistant Tel: 01476 40 64 15 E-mail: margaret.welton@southkesteven.gov.uk Date: 21 September 2018
Signed off by:	Lucy Youles, Solicitor to the Council Tel: 01476 40 61 05 E-mail: l.youles@southkesteven.gov.uk Date: 21 September 2018
Approved for publication	Councillor Matthew Lee, the Leader of the Council Date: 21 September 2018

SUMMARY

This report highlights matters on the Cabinet's forward plan for the period 1 October 2018 to 30 September 2019 for decision or recommendation.

RECOMMENDATION

It is recommended that the Cabinet notes the contents of the report.

1. BACKGROUND TO REPORT

- 1.1** The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 sets out minimum requirements for publicity in connection with key decisions. The Council meets these legislative requirements through the monthly publication of its Forward Plan on the Council's website.
- 1.2** Cabinet may also receive reports on which it is asked to make recommendations to Council or review the contents and take any necessary actions. Whilst it is not a requirement to publish this information in the Forward Plan, it is the Council's practice to do so.
- 1.3** To help Cabinet understand what issues will be put before it in the longer-term, items for consideration have been included in the Cabinet's forward plan (attached as Appendix A to this report). The forward plan also includes details of items scheduled for each of the Council meetings due to be held within the plan period.

2. OTHER OPTIONS CONSIDERED

- 2.1** This report has been introduced as a standing item on the agenda for meetings of the Cabinet. No other options were considered.

3. RESOURCE IMPLICATIONS

- 3.1** There are no resource implications arising from this report.

4. RISK AND MITIGATION

- 4.1** Risk has been considered as part of this report and no specific high risks were identified in its production.

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

- 5.1** This report provides an overview of the work that the Cabinet will be undertaking. Where appropriate, analyses relevant to its decisions will be presented to Cabinet with reports as individual issues come forward.

6. CRIME AND DISORDER IMPLICATIONS

- 6.1** None.

7. COMMENTS OF FINANCIAL SERVICES

- 7.1** There are no financial comments arising from this report.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

8.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 set out the minimum requirements to which Councils must adhere. Councils may use their discretion to publish information that exceeds the minimum requirements.

9. COMMENTS OF OTHER RELEVANT SERVICES

9.1 None.

10. APPENDICES

- Appendix A – Cabinet Forward Plan: 1 October 2018 to 30 September 2019

11. BACKGROUND PAPERS

11.1 Section 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
(<http://www.legislation.gov.uk/ksi/2012/2089/regulation/9/made>)

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CABINET FORWARD PLAN

Notice of decisions to be made by Cabinet **1 October 2018 to 30 September 2019**

At its meetings, the Cabinet may make key decisions and non-key decisions. They may also make recommendations to Council on matters relating to the Council's budget or its policy framework.

A key decision is a Cabinet decision that is likely:

1. To result in the District Council incurring expenditure which is, or the making of savings which are, significant having regard to the District Council's budget for the service or function to which the decision relates; or
2. To be significant in terms of its effects on communities that live or work in an area comprising two or more wards.

A non-key decision is one that is not a key decision.

The Forward Plan

The Cabinet Forward Plan is a rolling, 12-month plan that will be updated on a regular basis. It includes those matters that are scheduled to be considered by Cabinet during the plan period. This plan also includes details of those decisions that are due to be made by the full Council.

Notice of future Cabinet decisions and recommendations to Council

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Cabinet - 4 October 2018				
Health and Safety Policy (Local Choice)				
To consider the updated Council Health and Safety Policy Statement.	4 Oct 2018	To endorse commitment to the council's Health and Safety General Policy Statement	N/A – Gov & Audit	Councillor Dr. Peter Moseley, Cabinet Member for Environment
				Ian Yates Tel: 01476 40 62 01 E-mail: i.yates@southkesteven.gov.uk
Hackney Carriage and Private Hire Licensing Policy - Sections 165, 166 and 167 of the Equality Act 2010 (Key Decision)				
To determine whether to adopt Sections 165, 166 and 167 of the Equality Act 2010 in relation to the Hackney Carriage and Private Hire Licensing Policy	4 Oct 2018	To determine whether to adopt Sections 165, 166 and 167 of the Equality Act 2010	Environment 11 Sept 2018 Licensing Committee 7 Sept 2018	Councillor Dr. Peter Moseley, Cabinet Member for Environment
				Mandy Braithwaite Tel: 01476 40 61 06 E-mail: m.braithwaite@southkesteven.gov.uk
Housing Policies (Mutual Exchange, Succession and Assignment)				
To consider the adoption of new housing policies relating to Mutual Exchanges, Succession and Assignment	4 Oct 2018	To adopt new housing Policies and Procedures related to Mutual Exchange, Succession and Assignment	Communities 31 July 2018	Councillor Nick Neilson, Cabinet Member for Housing
				Harry Rai Tel: 01476 40 62 99 E-mail: harry.rai@southkesteven.gov.uk
Grounds Maintenance Company				
The formation of a new company to deliver the Council's Grounds Maintenance Services	4 Oct 2018	To agree the formation of a new company	Environment	Councillor Dr Peter Moseley, Cabinet Member for Environment
				Ian Yates Tel: 01476 40 62 01 E-mail: i.yates@southkesteven.gov.uk
SDKC survey of residents 2018				
This report will capture the results of the residents' survey undertaken during 2018	4 Oct 2018	To receive the feedback collected through the 2018 residents' survey, refer matters to the relevant Overview and	Communities and Wellbeing Culture and Visitor Economy	Councillor Helen Goral, Cabinet Member for Growth and Communications
				Lee Sirdifield Tel: 01476 40 65 24

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
		Scrutiny Committee with a view to receiving further reports back about action to be taken	<i>Environment Growth Rural</i>	E-mail: l.sirdifield@southkesteven.gov.uk

Cabinet – 1 November 2018

Private Sector Housing Enforcement Policy (Key Decision)

A review of the Council's Private Sector Housing Enforcement Policy following recent changes to legislation and the introduction of new powers to tackle unsatisfactory housing conditions	1 Nov 2018	To adopt a Private Sector Housing Enforcement Policy	<i>Communities</i> 12 June 2018 9 October 2018	Councillor Nick Neilson, Cabinet Member for Housing Anne-Marie Coulthard Tel: 01476 40 63 19 E-mail: a.coulthard@southkesteven.gov.uk
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Article 4 Direction, Stamford (Policy Framework)

To consider an Article 4 Direction to remove permitted development rights in Stamford	1 Nov 2018	To recommend to Council regarding the making an Article 4 Direction for Stamford	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Sylvia Bland Tel: 01476 40 63 88 E-mail: s.bland@southkesteven.gov.uk
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Animal Welfare Licensing (Key Decision)

To consider and update animal welfare licensing arrangements in light of new legislation	1 Nov 2018	To approve arrangements to reflect new animal welfare licensing legislation	<i>Environment</i>	Councillor Dr Peter Moseley, Cabinet Member for Environment Lucy Youles Tel: 01476 40 61 05 E-mail: l.youles@southkesteven.gov.uk
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Asset disposal strategy (Key Decision)

To consider the draft Asset Disposal Strategy	1 Nov 2018	To adopt an Asset Disposal Strategy	<i>Growth</i>	Councillor Kelham Cooke, the Deputy Leader of the Council Jane McDaid Tel: 01476 40 61 77 E-mail: jane.mcdaid@southkesteven.gov.uk
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Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Proposed development brief for land at Stamford North (Key Decision)				
To consider a draft development brief for land at Stamford North for consultation	1 Nov 2018	To agree a draft development brief for land at Stamford North for consultation	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Roger Ranson Tel: 01476 40 64 38 E-mail: r.ranson@southkesteven.gov.uk
Housing Strategy – 6-month update				
When the Housing Strategy was approved, Cabinet requested a 6-month update on progress against the 2018/19 implementation plan	1 Nov 2018	To receive the update on progress against the implementation plan	<i>Communities and Wellbeing</i>	Councillor Nick Neilson, Cabinet Member for Housing Harry Rai Tel: 01476 40 62 99 E-mail: harry.rai@southkesteven.gov.uk
Ward Member Grant Scheme – Key Decision				
To review pilot scheme	1 Nov 2018	To review pilot scheme and consider whether it should be extended	<i>Communities and Wellbeing</i> 9 October 2018	Councillor Jacky Smith, Cabinet Member for Communities, Health, Wellbeing and Skills and Councillor Adam Stokes, Cabinet Member for Finance Richard Wyles, Assistant Director, Resources Tel: 01476 40 62 10 E-mail: r.wyles@southkesteven.gov.uk
Council - 22 November 2018				
Community Governance Review – Corby Glen				
To consider feedback from consultation on whether or not to increase the size of Corby Glen Parish Council	22 Nov 2018	To consider whether to change the size of Corby Glen Parish Council. If Council decides the size of the parish council should change, it will need to make an Order to this end	<i>Communities</i>	Councillor Kelham Cooke, the Deputy Leader of the Council and Councillor Jacky Smith, Cabinet Member for Communities, Health, Wellbeing and Skills Lucy Youles Tel: 01476 406105 E-mail: l.youles@southkesteven.gov.uk

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Article 4 Direction, Stamford (Policy Framework)				
To consider an Article 4 Direction to remove permitted development rights in Stamford	22 Nov 2018	To make an Article 4 Direction for Stamford	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Sylvia Bland Tel: 01476 40 63 88 E-mail: s.bland@southkesteven.gov.uk
Review of polling districts and polling places				
The Council is required to review its polling districts and polling places between 1 October 2018 and 31 January 2020	22 Nov 2018	To agree arrangements for polling districts and polling places prior to the district and parish council elections in May 2019	<i>Communities</i>	Councillor Kelham Cooke, the Deputy Leader of the Council Lucy Youles Tel: 01476 406105 E-mail: l.youles@southkesteven.gov.uk
Cabinet - 20 December 2018				
Council Tax Base 2019/20 (Key Decision)				
To agree the Council Tax base for 2019/20, which will form the basis of the budget proposals for the year	20 Dec 2018	To determine the Council Tax Base to form the basis of the 2019/20 budget proposals to be recommended to Council	<i>Budget</i>	Councillor Adam Stokes, the Cabinet Member for Finance Debbie Muddimer Tel: 01476 40 63 01 E-mail: debbie.muddimer@southkesteven.gov.uk
Draft Budget proposals 2019/20 (Key Decision)				
To consider the Draft Budget Proposals for 2019/20	20 Dec 2018	To present the draft budget proposals for 2019/20 prior to their consideration by the Budget Overview & Scrutiny Committee and subsequent consultation	<i>Budget</i> 10 January 2019	Councillor Adam Stokes, the Cabinet Member for Finance Debbie Muddimer Tel: 01476 40 63 01 E-mail: debbie.muddimer@southkesteven.gov.uk
Statement of Community Involvement (Key Decision)				
Consideration of the draft Statement of Community Involvement in the context of feedback received during the public consultation period	20 Dec 2018	To adopt a Statement of Community Involvement	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Roger Ranson Tel: 01476 40 64 38 E-mail: r.ranson@southkesteven.gov.uk

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Joint Municipal Waste Management Strategy for Lincolnshire				
Partnership working to deliver waste management services	20 Dec 2018	To recommend that the Council signs up to the Strategy	<i>Environment</i> 20 November 2018	Councillor Dr Peter Moseley, Cabinet Member for Environment Keith Rowe Tel: 01476 40 63 70 E-mail: k.rowe@southkesteven.gov.uk
Rectory Farm Supplementary Planning Document (Key Decision)				
To consider the Rectory Farm Supplementary Planning Document following consultation on a draft document	20 Dec 2018	To approve a Supplementary Planning Document in respect of Rectory Farm	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Kevin Cartwright Tel: 01476 40 63 90 E-mail: k.cartwright@southkesteven.gov.uk
Council – 31 January 2019				
Joint Municipal Waste Management Strategy for Lincolnshire				
Partnership working to deliver waste management services	31 Jan 2019	To recommend that the Council signs up to the Strategy	<i>Environment</i> 20 November 2018	Councillor Dr Peter Moseley, Cabinet Member for Environment Keith Rowe Tel: 01476 40 63 70 E-mail: k.rowe@southkesteven.gov.uk
Cabinet - 7 February 2019				
Budget proposals 2019/20 (Budget framework - recommendation to Council)				
To consider the Final Budget Proposals for 2019/20	7 Feb 2019	To approve the Cabinet's budget proposals and recommend them to Council	<i>Budget</i> 10 January 2019	Councillor Adam Stokes, the Cabinet Member for Finance Debbie Muddimer Tel: 01476 40 63 01 E-mail: debbie.muddimer@southkesteven.gov.uk

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Council – 28 February 2019				
Budget 2019/20 and Council Tax Setting (Budget and Policy Framework)				
To consider the draft Budget for 2019/20 proposed by the Cabinet	28 Feb 2019	To set Council Tax and agree a Budget for 2019/20	<i>Budget</i> 10 January 2019	Councillor Adam Stokes, the Cabinet Member for Finance Debbie Muddimer Tel: 01476 40 63 01 E-mail: debbie.muddimer@southkesteven.gov.uk
Pay Policy Statement				
To consider the draft Pay Policy Statement for 2018/19	28 Feb 2019	To approve the Council's Pay Policy Statement for 2018/19	<i>N/A – Employment Committee</i>	Councillor Kelham Cooke, the Deputy Leader of the Council Elaine Pepper Tel: 01476 40 61 32 E-mail: e.pepper@southkesteven.gov.uk[
Other items – dates pending				
St. Peter's Hill Re-development – office remodelling (Key Decision and recommendation to Council)				
To consider proposals for the refurbishment of the offices at St. Peter's Hill, following the first phase of works to provide high quality public realm through to the new cinema	Not before 1 Oct 2018	To approve proposals and seek budget approval from Council	<i>Growth</i>	Councillor Kelham Cooke, the Deputy Leader of the Council Jane McDaid Tel: 01476 40 61 77 E-mail: jane.mcdaid@southkesteven.gov.uk
Local Plan (Policy Framework Proposal)				
Consideration of the revised South Kesteven Local Plan following examination and notice of modifications	Council TBC	To adopt the revised Local Plan for South Kesteven	<i>Growth</i>	Councillor Helen Goral, Cabinet Member for Growth and Communications Roger Ranson Tel: 01476 40 64 38 E-mail: r.ranson@southkesteven.gov.uk

Summary	Date	Action	Relevant Overview & Scrutiny Committee and date if applicable	Contact
Cultural Strategy (Key Decision)				
To consider the draft Cultural Strategy for South Kesteven	Cabinet TBC	To adopt a Cultural Strategy for South Kesteven	<i>Culture & Visitor Economy</i> 12 July 2018	Councillor Matthew Lee, The Leader of the Council Michael Cross Tel: 01476 40 61 29 E-mail: michael.cross@southkesteven.gov.uk
Strategic Regeneration Acquisitions (Key Decision)				
Information relating to this decision is exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended because it contains information which relates to the financial or business affairs of an individual or organisation	Not before 1 Oct 2018		<i>Growth</i>	Councillor Kelham Cooke, the Deputy Leader of the Council Paul Thomas Tel: 01476 40 61 62 E-mail: p.thomas@southkesteven.gov.uk

Key Decisions to be made by Individual Cabinet Members

Invest SK

Key decision to:

- Put in place the Memorandum of Understanding
- Determine the membership of the Advisory Committee
- Agree the Articles of Association
- Agree an initial award of seed funding to allow the incorporation process to take place

Decision-maker: Councillor Helen Goral, Cabinet Member for Growth and Communications

Decision date: Not before 1 October 2018