



## **AGENDA**

### **Page No**

1. MINUTES

To confirm the decisions of the meeting held on 12 March 2019 (CA.62 - CA.69), previously circulated.

2. APOLOGIES FOR ABSENCE

Resources Management

3. RENT REPAYMENT ORDERS

1 - 8

This report seeks the introduction and implementation of the use of rent repayment orders the powers for which are available to local housing authorities from the Housing and Planning Act 2016.

In accepting the recommendations, Cabinet will approve and recommend to Council the introduction of a policy and procedure for the application of rent repayment orders in accordance with the Housing and Planning Act 2016 and associated guidance and the Private Sector Housing Enforcement Policy at Appendix A.

**Relevant Ward(s): All Wards**

4. SENIOR MANAGEMENT APPOINTMENT

9 - 12

This report seeks approval for the introduction of and appointment to a new permanent post of Director of Leisure and Communities and consequential changes to the remit of the other Director posts.

In accepting the recommendations, Cabinet will approve and recommend to Council that the new post of Director of Leisure and Communities be approved; the appointment of the Director of Leisure and Communities be delegated to the Chief Executive; and following appointment to the new post the revised Senior Management structure contained within the Senior Management Pay Policy be amended as set out at Annex 1 of the report.

**Relevant Ward(s): All Wards**

Policy and Strategy

5. CHANGES TO THE PRIVATE WATER SUPPLY REGULATIONS

13 - 20

This report seeks the introduction of the requirements of the Private Water Supplies (England) (Amendment) Regulations 2018 which have amended the Private Water Supplies (England) Regulations 2016, made under the Water Industry Act 1991. The amendment regulations came into force on the 1st October 2018 and must be fully implemented by July 2020.

In accepting the recommendations, Cabinet will approve and recommend to Council the introduction and enforcement of the Private Water Supplies (England) (Amendment) Regulations 2018 which have amended the Private Water Supplies (England) Regulations 2016 as detailed within the report; that where appropriate sampling criteria will be excluded or reduced based on the criteria provided in the Regulations and with the agreement of the Drinking Water Inspectorate; and that a procurement process is undertaken to appoint a provider for sample transport and analysis.

**Relevant Ward(s): All Wards**

Policy Implementation

6. PUBLIC OPEN SPACE, SPORT AND RECREATION ACTION PLANS

21 - 24

This report seeks endorsement of the refreshed Public Open Space, Sport and Recreation Action Plan for the Stokesley Parish.

In accepting the recommendation, Cabinet will approve the Public Open Space, Sport and Recreation Action Plan at Annex B of the report.

**Relevant Ward(s): Stokesley Ward**

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## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
4 June 2019

**Subject:** RENT REPAYMENT ORDERS

**All Wards**

**Portfolio Holder for Environmental Health, Waste and Recycling: Councillor S Watson**

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to introduce and implement the use of rent repayment orders the powers for which are available to local housing authorities from the Housing and Planning Act 2016.
- 1.2 The private rented sector is an important part of the national housing stock, housing some 4.7 million households in England. In the past decade the private rented sector has seen substantial growth with improvement in the quality of the housing stock.
- 1.3 The Government has over the last two years introduced a range of measures to deal with rogue/criminal landlords to protect tenants, support good landlords and improve housing standards in the private rented sector.
- 1.4 The Housing Act 2004 originally introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed – in particular offences in relation to licensing of Houses in Multiple Occupation.
- 1.5 Rent repayment orders have now been extended under the Housing and Planning Act 2016 to cover a wider range of offences including failure to comply with Improvement Notices and Prohibition Orders under the Housing Act 2004; illegal eviction under the Protection from Eviction Act 1977 and breaches of banning orders made under the Housing and Planning Act 2016.
- 1.6 A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent which can be up to 12 months' rent following an application by the tenant or the local housing authority. An order can be applied for when a landlord has committed a specified offence (whether or not convicted) examples of which are mentioned in 1.5 above.
- 1.7 Where a landlord has been convicted of an offence the First-tier Tribunal will order that the maximum amount of rent is repaid.
- 1.8 A rent repayment order can be granted to either the tenant or the local housing authority following separate application to the First-tier Tribunal. The local housing authority would consider applications under the following circumstances:
  - Where the rent was paid through housing benefit or the housing element of Universal Credit.
  - Where the rent was paid both through housing benefit/housing element of Universal Credit and by the tenant. In this case the rent would be repaid on an equivalent basis.

The local housing authority would not apply for a rent repayment order where the tenant had paid the rent.

- 1.9 It is in the financial interests of a local housing authority to make an application for a rent repayment order but there is also an expectation that the local housing authority will provide advice, guidance and support to tenants to enable them to make their own applications where appropriate.
- 1.10 The Environmental Health service will consultant with the Council's Revenues and Benefits service and/or the Housing Options team when it is considering an application for a rent repayment order.
- 1.11 The Environmental Health service will put in place a policy and procedure for the application of rent repayment orders and this power will be provided for in the Private Sector Housing Enforcement Policy. This will ensure that only suitably qualified and competent officers are authorised to carry out this power in accordance with the Council's Scheme of Delegation and delegated powers. The Private Sector Housing Enforcement Policy is provided at Appendix A and should be read in conjunction with the Environment Directorate Enforcement Policy.

**2.0 LINK TO COUNCIL PRIORITIES:**

- 2.1 The implementation of rent repayment orders will contribute to the delivery of three of the Council's key priorities: Enhancing Health and Well Being, Driving Economic Vitality and Providing a Special Place to Live.

**3.0 RISK ASSESSMENT:**

- 3.1 There are no key risks with implementing the recommendation.
- 3.2 The key risk is in not approving the recommendation as shown below:-

<b>Risk</b>	<b>Implication</b>	<b>Prob*</b>	<b>Imp*</b>	<b>Total</b>	<b>Preventative action</b>
Failure to enforce the new requirements and not fulfil the Council's statutory duty.	Landlords who have committed specified offences are able to benefit from committing offence/s, for example providing substandard accommodation.	4	3	12	Put in place a policy and procedure for the Council to make applications for rent repayment orders.

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

- 3.3 Overall the risk of agreeing with the recommendation outweighs the risk of not agreeing with the recommendation and is considered acceptable as the Council is a local housing authority and should carry out the requirements of relevant legislation.

**4.0 FINANCIAL IMPLICATIONS:**

- 4.1 Applications for rent repayment orders will be met within the Environmental Health service revenue budget. If the Council has paid rent to a landlord whose property is noncompliant with the relevant standards then a successful application for a rent repayment order would be of financial beneficial to the Council.

## **5.0 LEGAL IMPLICATIONS:**

5.1 As a local housing authority the Council has a statutory duty to implement the requirements of relevant legislation and must consider applying for a rent repayment order when a landlord has been convicted of a specified offence.

## **6.0 EQUALITY/DIVERSITY ISSUES**

6.1 Equality and Diversity issues have been considered however there are no implications associated with this report.

## **7.0 RECOMMENDATIONS:**

7.1 That Cabinet approves and recommends to Council:

- (1) the introduction of a policy and procedure for the application of rent repayment orders in accordance with the Housing and Planning Act 2016 and associated guidance.
- (2) the Private Sector Housing Enforcement Policy attached at Appendix A.

PAUL STAINES  
DIRECTOR OF ENVIRONMENT

### **Background papers:**

Housing and Planning Act 2016  
<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

Rent repayment orders under the Housing and Planning Act 2016 -  
Guidance for Local Housing Authorities  
<https://www.gov.uk/government/publications/rent-repayment-orders-under-the-housing-and-planning-act-2016>

Housing Act 2004  
<https://www.legislation.gov.uk/ukpga/2004/34/contents>

Environment Directorate Enforcement Policy

### **Author ref:**

VF/JS

### **Contact:**

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## Private Sector Housing

Document	Private Sector Housing
Author	Vikki Flowers/Joy Swithenbank
Approval Date	December 2018
Review Date	January 2020
Updated/Amended	February 2019
	May 2019

Housing is a key social determinant of health and the impact of housing conditions on health and wellbeing outcomes is recognised. Therefore the aim is to address housing inequality and maintain and improve the housing conditions in privately owned property and deal with housing matters arising from privately owned land through fair and consistent enforcement.

Enforcement is particularly relevant to the private rented sector to ensure compliance with regulatory requirements as tenants are not in control of improving their housing conditions. Enforcement action may be taken against owner occupiers if there is a significant risk to themselves or others; where there is a hazard that prevents the occupier receiving suitable treatment in the home or where occupiers have requested assistance. Particular consideration will be given to vulnerable tenants and occupiers.

Enforcement action will be taken to ensure that:

- Tenants live in homes free of significant risks to their health and safety including application of the housing health and safety rating system.
- Houses in Multiple Occupation are identified and are subject to the licensing regime.
- Privately owned land or property does not present a statutory nuisance to other land owners or occupiers; does not directly or indirectly present an unacceptable risk to public health, safety or the environment; or does not directly present an unacceptable risk to the health and safety of the occupants.
- Empty properties are brought back into use.

The table below provides details of enforcement action to be taken in different circumstances. This is not intended to be an exhaustive list and each case will be considered on its individual merits; may involve the use of several enforcements options and; may require deviation from this policy and the Environment Directorate Enforcement Policy in particular circumstances. However this would be agreed with senior officers as appropriate.

Option	Criteria and Matters to be Consider for Option
No Action	Enforcement options shall not be considered where there is no risk to the health or safety of the occupiers or others from private sector residential properties.
Advice	Advice and guidance will be provided to promote legal compliance and best practice to prevent the need for enforcement action. This will be achieved by: <ul style="list-style-type: none"> <li>• Regular communication with landlords to inform them of changes to regulations, notifying them of grant funding opportunities and attending the Landlords Forum.</li> <li>• Providing guidance and sign-posting to other organisations on specific tenancy related issues such as illegal eviction, gas safety and energy efficiency.</li> <li>• Providing advice and guidance for tenants to ensure they are suitably</li> </ul>

Option	Criteria and Matters to be Consider for Option
	<p>informed about matters such as gas safety, excess cold and energy performance ratings.</p> <ul style="list-style-type: none"> <li>• Providing housing advice on the Council's website.</li> </ul>
Liaison	Liaison will be considered and carried out where there is a shared or complementary enforcement role with other services or agencies, for example, North Yorkshire Fire and Rescue Service.
Obtaining information/ provision of documents	Documents/information will be required to exercise relevant functions for example under the Housing Act 2004 and for the purpose of investigating whether an offence has been committed.
Informal Action	<p>Informal action is generally preferred to resolve most cases and landlords and occupiers will be given the opportunity to makes representations and time to rectify any contraventions identified. The following factors will be considered:</p> <ul style="list-style-type: none"> <li>• The act or omission is relatively minor.</li> <li>• From the landlords past history it can be reasonably expected that informal action will achieve compliance.</li> <li>• Confidence in the landlord's management practices is high.</li> <li>• The consequence of non-compliance will not pose a significant risk to the occupiers or others.</li> <li>• The tenant does not wish for action to be taken and it is considered appropriate in the particular circumstances.</li> <li>• The landlord has presented their property for inspection through the Councils Bond application scheme.</li> <li>• Where action is required to support owners or occupiers who are vulnerable and unable to support independent living to live in accommodation which is free of significant risks to their health and safety.</li> <li>• To tackle the symptoms from empty properties to ensure that the amenity of the surrounding area is not affected, the property is safe and secure and not causing a statutory nuisance.</li> </ul>
<p>Formal Action For example:</p> <ul style="list-style-type: none"> <li>• Hazard Awareness Notices</li> <li>• Improvement Notices</li> <li>• Prohibition Order</li> </ul>	<p>Formal action will be taken when:</p> <ul style="list-style-type: none"> <li>• There is a serious risk to health and safety; for example no heating in cold weather.</li> <li>• An agreement cannot be obtained, from the landlord to carry out the necessary works requested.</li> <li>• The landlord fails to make satisfactory progress to complete works in a timely manner.</li> <li>• There is a recent history of failure to meet requests or a record of criminal convictions.</li> <li>• Recent failures to manage a property in line with legal requirements.</li> <li>• It is necessary to safeguard and protect health and safety of future tenants for example when the existing tenant does not wish for works to proceed or when the existing tenant is being evicted.</li> <li>• There is a duty to serve a notice or take a specified action.</li> <li>• There is a history of non-compliance.</li> <li>• Formal action is proportionate to the risk to public health.</li> <li>• There are grounds that an informal approach will not be successful.</li> </ul>

Option	Criteria and Matters to be Consider for Option
Housing Health and Safety Rating System	<p>The Housing Health and Safety Rating System is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s) and is applicable to all housing tenures.</p> <p>There are two categories of possible hazards:</p> <ul style="list-style-type: none"> <li>• Category 1 hazards (Hazard Score Rating Bands A to C) represent a serious danger to health and there is a duty to take appropriate action to deal with these.</li> <li>• Category 2 hazards (Hazard Score Rating Band D to J) represent a lesser danger and there is no duty to take action although the power exists to take action.</li> </ul> <p>However it is deemed appropriate that enforcement action will be taken to deal with Hazard Score Rating Bands A to D and discretion will be used in taking enforcement action in relation to hazards rated E – J; this will depend on circumstances of the individual case to ensure that the hazard is reduced to an acceptable level.</p>
Emergency Action For example: • Emergency Prohibition Notice • Emergency Remedial Action	<p>Emergency action will be taken when:</p> <ul style="list-style-type: none"> <li>• There is an imminent risk of serious harm to the health or safety of the occupiers of that or any other premises.</li> <li>• Where there is a duty to take action when there is an imminent risk to health or safety to the occupiers of a property.</li> </ul>
Penalty Charges	<p>Fixed penalty notices may be issued where the legislation allows and where there is a reason to believe an offence has been committed under specific legislation and there is sufficient evidence to meet any subsequent prosecution. The notice will give the offender the opportunity to avoid prosecution for that offence by the payment of a fixed penalty. Notices will be issued with verbal guidance and where possible written advice.</p>
Works in Default (taking action with and without agreement)	<p>Works in default may be carried out under the following circumstances:</p> <ul style="list-style-type: none"> <li>• Where the requirements of the legal notice are not met.</li> <li>• Works in default are considered a more appropriate or effective remedy than prosecution.</li> <li>• The person served with a statutory notice starts work but then does not make satisfactory progress in accordance with stipulated timescales.</li> <li>• Work in default is carried out in agreement with and on behalf of the person responsible where a written request and an undertaking to pay has been received.</li> <li>• Inspection has deemed that the works carried out are not suitable to ensure compliance with the notice.</li> </ul> <ul style="list-style-type: none"> <li>• Consideration will also be given to the following: <ul style="list-style-type: none"> <li>• The ongoing risk to health posed by the hazard in respect of which work is required to remove.</li> <li>• Where known, the wishes of the person responsible.</li> <li>• There is a realistic prospect of recovering reasonable costs.</li> </ul> </li> </ul>

Option	Criteria and Matters to be Consider for Option
	<ul style="list-style-type: none"> <li>The statute allows cost recovery by placing a charge on the property.</li> </ul>
<p>Licensing:</p> <ul style="list-style-type: none"> <li>Grant and Refusal</li> <li>Temporary Exemption Notice</li> <li>Variation</li> <li>Revocation</li> </ul>	<p>Houses in Multiple Occupation are required to be licenced in accordance with the regulations and statutory guidance.</p> <p>Licence applications can be refused on prescribed grounds which include:</p> <ul style="list-style-type: none"> <li>The house is not reasonably suitable for occupation by not more than the maximum number of households or persons.</li> <li>The maximum occupancy is not the occupancy specified in the application.</li> <li>There is a banning order in force against a person who has an interest in the house.</li> <li>The proposed licence holder is not a fit and proper person.</li> <li>The manager of the house does not meets various tests including being a fit and proper person.</li> <li>The house fails to meet prescribed standards for occupancy.</li> <li>The house is not reasonably suitable for occupancy even if the prescribed standards are met.</li> <li>The proposed management arrangements are unsatisfactory.</li> </ul> <p>Temporary Exemptions can be granted as follows:</p> <ul style="list-style-type: none"> <li>Where a licensable House in Multiple Occupation is not licensed but steps are being taken to ensure that the house will no longer be required to be licensed.</li> <li>Following the death of the licence holder.</li> </ul> <p>Licenses can be varied when there has been a change of circumstances including the discovery of new information.</p> <p>Licenses can be revoked on prescribed grounds which include:</p> <ul style="list-style-type: none"> <li>In circumstances related to the licence holder or other person.</li> <li>In circumstances related to the House in Multiple Occupation concerned.</li> <li>In any other circumstances prescribed by relevant regulations.</li> </ul> <p>The power to revoke a licence lies with the Council's Licensing and Appeals Hearings Panel.</p>
Simple Caution	<p>Simple Cautions will be used under the following circumstances:</p> <ul style="list-style-type: none"> <li>To deal quickly and simply with less serious offences.</li> <li>To divert offenders where appropriate from appearing in criminal courts; and</li> <li>to reduce the likelihood of re-offending.</li> <li>Simply cautions are issued in accordance with Home Office Circular 30/2005.</li> </ul>
Prosecution	<p>Prosecutions may be taken under one or more of the following circumstances including:</p> <ul style="list-style-type: none"> <li>The offence is serious.</li> <li>There is a poor history of compliance.</li> <li>There has been a failure to comply with an improvement notice.</li> <li>There has been a failure to comply with a prohibition order.</li> <li>There is a breach of the House in Multiple Occupation Management Regulations.</li> </ul>

Option	Criteria and Matters to be Consider for Option
	<ul style="list-style-type: none"> <li>• There is a breach of a House in Multiple Occupation license condition.</li> <li>• Operating a licensable House in Multiple Occupation without a license.</li> <li>• Failure to provide documents required by notice.</li> <li>• There has been a repetition of a breach that was subject to a simple caution.</li> <li>• False information has been supplied wilfully, or there has been intent to deceive, in relation to a matter which gives rise to significant risk.</li> <li>• Officers have been intentionally obstructed in the lawful course of their duties.</li> </ul>
<p>Applications to the First-tier Tribunal For example:</p> <ul style="list-style-type: none"> <li>• Rent Repayment Orders</li> <li>• Banning Orders</li> </ul>	<p>Applications to the First Tier Tribunal will be in accordance with the relevant statute, including the Housing Act 2004 and the Housing and Planning Act 2016 and will follow the relevant guidance provided by the Ministry of Housing, Communities and Local Government.</p>

**Relevant legislation and guidance includes:**

Housing Act 2004

Housing and Planning Act 2016

Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018

Houses in Multiple Occupation and residential property licensing reform - Guidance for Local Housing Authorities

Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018

The Management of Houses in Multiple Occupation (England) Regulations 2006

Housing Health and Safety Rating Scheme Enforcement Guidance

Housing Health and Safety Rating System Operating Guidance

Housing Act 2004 - Guidance about inspections and assessment of hazards

Public Health Acts 1936/1984

Rent repayment orders under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Environmental Protection Act 1990

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
4 June 2019

**Subject: SENIOR MANAGEMENT APPOINTMENT**

**All Wards**  
**Leader of the Council: Councillor M S Robson**

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to seek approval for the introduction of and appointment to a new permanent post of Director of Leisure and Communities and consequential changes to the remit of the other Director posts.
- 1.2 To ensure the Council continues to provide excellent services in the face of increasing service demands, complex corporate projects and aspirations to improve performance, it is proposed that a fifth directorate (headed by a new Director) is created for Leisure and Communities. In recent months the current Head of Service has been 'acting up' in this role. It has become apparent that the appointment of a permanent Director of Leisure and Communities will enable greater focus on the Council's priorities within the Council Plan and provide increased capacity and expertise at senior management level to improve delivery.
- 1.3 A revised Senior Management structure is attached at Annex 1. Should the new post be approved, it is proposed that this revised structure replaces the existing management structure within the Senior Management Pay Policy.
- 1.4 Annex 2 shows the changes to the responsibilities of the Senior Management Team as a consequence of creating a fifth Director.

### **2.0 LINK TO COUNCIL PRIORITIES:**

- 2.1 The proposal principally links to delivering priorities in the Leisure, Communities and Design and Maintenance Services. However, it will also assist in delivering priorities across the board.

### **3.0 RISK ASSESSMENT:**

- 3.1 There are no significant risks attached to this report.

### **4.0 FINANCIAL IMPLICATIONS:**

- 4.1 The costs associated with this post are included within existing budgets.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 In accordance with the Constitution, the appointment of Chief Officers is a matter for Council.

## **6.0 EQUALITY/DIVERSITY ISSUES**

6.1 Equality and Diversity issues have been considered. However, there are no issues associated with this report.

## **7.0 RECOMMENDATIONS:**

7.1 It is recommended that Cabinet approves and recommends to Council that:-

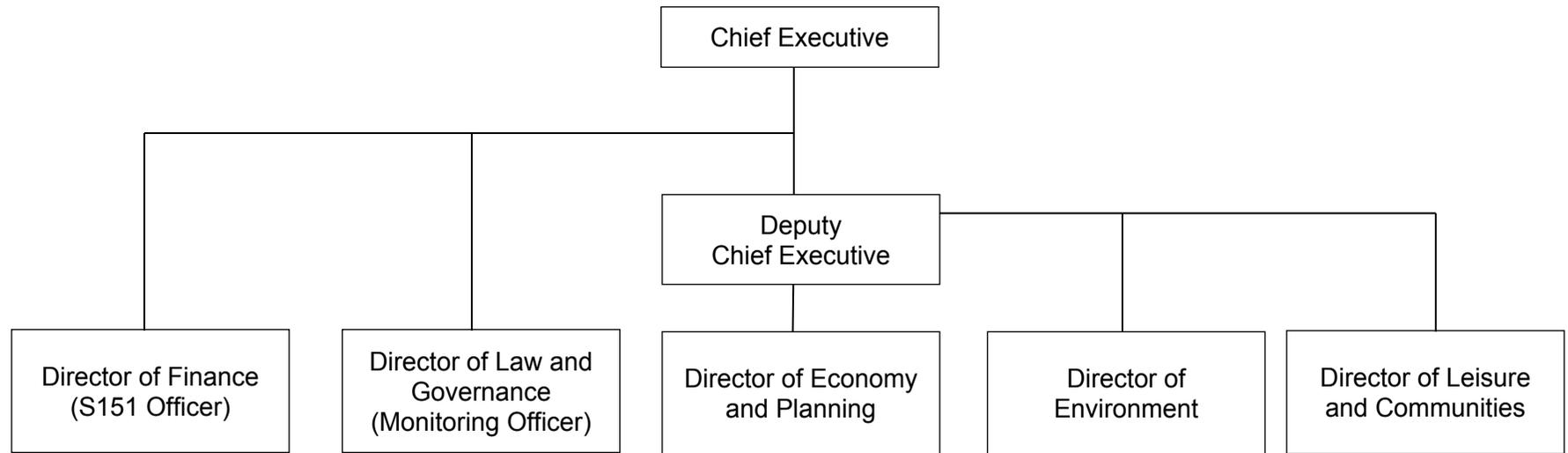
- (1) the new post of Director of Leisure and Communities be approved;
- (2) the appointment of the Director of Leisure and Communities be delegated to the Chief Executive; and
- (3) following appointment to the new post the revised Senior Management structure contained within the Senior Management Pay Policy be amended as set out at Annex 1 of the report.

CHIEF EXECUTIVE  
DR JUSTIN IVES

**Background papers:** None

**Author ref:** JI

**Contact:** Dr Justin Ives  
Chief Executive  
Direct Line No 767001



## REVISED CORPORATE STRUCTURE

<b>DIRECTOR OF ENVIRONMENT</b>	<b>DIRECTOR OF LEISURE &amp; COMMUNITIES</b>	<b>DIRECTOR OF ECONOMY, PLANNING</b>	<b>DIRECTOR OF FINANCE &amp; COMMERCIAL (S151 Officer)</b>	<b>DIRECTOR OF LAW &amp; GOVERNANCE (Monitoring Officer)</b>
<b>Paul Staines</b>	<b>Steve Lister (interim)</b>	<b>Helen Kemp</b>	<b>Louise Branford-White</b>	<b>Gary Nelson</b>
<ul style="list-style-type: none"> <li>• Business Continuity</li> <li>• Emergency Planning</li> <li>• Environmental Health</li> <li>• Food Hygiene</li> <li>• Household Waste</li> <li>• Health &amp; Safety</li> <li>• Pest &amp; Pollution Control</li> <li>• Recycling</li> <li>• Street Scene</li> <li>• Water Supply</li> </ul>	<ul style="list-style-type: none"> <li>• CCTV</li> <li>• Community Leisure</li> <li>• Community Partnerships</li> <li>• Community Safety</li> <li>• Design &amp; Maintenance</li> <li>• Facilities Management</li> <li>• Leisure Centres</li> <li>• Public Health</li> <li>• Sports &amp; Art Development</li> <li>• Car Parks &amp; Parking Policy</li> </ul>	<ul style="list-style-type: none"> <li>• Building Control</li> <li>• Business &amp; Economy</li> <li>• Communications</li> <li>• Conservation</li> <li>• Development Management</li> <li>• Economic Development</li> <li>• GIS</li> <li>• Housing</li> <li>• Local Land Charges</li> <li>• Planning Policy</li> <li>• Street Naming &amp; Numbering</li> </ul>	<ul style="list-style-type: none"> <li>• Audit Services</li> <li>• Business Support</li> <li>• Corporate Finance</li> <li>• Corporate Performance</li> <li>• Commercialisation &amp; Programme Management</li> <li>• Customer Services</li> <li>• Debt Recovery</li> <li>• Housing Benefits</li> <li>• ICT</li> <li>• Payroll</li> <li>• Risk Management</li> <li>• Reprographics</li> <li>• Revenues (Council Tax / Business Rates)</li> </ul>	<ul style="list-style-type: none"> <li>• Democratic Services</li> <li>• Electoral Services</li> <li>• HR</li> <li>• Information Governance</li> <li>• Legal Services</li> <li>• Licensing</li> <li>• Procurement</li> </ul>

## HAMBLETON DISTRICT COUNCIL

**Report To:** Cabinet  
4 June 2019

**Subject:** PRIVATE WATER SUPPLIES (ENGLAND) REGULATIONS 2016 (AS AMENDED)

**All Wards**  
**Portfolio Holder for Environmental Health, Waste and Recycling: Councillor S Watson**

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to introduce the requirements of the Private Water Supplies (England) (Amendment) Regulations 2018 which have amended the Private Water Supplies (England) Regulations 2016, made under the Water Industry Act 1991. The amendment regulations came into force on the 1<sup>st</sup> October 2018 and must be fully implemented by July 2020.
- 1.2 The primary aim of the Regulations is to ensure that water from private supplies is wholesome and complies with drinking water quality standards. There are 52 commercial supplies in Hambleton and a further 228 supplies servicing domestic properties
- 1.3 The amended Regulations introduce four main changes as follows:
- Increased sampling requirements for commercial supplies.
  - Removal of statutory maximum fee levels.
  - Increased data return to the Drinking Water Inspectorate.
  - Specified competency requirements for sampling officers.
- Increased Sampling**
- 1.4 The Regulations require additional sampling of commercial supplies and an increase in the number of parameters that must be analysed.
- 1.5 With the exception of *Escherichia coli* the Regulations allow local authorities to reduce or stop sampling for the other parameters if certain criteria are met. The criteria include having at least three years of regular sampling data showing compliance with the relevant standard; that the risk assessment has not indicated any factors to cause deterioration in the quality of the water and; the consideration of any other relevant data.
- 1.6 It is anticipated that if all the criteria are included, the cost of a sample will increase from £100 to £800 which will be passed onto the business owners. Sampling for a full suite of parameters will mean an increased workload for the officers in the Commercial team, both in terms of additional time and the logistics of obtaining the water required for the analysis to be carried out. Therefore work is ongoing in the service to determine the sampling parameters that may be safely excluded or reduced, with the agreement of the Drinking Water Inspectorate as follows:
- 1.7 All products (for example, disinfectants) used to treat private supplies must be approved. Therefore some parameters need only be included if the risk assessment has identified the use of unapproved products. This would create a reduction of over £120 in the cost of a sample.

- 1.8 Monitoring for radioactivity (including Radon and Tritium) can be excluded for all supplies except groundwater sources in moderate to high radon areas. The map at Annex A shows that there are four borehole supplies in the district in moderate radon areas. Excluding the radioactivity analysis will reduce the sample cost by £180.00 for the supplies not in the affected areas.
- 1.9 As pesticide analysis has not been undertaken previously there is no data on which to base exclusions or reductions. Therefore relevant data would have to be obtained from other sources; in particular the Drinking Water Inspectorate will provide 'Risk Maps' by late 2019 for most of the chemical parameters including pesticides. Where the data does not allow for any exclusions or reductions sampling will have to be undertaken for a three year period at each relevant supply at a cost of £220.00.
- 1.10 The Environmental Health service currently uses ALS as its appointed provider for water sample transport and analysis. However it is now necessary to undertake a tender process to appoint a new provider to account for the increased sampling requirements.

**Removal of statutory maximum fee levels**

- 1.11 Since 2010 the Regulations have allowed local authorities to charge fees to cover the reasonable costs of enforcing the regulations and statutory maximum fee levels were imposed. The 2018 Regulations have removed the maximum fee levels and new fees were set in October 2018 based on reasonable cost recovery. The current fees are available on the Council's website.

**Increased data return to the Drinking Water Inspectorate**

- 1.12 The 2018 Regulations require that the findings of every risk assessment and details of any associated enforcement action are provided to the Drinking Water Inspectorate in a specified format within 28 days of the risk assessment being carried out. This is in addition to the annual return to the Drinking Water Inspectorate which provides details of the private water supplies in the district and the activities carried out to regulate those supplies.

**Specified competency requirements for sampling officers**

- 1.13 From July 2020, the 2018 Regulations require that officers who carry out sampling of private water supplies must be certified under ISO 17024. This will place a financial burden on the service as the training is estimated to cost £1000 per officer and to ensure resilience three officers in the Commercial team will require certification. The Drinking Water Inspectorate is currently developing and piloting a scheme to assist Councils to comply with this requirement. It is intended that this expense will be covered by the income from risk assessments.
- 1.14 The Environmental Health service will provide for the enforcement of the Regulations through the Water Supply Enforcement Policy and ensure that only suitably qualified and competent officers are authorised to enforce the Regulations in accordance with the Councils Scheme of Delegation and delegated powers. The updated Water Supply Enforcement Policy is provided at Annex B and should be read in conjunction the Environment Directorate Enforcement Policy.

**2.0 LINK TO COUNCIL PRIORITIES:**

- 2.1 Enforcing the requirements of Private Water Supplies (England) Regulations 2016 (As Amended) will contribute to the delivery of three of the Council's key priorities: Enhancing Health and Well Being, Driving Economic Vitality and Providing a Special Place to Live.

### **3.0 RISK ASSESSMENT:**

3.1 There are no key risks with implementing the recommendation.

3.2 The key risk is in not approving the recommendation as shown below:-

<b>Risk</b>	<b>Implication</b>	<b>Prob*</b>	<b>Imp*</b>	<b>Total</b>	<b>Preventative action</b>
Failure to enforce the Regulations and not fulfil the Council's statutory duty.	The safety and security of private water supplies will be compromised if the Regulations are not suitably enforced creating risks to public health and potential reputational damage to the Council.	4	3	12	The Regulations are effectively enforced.

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

3.3 Overall the risk of agreeing with the recommendation outweighs the risk of not agreeing the recommendation and is considered acceptable as the Authority has a statutory duty to enforce the Private Water Supplies (England) Regulations 2016 (As Amended) and the Private Water Supplies (England) (Amendment) Regulations 2018.

### **4.0 FINANCIAL IMPLICATIONS:**

4.1 At this stage it is estimated that the implementation of the Regulations will be cost neutral. The full impact of the sampling requirements is currently uncertain until all relevant data is available. However it is anticipated that there will be additional burden for at least the next three years. The income from the fees will be used to fund the costs of enforcing the Regulations and will therefore be met within the existing revenue budget for the Environmental Health service.

### **5.0 LEGAL IMPLICATIONS:**

5.1 The Regulations identify local authorities as the enforcing authority, providing powers to ensure compliance with the Regulations in respect of private water supplies in its area.

### **6.0 EQUALITY/DIVERSITY ISSUES**

6.1 Equality and Diversity issues have been considered however there are no implications associated with this report.

### **7.0 RECOMMENDATIONS:**

7.1 That Cabinet approves and recommends to Council:

- (1) the introduction and enforcement of the Private Water Supplies (England) (Amendment) Regulations 2018 which have amended the Private Water Supplies (England) Regulations 2016 as detailed within the report;
- (2) that where appropriate sampling criteria will be excluded or reduced based on the criteria provided in the Regulations and with the agreement of the Drinking Water Inspectorate;

- (3) that a procurement process is undertaken to appoint a provider for sample transport and analysis.

PAUL STAINES  
DIRECTOR OF ENVIRONMENT

**Background papers:**

Water Industry Act 1991

<https://www.legislation.gov.uk/ukpga/1991/56/section/219>

Private Water Supplies (England) Regulations 2016 (As Amended)

<https://www.legislation.gov.uk/uksi/2016/618/contents>

Private Water Supplies (England) (Amendment) Regulations 2018

<http://www.legislation.gov.uk/uksi/2018/707/contents/made>

Guidance to the Regulations

<http://www.dwi.gov.uk/private-water-supply/regs-guidance/guidance.html>

Environment Directorate Enforcement Policy

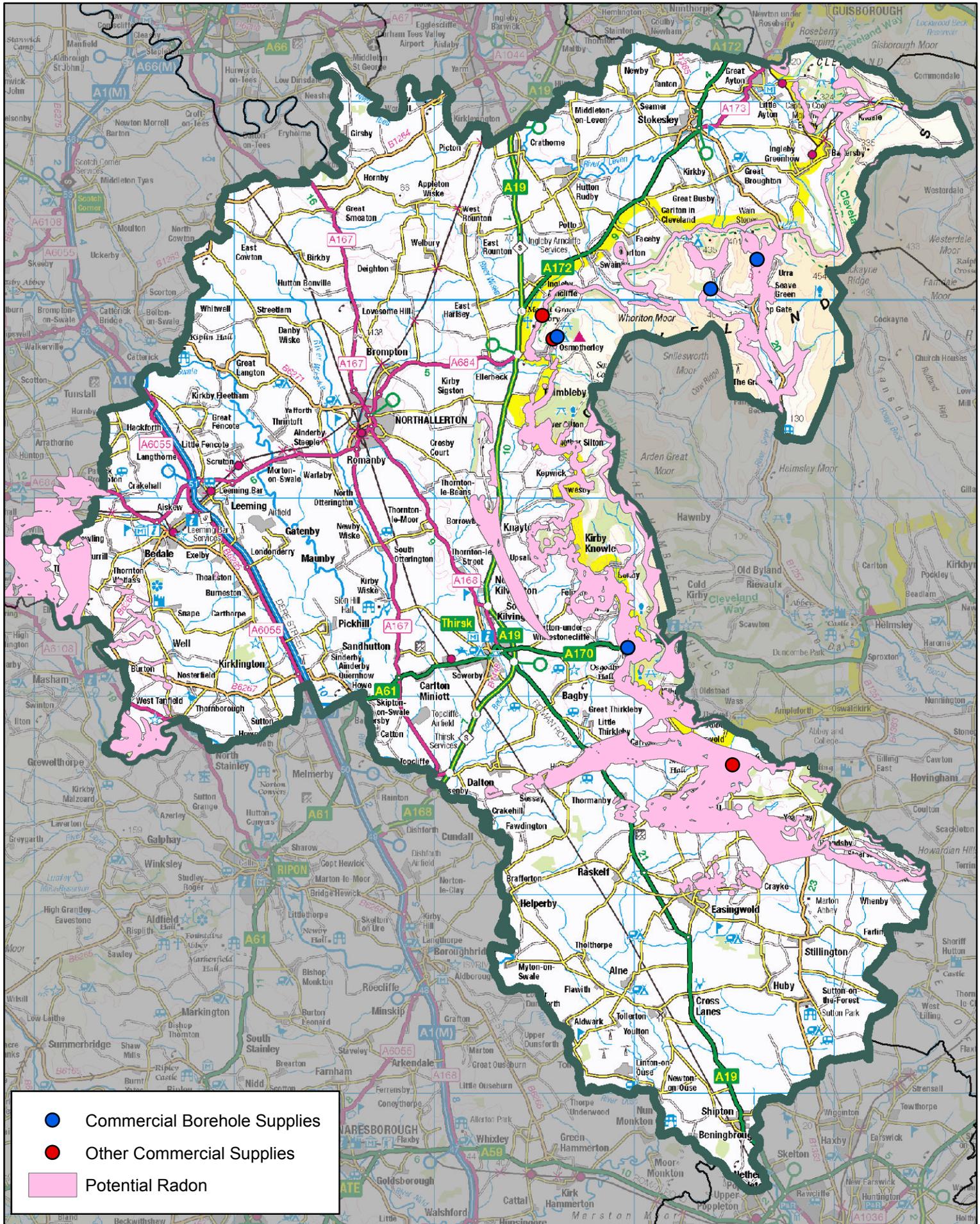
**Author ref:**

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**HAMBLETON**  
**DISTRICT COUNCIL**

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## Water Supplies

Document	Water Supplies
Author	Vikki Flowers
Approval Date	June 2019
Review Date	June 2020

Water Supplies	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
No Action	Enforcement options shall not be considered where there is no risk to public health from the activities of food businesses.
Investigation	<p>If a water sample fails to comply with the prescribed concentrations or values, defined in the regulations, an investigation will be carried out to determine the cause of the failure/s. The relevant person will then be informed of the findings of the investigation and what further action will be necessary to ensure that the water complies with the prescribed concentration or value.</p> <p>Such an investigation will involve the taking of resamples from the private water supply. Depending on circumstances such samples maybe taken from points on the private water supply other than was sampled previously.</p>
Informal action This may take the form of: Advice; Verbal warning; Written information; Inspection reports; Risk Assessments	<p>Informal action is the first enforcement action to be considered where the water is unwholesome but not a potential danger to human health and in particular where:</p> <ul style="list-style-type: none"> <li>• The risk to human health is not serious enough to warrant formal action (low or medium as defined in the Drinking Water Inspectorate (DWI) Risk Assessment Tool).</li> <li>• The previous record of the supply is such that it would be reasonable to expect compliance when informal action is taken.</li> <li>• Confidence in the supply's management is high.</li> <li>• The risk to public health as a result of non-compliance is not significant.</li> <li>• The action is part of an ongoing project to improve standards.</li> <li>• The supply is for a single domestic dwelling.</li> </ul>
Serve a Notice' (Regulation 18, The Private Water Supplies (England) Regulations 2016 (As Amended).	<p>If the private supply of water intended for human consumption constitutes a potential danger to human health, then a notice must be served on the relevant person and the notice must:</p> <ul style="list-style-type: none"> <li>• Identify the private supply to which it relates.</li> <li>• State the grounds for serving the notice.</li> <li>• Prohibit or restrict the use of that supply.</li> <li>• Specify what other action is necessary to protect human health.</li> </ul> <p>The consumers of the supply will be informed of the notice and provided any necessary advice.</p> <p>If insufficient information is available to determine if the water constitutes a potential danger to human health, advice will be sought from Public Health England.</p>

<p>Serve a notice (Section 80, The Water Industry Act 1991).</p>	<ul style="list-style-type: none"> <li>• The water is unwholesome or is likely to be supplied in an unwholesome state and there is potential danger to human health.</li> <li>• The risk to human health is serious enough to warrant formal action (high or very high risk as defined in the Drinking Water Inspectorate (DWI) Risk Assessment Tool)</li> <li>• There is a lack of confidence in the ability or will of the relevant person or person in control to respond to informal action.</li> <li>• There is previous history of non-compliance with informal action.</li> <li>• Standards are generally poor and there is low management awareness. This notice will specify what steps are necessary to ensure that the water supplied is wholesome.</li> </ul> <p>The consumers of the supply will be informed of the notice and provided any necessary advice.</p> <p>If insufficient information is available to determine if the water constitutes a potential danger to human health, advice will be sought from Public Health England.</p>
<p>Carry out work in default</p>	<p>The relevant criteria to be considered are one or both of the following:</p> <ul style="list-style-type: none"> <li>• Where all opportunities for appeal against the notice have expired.</li> <li>• Where the offence involves a failure either in full or in part with the requirements of a statutory notice.</li> </ul>
<p>Simple Caution</p>	<p>Simple Cautions will be used under the following circumstances:</p> <ul style="list-style-type: none"> <li>• To deal quickly and simply with less serious offences.</li> <li>• To divert offenders where appropriate from appearing in criminal courts; and</li> <li>• To reduce the likelihood of re-offending.</li> </ul> <p>Simply cautions are issued in accordance with Home Office Circular 30/2005.</p>
<p>Prosecution</p>	<p>Prosecutions may be taken under one or more of the following circumstances including:</p> <ul style="list-style-type: none"> <li>• The offence is serious.</li> <li>• There is a poor history of compliance.</li> <li>• There has been a failure to comply with a statutory notice.</li> <li>• False information has been supplied wilfully, or there has been intent to deceive, in relation to a matter which gives rise to significant risk.</li> <li>• Officers have been intentionally obstructed in the lawful course of their duties.</li> </ul>

**Relevant legislation and guidance includes:**

Water Industry Act 1991

The Private Water Supplies Regulations 2016 (As Amended)

The Private Water Supplies (Amendment) Regulations 2018

DWI Private Water Supplies Sampling Procedures Manual Version 1.5 March 2019

<http://www.dwi.gov.uk/private-water-supply/regs-guidance/Guidance/sampling/pws-sampling-procedures.pdf>

DWI Private Water Supplies Guidance:

<http://www.dwi.gov.uk/private-water-supply/index.htm>

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
4 June 2019

**Subject:** **PUBLIC OPEN SPACE, SPORT AND RECREATION ACTION PLAN –  
STOKESLEY**

**Stokesley Ward**  
**Portfolio Holder for Leisure and Communities Services: Councillor Mrs B S Fortune**

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 The Council's policy is to consider and where appropriate endorse Public Open Space, Sport and Recreation Action Plans to provide a more strategic and efficient process for allocating future Section 106 monies (see Annex A) for public open space, sport or recreation.
- 1.2 The purpose of this report is to endorse the refreshed Public Open Space, Sport and Recreation Action Plans for the Stokesley Parish.
- 1.3 During the transition period between Section 106 fund allocations for public open space and the implementation of the Community Infrastructure Levy, action plans will continue to be submitted for the purpose of allocating remaining Section 106 developer contributions and to identify community priorities for open space, sport and recreation that can be shared with Parish Councils to help forward plans for spending CIL contributions that they receive.
- 1.4 To ensure that each Action Plan project can be assessed against the eligibility criteria as stated in the Open Space, Sport and Recreation Supplementary Planning Document adopted on 11 February 2011 it must:
  - Provide details of the public open space, sport and recreation project
  - Have given consideration to all public open space, sport and recreation projects that are included in a local Community or Parish Plan (if available)
  - Include details of any consultation with community groups that manage public open space, sport or recreation facilities that has helped identify future need
  - Refer to any recommendations that have been identified in the Council's Open Space, Playing Pitches and Sports Facilities strategies
  - Have support from the Elected Members for the parish concerned
  - Be signed off by the Director for Leisure and Environment
- 1.5 A copy of the Action Plan detailed in 1.2 is available at Annex B.

### **2.0 LINK TO COUNCIL PRIORITIES:**

- 2.1 The projects listed in the Action Plan link primarily to the enhancing health and wellbeing priority of the Council but will also help deliver outcomes under the caring for the environment and providing a special place to live priorities.

### **3.0 RISK ASSESSMENT**

- 3.1 Risk has been considered as part of this report and there are no major risks identified as a result. The monies are managed using a robust system to ensure that funds are spent in line with the terms and conditions of the award which each organisation has to sign prior to any funds being released.
- 3.2 There are potential relational risks related to the prioritisation of the projects listed in each Action Plan which are mitigated against by close liaison with the community groups, Ward Members and by considering priorities against other strategic aims contained in the Council's Open Space, Playing Pitch and Sports Facilities strategies.

### **4.0 FINANCIAL IMPLICATIONS:**

- 4.1 The main method of delivery of Section 106 allocations is to passport external funding from developers to community groups. Funds will not be committed or released to organisations until the Council has received the monies from the developer.
- 4.2 Action Plans are revised as projects are developed or completed to ensure that that the projects are still relevant and viable. If there are changes to the plan they will be re-submitted to Cabinet for approval.

### **5.0 LEGAL IMPLICATIONS:**

- 5.1 There is a legal responsibility upon the Council to ensure this funding is used in a way consistent with the individual Section 106 Agreements. The terms and conditions of the offer ensure that third party organisations meet their legal obligations of the award.

### **6.0 EQUALITY/DIVERSITY ISSUES:**

- 6.1 Equality and diversity issues have been considered to ensure that no-one is discriminated against using the facility that is being financially supported.

### **7.0 RECOMMENDATION:**

- 7.1 It is recommended that the Public Open Space, Sport and Recreation Action Plan at Annex B be approved.

**Background papers:** Hambleton Local Development Framework – Open Space, Sport and Recreation Supplementary Planning Document

**Author ref:** SL

**Contact:** Steven Lister  
Director for Leisure and Communities  
01609 767033

**Process for approving Sub Area Action Plan and Section 106 thresholds for Public Open Space, Sport and Recreation schemes**

**ANNEX A**

An individual Public Open Space, Sport and Recreation Sub Area Action Plan is submitted to Communities by a Town/ Parish Council or community group that manages a public open space, sport or recreation facility

Individual Action Plan projects are checked by the Communities team to ensure that the projects Public Open Space, Sport and Recreation SPD criteria, strategic priorities and appear to offer value for money

Communities Team consult local Ward Member(s)

Signed off by the Director for Leisure and Environment

Action Plan presented to Cabinet for approval

Action Plan schemes approved

Yes

No

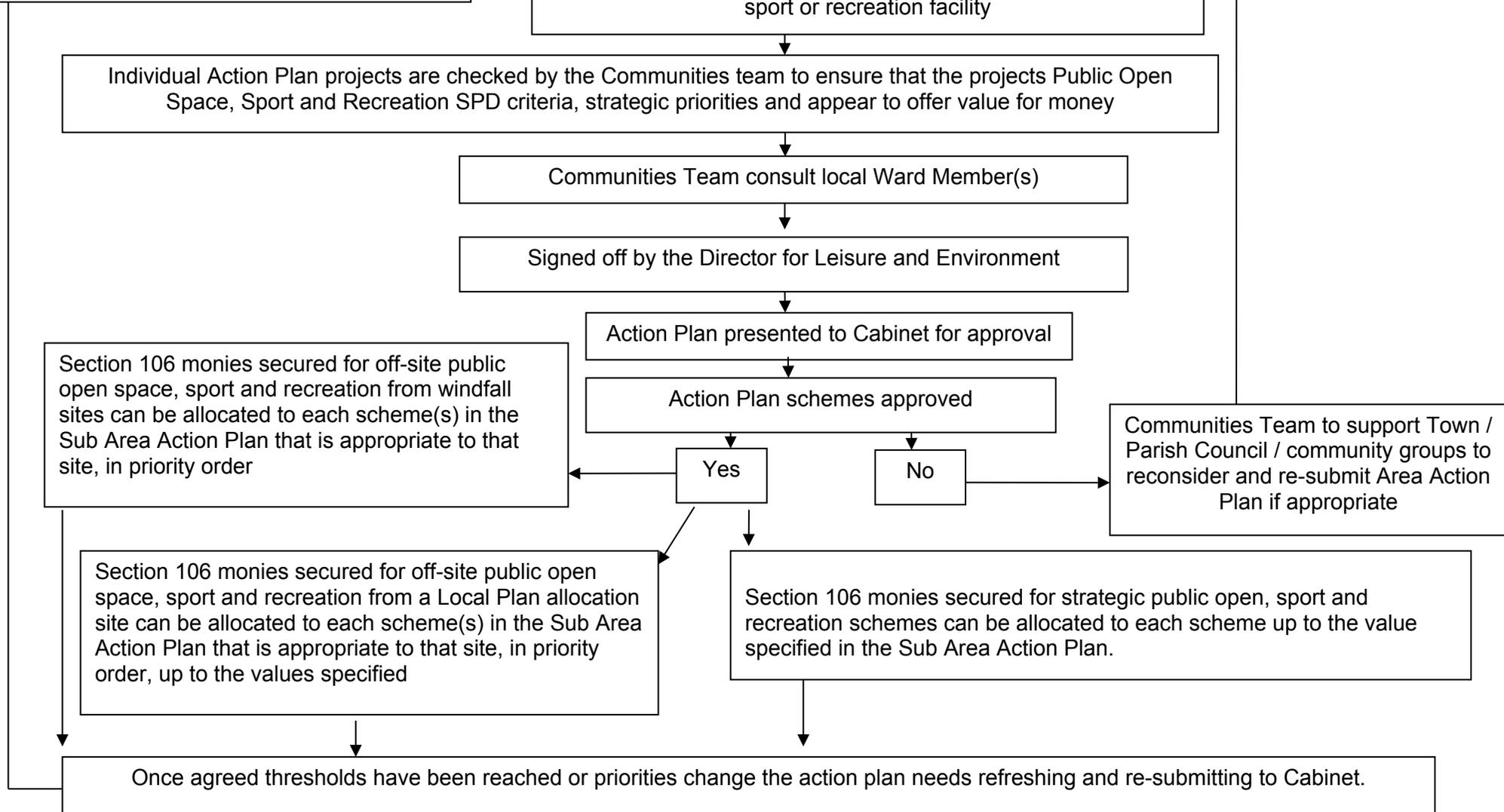
Communities Team to support Town / Parish Council / community groups to reconsider and re-submit Area Action Plan if appropriate

Section 106 monies secured for off-site public open space, sport and recreation from windfall sites can be allocated to each scheme(s) in the Sub Area Action Plan that is appropriate to that site, in priority order

Section 106 monies secured for off-site public open space, sport and recreation from a Local Plan allocation site can be allocated to each scheme(s) in the Sub Area Action Plan that is appropriate to that site, in priority order, up to the values specified

Section 106 monies secured for strategic public open, sport and recreation schemes can be allocated to each scheme up to the value specified in the Sub Area Action Plan.

Once agreed thresholds have been reached or priorities change the action plan needs refreshing and re-submitting to Cabinet.



**HAMBLETON**  
**DISTRICT COUNCIL**

**PUBLIC OPEN SPACE, SPORT AND RECREATION ACTION PLAN – STOKESLEY – 4 JUNE 2019**

<b>Public Open Space / Sport / Recreation project details</b>	<b>Managing organisation</b>	<b>Future actions</b>	<b>How do you know there is a need for this project?</b>	<b>Estimated cost (£)</b>	<b>Priority (1 = highest priority)</b>
Leisure Centre; school indoor and outdoor facilities; Stokesley Sports Club (football; tennis; cricket; bowls)	Joint partnership – Stokesley Sports Village	Development of co-ordinated sports provision between HDC / School / Sports Club / North Riding Football Association / Parish Council	Stakeholder evidence and various consultations with local providers and residents	£410,000.00	1
Football Club	Stokesley Junior Football Club	Grass cutting machinery	Feedback from users and grounds people	£15,000.00	2
Cricket Club	Stokesley Cricket Club	Cricket practice nets	Feedback from users	£3,000.00	3
River Leven public open space	River Leven Group	To make improvements to the pathways and banks of the River Leven to make it more accessible to the community	Consultation has taken place	£100,000.00	4
Fitness trail	Stokesley Parish Council	Fitness trail around town for all ages	Following the closure of two play parks a requirements for family activities is required	£20,000.00	5
North Road Play Area	Stokesley Parish Council	Improvements to the play equipment and installation of CCTV	Feedback from local residents and incidents of anti-social behaviour	£50,000.00	6
Cycleways – current provision minimal	Stokesley and Villages Community Regeneration Group	To develop a cycle link between Stokesley and Great Ayton, incorporating the Industrial Estate	Public consultation and discussions with Sustrans	£500,000.00	S106 funds allocated separately as identified in the LDF allocations document 2009