

Borough Council of
**King's Lynn &
West Norfolk**



CABINET

Agenda

**TUESDAY, 3 SEPTEMBER 2013
at 5.30pm**

in the

**Committee Suite
King's Court
Chapel Street
King's Lynn
PE30 1EX**



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Borough Council of
**King's Lynn &
West Norfolk**



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CABINET AGENDA

DATE: CABINET – TUESDAY, 3 SEPTEMBER 2013

VENUE: COMMITTEE SUITE, KING'S COURT, CHAPEL STREET, KING'S LYNN

TIME: 5.30 pm

There are no items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

1. MINUTES

To approve the Minutes of the Meeting held on 30 July 2013.

2. APOLOGIES

To receive apologies for absence.

3. URGENT BUSINESS

To consider any business, which by reason of special circumstances, the Chairman proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

4. DECLARATION OF INTEREST

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a

disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

5. CHAIRMAN'S CORRESPONDENCE

To receive any Chairman's correspondence.

6. MEMBERS PRESENT PURSUANT TO STANDING ORDER 34

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

7. CALLED IN MATTERS

To report on any Cabinet decisions called in.

8. FORWARD DECISIONS LIST

A copy of the Forward Decisions List is attached (Page 5)

9. MATTERS REFERRED TO CABINET FROM OTHER COUNCIL BODIES

To receive any comments and recommendations from other Council bodies some of which meet after the dispatch of this agenda. Copies of any comments made will be circulated as soon as they are available.

- Resources and Performance Panel & Audit Committee – 27 August 2013
- Regeneration Environment and Community Panel – 28 August 2013

10. REPORTS

1) Empty Property Strategy (Page 7)

The Empty Homes Strategy outlines the Borough Council's approach to bringing long term empty properties back into use and sets out an action plan for the future detailing how this is to be carried out.

2) Corporate Enforcement Policy (Page 32)

The report proposes minor amendments to the above policy to take into account minor legislative changes and changes to the Council's management structure.

3) Business Continuity Policy Statement & Strategy (Page 51)

The Council is a Category 1 responder under the Civil Contingencies Act 2004, which places a duty on it to develop and maintain plans to ensure that if an emergency occurred, the authority is able to continue to perform its critical activities and key services.

The Council's Policy Statement on Business Continuity Management was agreed by full Council in November 2011; the Policy Statement has been updated to reflect the changes to the Council's Management structure with effect from April 2013.

Whilst updating the Policy Statement, the whole document, including progress made against the council's strategy and approach has been refreshed.

4) King's Lynn Enterprise and Innovation Centre – Ground Improvement Works (Page 68)

The report outlines the ground improvement works needed to prepare the site on which the King's Lynn Enterprise and Innovation Centre will be built (KLIC). The nature and extent of the improvement works has been established through a comprehensive assessment carried out by environmental and engineering specialists. The report summarises the options assessed and identifies a preferred option for implementation, which is considered the most cost effective to the project.

5) Audit and Risk Committee – Terms of Reference (page 74)

In accordance with the Accounts and Audit Regulations, the Audit and Risk Committee was established in 2006, with Terms of Reference drawn up in line with the guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). The Terms of Reference need to be reviewed every three years and presented to Council for approval. The last review was carried out in 2010.

To: Members of the Cabinet

Councillors N J Daubney (Chairman), A Beales, Lord Howard,
A Lawrence, B Long, Mrs E A Nockolds, D Pope and Mrs V Spikings.

Cabinet Scrutiny Committee

For further information, please contact:

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FORWARD DECISIONS LIST

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
3 September 2013	Empty Property Strategy	Update to Strategy	Non	Council	Community Chief Executive		Public
	Corporate Enforcement policy	Update to Policy	Non	Council	Community Exec Director, G Hall	Existing Policy	Public
	Business Continuity Policy	Refreshing of the policy	Non	Council	Leader Deputy Chief Executive	Existing policy	Public
	King's Lynn Enterprise and Innovation Centre - Ground Improvement Works		Key	Council	Regeneration Chief Executive		Public
	Audit & Risk Committee – Terms of Reference	Update of Terms of Reference for Audit & Risk Committee	Non	Council	Leader Deputy Chief Executive	Existing Terms of Reference	Public

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
16 September 2013 (accounts only)	Statement of Accounts			Council	Deputy Chief Executive Leader		Public
	Annual Governance Statement		Non	Council	Exec Director – D Gates Leader		Public

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
1 October 2013	Council Tax Support Scheme 2014/15	Review of the scheme for 2014/15	Key	Council	Deputy Chief Executive Leader	Previous scheme	Public
	Discharge Of Homelessness Duty – Private Rented Sector		Non	Cabinet	Community Chief Executive		Public
	Asset Management: Residential Property Investment	Consideration of the use of the Council's assets to invest in residential property.	Key	Council	Resources Deputy Chief Executive		Public
	Town Heritage Initiative		Key	Council	Regeneration Chief Executive		Public
	Proposed Audit and Fraud Team	Review of the named teams	Key	Council	Leader Deputy Chief Executive		Private - Contains exempt Information under para 1 - information relating to any individual
	Business Rates Pooling Arrangement		Key	Council	Leader Chief Executive		Public

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
5 November 2013	Strategic Economic Infrastructure Plan		Non	Council	Regeneration & Community Chief Executive		Public

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/ Operational	Be entirely within Cabinet's powers to decide		NO
		Need to be recommendations to Council		YES
		Is it a Key Decision		NO
Lead Member: Adrian Lawrence E-mail: <i>cllr.adrian.lawrence@west-norfolk.gov.uk</i>		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Hannah Martin E-mail: <i>hannah.martin@west-norfolk.gov.uk</i> Direct Dial: 01553 616446		Other Officers consulted: Management Team		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications NO	Equal Impact Assessment req'd NO	Risk Management Implications NO

Date of meeting: 3 September 2013

1 EMPTY PROPERTY STRATEGY

Summary

The Empty Homes Strategy outlines the Borough Council's approach to bringing long term empty properties back into use and sets out an action plan for the future detailing how this is to be carried out.

Recommendation

Cabinet is requested to:

- 1) Approve the Empty Homes Strategy and Action Plan
- 2) Delegate authority to make minor amendments to the Empty homes Strategy and Action Plan to the Chief Executive in consultation with the Portfolio Holder with responsibility for housing.

Reason for Decision

To ensure that appropriate advice, assistance and action is taken with regard to empty homes

1.0 Context

1.1 Data collected by the Department of Communities and Local Government shows that on 1st October 2012 there were 259,000 long term empty homes in England (the definition of a long term empty home is one that has been empty for 6 months or more). 23,868 of these empty homes were in the East of England, 4,459 were in Norfolk, and in excess of 1000 were in King's Lynn and West Norfolk. As an Authority we have more long term empty homes than any other Borough or District in Norfolk.

- 1.2 Bringing empty properties back into use is a priority for the Borough Council, as empty properties can have social, economic and environmental impacts on the surrounding area. For the neighbours, empty properties can detract from the area, encourage anti-social behaviour and devalue their properties. For the Borough Council they represent a wasted resource, not only in terms of housing people in need, but in lost finance from the New Homes Bonus.
- 1.3 The strategic housing role of Local Authorities includes planning for current and future housing needs and making best use of the existing housing stock. In July 2013 there were over 5000 households on the housing register. At the same time there were 1026 long term empty properties in the Borough. These properties represent potential housing opportunities.
- 1.4 The Strategic Housing Market Assessment Update 2013 identifies that there is an annual shortfall of 1,431 affordable homes. This figure exceeds the total number of all new homes built annually within the Borough. In order to help to address this shortfall in homes it has become crucial to evaluate and make better use of the existing housing stock within the Borough. This underlines the importance of taking all steps necessary to assist empty home owners to bring their properties back into use, and to prevent properties from becoming long term empty in the first place.

2.0 Why Homes Are Empty

- 2.1 There are often specific reasons why homes become and remain empty for long periods of time. In order to provide a service of value to empty home owners we must understand what these reasons are. Feedback from the survey of empty home owners in November 2011 gave the following common examples of why properties remain empty:
 - The property requires renovation and has taken more funding and/or time than the owner anticipated.
 - Probate, estate or legal ownership issues are preventing the sale of the property.
 - The owner is reluctant to let or lease the property for fear of it being left in a poor state of repair.

3.0 Our Work

- 3.1 The Council have been successful in reducing the number of empty homes. In April 2012 there were 1165 long term empty homes in the Borough. In April 2013 there were 1049.
- 3.2 The second Empty Homes Forum is approaching in November and will incorporate stands and presentations from those seeking to offer services to empty home owners. Although the turn out last year was reasonable given that it was our first forum, we would like to see a greater attendance level and provide empty home owners with more

information and contacts, and have more people going away with a sense of what they can do to bring their property back into use.

- 3.3 The impact of the changes in Council Tax rates for properties that have been empty for two years or more is that Housing Standards have had around 15 enquiries from empty home owners wanting to know how they can bring their property into use, with several of these cases being referred to Freebridge to see if they are eligible to participate in the lease/purchase and repair scheme.
- 3.4 We are continuing to investigate alternative funding streams for empty home owners. However where the Council participates in any such scheme there will always be the need to ensure that the product offered also meets the Council's needs. This could be through the provision of affordable housing or private rented accommodation that could be made available to those in housing need. Therefore the impact of all initiatives has to be carefully considered before we can proceed.

4.0 The Strategy

- 4.1 The Empty Homes Strategy has been drawn up and outlines the Borough Councils approach to tackling empty homes up until the year 2016 through:

- Understanding why homes remain empty
- Raising awareness about empty homes
- Adopting a systematic approach to tackling empty homes
- Developing effective pathways to bring homes back into use
- Delivering a private sector leasing scheme

- 4.2 The Strategy sets the context of empty homes on a countywide basis then at a Borough level, looking at where the properties are and who owns them. This led to an understanding of how best to utilise our resources to tackle the issue of empty homes.

- 4.3 The Strategy and the Action Plan will be reviewed regularly to reflect changes to the work being carried out.

5.0 Conclusion

- 5.1 There are many benefits to bringing empty properties back into use, such as contributing to the supply of housing, reducing homelessness, contributing to the regeneration of an area by creating and encouraging stable and long lasting communities whilst also reducing the need for green field development.

- 5.2 The pressure the financial climate is having on the housing market and those trying to access affordable housing mean that demand is outstripping supply. Welfare reforms (such as the benefits cap and under occupation rules in social housing) appear to compound this

problem and therefore it is imperative that the Council makes best use of all housing, including empty homes.

6.0 **Background Papers**

Initial Equalities Impact Initial Assessment.

EMPTY HOMES STRATEGY

2013 - 2016

Borough Council of
**King's Lynn &
West Norfolk**



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1.0 INTRODUCTION

Homes can become empty for numerous reasons and in most cases this is on a short term or temporary basis. It is commonplace for properties to be empty for a brief period whilst they are awaiting sale, let or being renovated prior to occupation. These transitional periods are a natural function of the housing market and at any given time a large proportion of homes that are empty fall into this category. These properties are likely to be brought back into use within a reasonable timescale and are not a priority for local authority intervention.

The primary focus of King's Lynn and West Norfolk's Empty Homes Strategy are the long term empty properties that have been vacant for six months or more. This often is a good indication that there are fundamental issues preventing their re-occupation and it is these properties that will be targeted for attention.

The National Housing Strategy outlines the Government's approach to housing. The Government is seeking:

- To achieve a wide choice of high quality homes, including affordable housing, to address the requirements of the community.
- To widen the opportunities for home ownership, in particular to those who are vulnerable or in need.
- To improve affordability across the housing market, including increasing the supply of housing.

Addressing the House of Commons Secretary of State, Eric Pickles said: "Tackling the 700,000 empty homes is a top priority for my government", 20th September 2011.

In order to meet this demand, local authorities need to take action on empty properties, as it is not practical or economically viable to build a new house for every person in need of housing. Utilising existing housing stock, including empty properties in the private sector, has to be an integral part of the solution.

1.1 Why Properties Remain Empty?

There are often specific reasons why homes become and remain empty for long periods of time, for example;

- The property requires renovation and has taken more funding and/or time than the owner anticipated.
- Probate, estate or legal ownership issues are preventing the sale of the property.

- The owner is reluctant to let or lease the property for fear of it being left in a poor state of repair.

1.2 The Importance of Bringing Properties Back into Use

Re-occupation of an empty property brings about many benefits:

The owner - There are considerable advantages to the owner of bringing their empty property back into use. Capital if the property is sold. Rental income, increased property value and reduced outgoings if it is let out to tenants. Empty properties are at greater risk of being targeted in respect of anti-social and criminal behaviour, and so can be costly and difficult to insure.

Local residents – Bringing an empty home back into use reduces the opportunity for vandalism, fly tipping and antisocial behaviour, all of which can significantly impact the local community. Unsightly properties can have a negative effect on neighbouring house prices and reduce pride in the area, as well as having a direct impact on adjoining properties through dampness and structural problems.

The local economy - Bringing empty homes back into use encourages economic vitality, increasing spending in the local economy and protecting house prices within the neighbourhood. Unsightly properties can deter investment in an area and contribute towards its decline.

The wider community – Reduced demand on services such as fire, police and the council to deal with the problems associated with empty homes means that resources can be used more effectively elsewhere. Utilising existing stock will assist those seeking housing in the area and will reduce the need to develop green-field sites, preserving the environment for current and future generations.

Borough Council of King's Lynn and West Norfolk – Income from the new homes bonus and Council Tax can be utilised to support other Council services in the area and to keep Council Tax levels low.

2.0 CONTEXT

2.1 Housing Need

The global economic crisis resulted in significant changes in the housing market:

- Build rates dropped across the country, as developers lost confidence in the market and whether they would be able to sell the properties after building them.
- The majority of new affordable housing delivery comes from the requirements of Section 106 agreements (stating that a percentage of new property built must be deemed 'affordable'). As the number of housing projects decreased, the number of new affordable homes delivered through this route also reduced.
- Whilst the demand for shared ownership properties (where a percentage is owned by a registered social provider) increased, the lending market for such products decreased.
- Restrictions on lending led to an expansion in the private rental sector. The Strategic Housing Market Assessment Update 2013 identified that from 2001 to 2011, the private rental sector in the Borough increased by 59.1%.

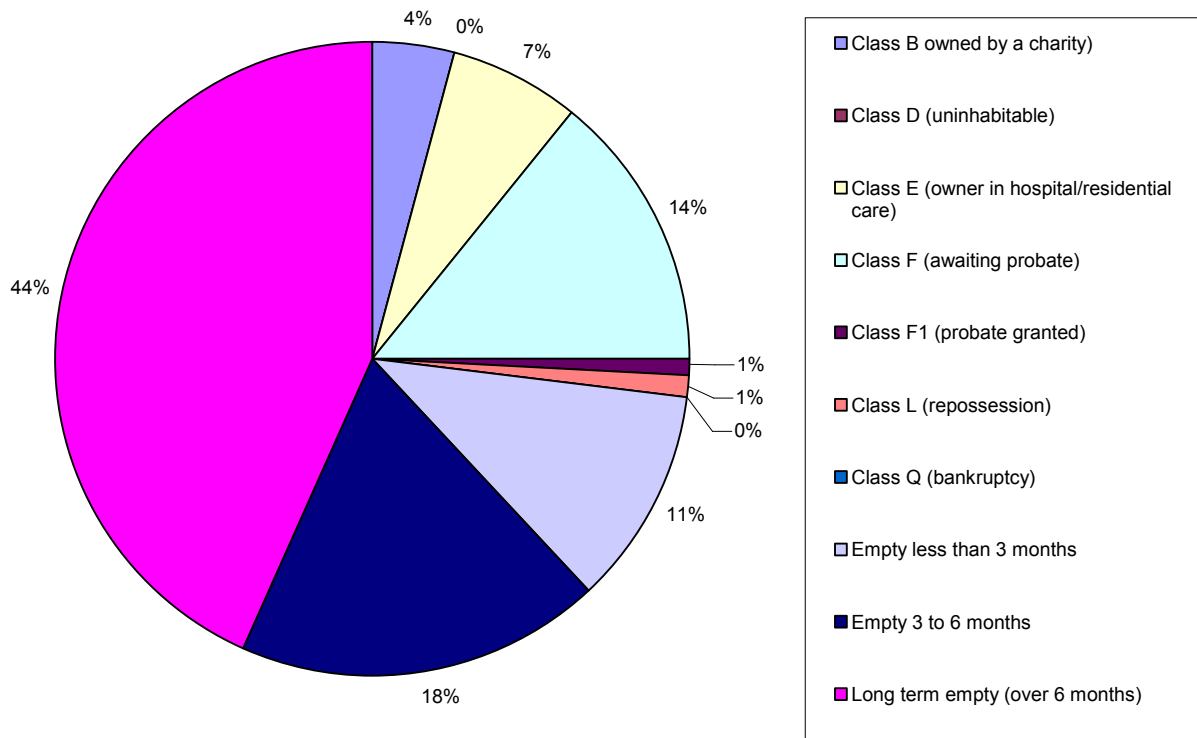
Information contained within the Strategic Housing Market Assessment Update 2013 shows a shortfall of 1,431 affordable homes per year. It is not realistic or feasible to build this number of homes each year as this figure exceeds the total number of new homes built in the Borough (only a percentage of which are built as affordable).

The ability to access accommodation that people can afford is under threat, both from low build rates and low lending rates. Local authorities need to respond by helping to alleviate the problem in their area. Bringing empty homes back into use to accommodate people in housing need is vital to reduce the pressure on existing housing stock.

2.2 Statistics

At the end of June 2013 there were 2382 empty homes registered with the Borough Council, 656 of these were subject to Council Tax exemptions/discounts. 1026 were long term empty properties. Figure 1 shows the percentage of empty properties that were subject to the various Council Tax exemptions and discounts.

Figure 1 - Empty properties as defined by Council Tax exemption class



Source: Council Tax data April 2013.

Note: Data is representative of the day it was collated.

Data collected by the Department of Communities and Local Government shows that on 1st October 2012 there were 259,000 long term empty properties in England. 23,868 were in the East of England, with 4,459 being in Norfolk. Table 1 compares the number of dwellings in each of the authorities to the percentage that were long term empty (at the time the data was collected).

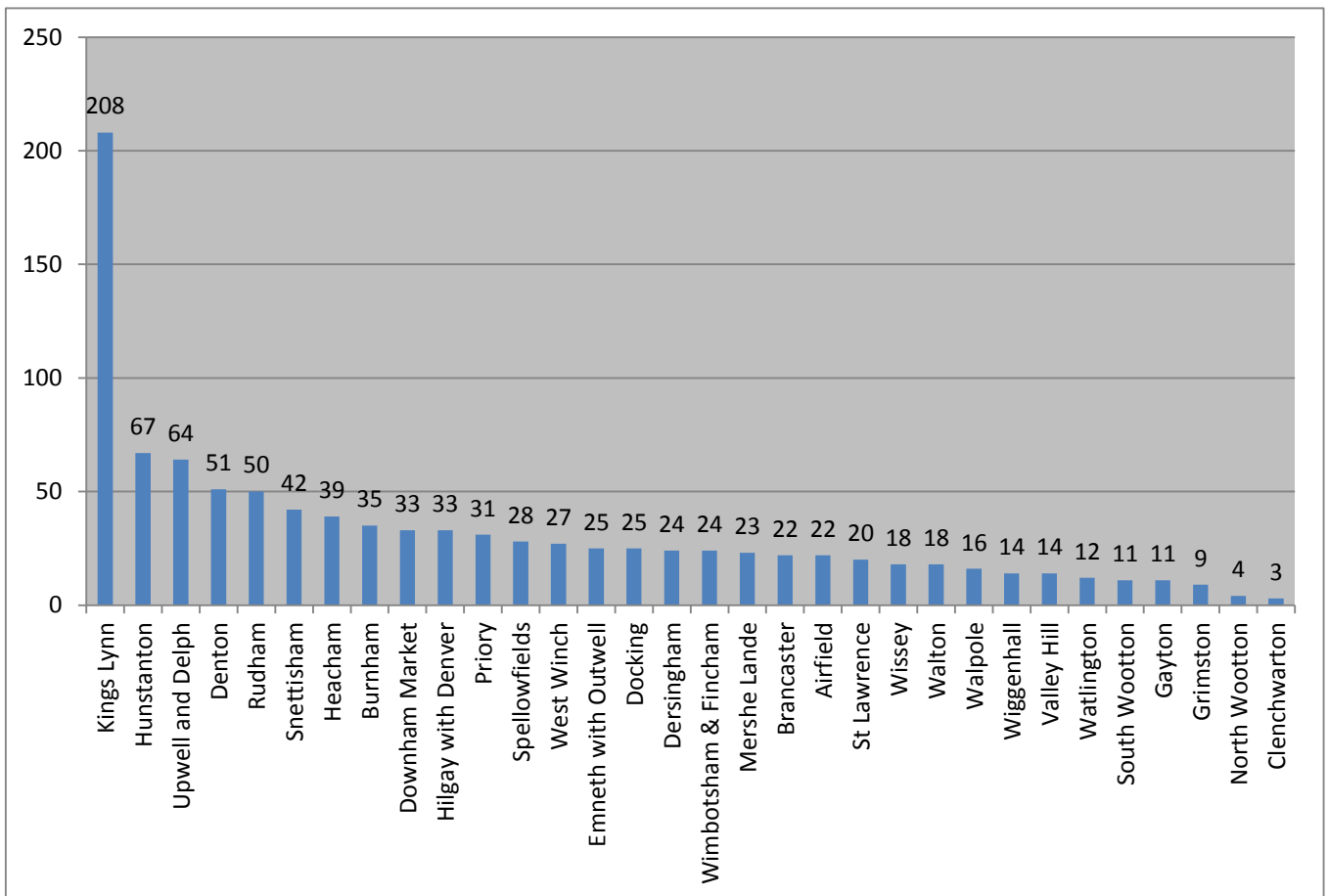
Table 1 – Long term empty properties as a percentage of total dwellings

Local Authority	Total Dwellings	Long Term Empty	% LTE Empty
<i>North Norfolk</i>	52,773	886	1.68
<i>King's Lynn and West Norfolk</i>	70,715	1,181	1.67
<i>Breckland</i>	57,709	707	1.23
<i>Great Yarmouth</i>	46,705	521	1.12
<i>South Norfolk</i>	55,923	431	0.77
<i>Broadland</i>	55,059	401	0.73
<i>Norwich</i>	63,976	332	0.52
Total	402,860	4,459	

Source: <http://www.emptyhomes.com/statistics-2/empty-homes-statistics-201112/>

The Strategic Housing Market Assessment Update 2013 identified that the demand for housing is greatest in the areas of King's Lynn and Hunstanton and as Figure 2 shows that the wards forming King's Lynn and Hunstanton contain the highest concentration of empty properties, this is therefore a compelling rationale to prioritise these areas for investigation and enforcement where necessary.

Figure 2 - Long term empty properties by ward



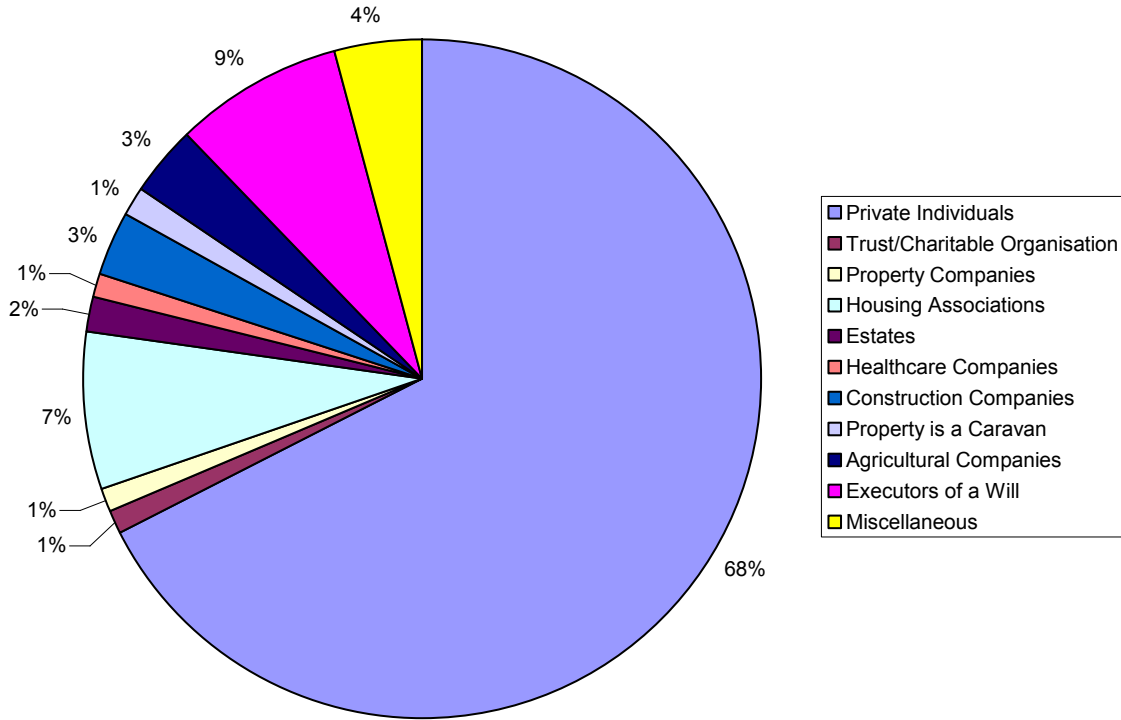
Source: Council Tax data, dated June 2013.

Note: The wards that form King's Lynn have been grouped together to give a more representative figure for comparison purposes. The wards that form Downham Market have also been grouped together for the same reason.

Figure 2 shows a relatively high number of empty properties in the wards Upwell and Delph, and Denton, both wards being substantial in size. The figures for King's Lynn, Rudham, and Hilgay with Denver include closed sheltered housing schemes operating by Freebridge Community Housing.

From the data collected, the long term empty properties can be further broken down into ownership groups as shown in Figure 3.

Figure 3 - Long term empty properties as defined by ownership



Source: Council Tax data, dated May 2012.

Figure 3 shows that the majority of long term empty properties are owned by private individuals. Therefore the most effective use of Council resources is to focus primarily on empty properties owned by individuals and target support and assistance at this sector.

Although the majority of resources will be targeted at assisting private individuals, the Borough Council still monitor and take appropriate action to encourage and assist other owners of empty properties where necessary.

Figure 4 demonstrates that housing associations own 7% of the long term empty properties in the Borough. If a property owned by a housing association is in a habitable condition it will usually only be empty for a short period of time (between tenancies for example). If a property is empty for longer it is usually awaiting renovation or re-development. The Borough Council monitor all long term empty properties and work with housing associations where necessary to advise on bringing them back into use.

3.0 COUNCIL APPROACH

The Councils approach to dealing with empty homes is outlined below and involves

3.1 *To gain a greater understanding of why homes in the Borough remain empty in order to help prioritise and target our resources.*

We recognise the need to maintain a dialogue with empty homeowners in order to understand why properties become and remain empty in the Borough. Our efforts will be neither helpful nor effective unless we can understand the challenges which exist or are perceived to exist by owners. This will allow us to tailor our support and services accordingly.

In November 2011, the Council sent a questionnaire to over 1000 of the Borough's long term empty home owners. The questionnaire sought to establish why owners leave their properties empty and what assistance they are looking for to bring it back into use. In excess of 70% of people responded and the following feedback was noted:

- There was a hesitance to let property for fear of it being left in a poor condition, while others were waiting for the market to recover before they sell. These owners had no immediate plans to bring the properties back into use and so they remain empty.
- 17% of respondents said that they were doing repairs/renovation work.

Using this feedback, two keys intervention areas were identified:

- Investigate and provide a less risky alternative to letting a property out via the conventional method.
- Provide assistance to empty home owners trying to renovate their property.

3.2 To raise awareness of empty homes

Raising awareness of empty homes and the wasted resource they represent is crucial to the successful delivery of the strategy. Many empty homeowners are unaware of the role local authorities have in relation to empty homes, including the assistance they can provide in getting a property back into use.

In November 2012 the Borough Councils held its first Empty Homes Forum at the Town Hall in King's Lynn. There were stalls for empty home owners to browse, along with two presentations from organisations that could assist in bringing empty properties back into use. The purpose of the forum was to bring together empty home owners and the people who can help them sell, let, lease or renovate their home, with the ultimate aim of getting more empty homes back into use. The forum is now an annual event and will be held in or around Empty Homes week in November.

It is important that empty property owners feel able to approach the Council and that the Council make every effort to assist where possible. The Housing Standards Team ensures that all relevant information regarding empty homes and the assistance available is accessible via the website www.west-norfolk.gov.uk. Those without internet access can visit the offices in King's Court, or phone (01553) 616200 and ask to speak to Housing Standards. Another valuable source of information is www.emptyhomes.com

3.3 To adopt a systematic approach to tackling empty homes

A systematic approach for assessing and investigating long term empty properties has been developed and is summarised in Appendix A and an action plan in Appendix C. This involves using informal means to support, encourage and assist empty home owners in the first instance, with the option to pursue the owner via enforcement action if it becomes necessary.

Prevention - It is also necessary to deter empty homes owners from allowing their properties to become long term empty. Therefore changes were introduced on the 1st April 2013 as outlined in Table 2.

Table 2 - Empty Property Council Tax Discounts

<i>Exemption</i>	<i>Discount before 01.04.2013</i>	<i>Term</i>	<i>Discount after 01.04.2013</i>	<i>Term</i>
<i>Empty & Unfurnished</i>	100%	6 months	100% 0% after	3 months
<i>Properties empty for more than 2 years</i>	No premium		50% premium (150% payable)	indefinite

Cure - Representatives from Housing Standards, Planning Enforcement, Regeneration, Conservation and Community Safety meet on a regular basis to review land and buildings that have been reported to the Council as being in a derelict state. This includes empty properties, some of which are long term empty and on the database for further investigation.

One of the functions of the group is to identify properties that are or are becoming derelict and refer them to the relevant Department for action. Properties have been brought back into use after being subject to enforcement action by members of the group.

3.4 To develop effective pathways to bring empty properties back into use

To achieve the aims of the strategy we need to develop and implement initiatives that encourage the re-occupation of empty homes. This will involve informal approaches to owners, with the offer of assistance using one or more of the tools and initiatives we have available, as outlined in Appendix A

An action plan has been drawn up (see Appendix C) to show the work underway to bring empty properties back into use. It is a working document and will be reviewed regularly to reflect the changes and progress that is made.

3.5 Private Sector Leasing Scheme - Freebridge Community Housing

Funding was secured from the Homes and Communities Agency (HCA) to bring 40 properties back into use during 2012 to 2015. The Borough Council is working in partnership with Freebridge Community Housing to offer a private sector leasing scheme to empty homes owners in West Norfolk.

The scheme - Freebridge lease the property from the home owner for a period of 5 to 10 years, and use the funding from the HCA to bring the property up to the decent homes standard. The property is then let to those in housing need from the Council's housing register. At the end of the lease the property is returned to the landlord.

Advantages to the owner are;

- Guaranteed rental every month for the duration of the lease, regardless of whether the property is occupied
- Fixed rate management fee with no set up charges, all of which is recovered from the rental income
- The property is brought up to the decent homes standard and the cost of the works is covered through the rental income
- Full repairs service should the landlord wish to relinquish the responsibility of having to arrange repairs
- Full management service
- Freebridge staff will visit the property to offer the tenants support and ensure that the property is being maintained in good condition.
- Property returned at the end of the lease period with vacant possession and in the same condition, minus fair wear and tear.

Freebridge are also purchasing empty properties in areas of housing need and bringing them back into use for occupation by people on the housing register. This allows empty properties that may not have been suitable for the leasing scheme to be brought back into use and occupied.

4.0 FURTHER ACTION

The Borough Council will always endeavour to advise and assist empty home owners where possible. Where an owner is not engaging with the Council or where all reasonable avenues to find an absent owner have been explored, enforcement options may be considered as a last resort.

Further action is more likely to be utilised if:

- The property is dangerous and/or poses a risk to the public,
- The property is found to have a significant impact on surrounding neighbours/communities

Where there is a land charge registered against the property, recovery of the debt can be used as a tool to bring the property back into use. Appendix B outlines the legislation that can result in a land charge being placed on a property.

4.1 Enforced Sale

The enforced sales procedure is an enforcement tool carried out under the Law of Property Act 1925. It is an effective way of dealing with long term empty properties where the owner cannot be traced or is unwilling to work with the Borough Council to bring the property back into use.

An enforced sale can only be carried out where the Council has placed a land charge on the property. This could be where works in default have been undertaken (works have been carried out in lieu of the owner who is unwilling to act or who is untraceable) or where the owner is in arrears for Council Tax payments.

The owner is given the opportunity to settle the debt prior to sale. If the monies are not paid within a specified time period the Council can act as a mortgagee and bring the property to sale on the open market. All charges would be cleared from the proceeds of the sale, allowing the Council to recover the debt and the remainder would be paid to the owner.

4.2 Empty Dwelling Management Orders

Empty Dwelling Management Order's (EDMO's) enable the Council to take control of and manage a residential property where the following apply:

- Attempts to contact the owner or negotiations to bring the property back into use have failed
- The dwelling has been unoccupied for at least 24 months
- There is no prospect of the dwelling becoming occupied in the near future
- There is a reasonable prospect that the dwelling will become occupied if an EDMO is made
- The Council has complied with its duties in seeking an EDMO, including ensuring that the dwelling is not subject to an exemption under the regulations.

An Interim EDMO allows the Council to take control of the property but may not tenant the property without the owner's permission. With a final EDMO in place, the Council does not require the consent of the owner to grant occupation rights. The rent collected will be used to offset the costs incurred by the Council in bringing the property back into use. Any surplus will be paid to the owner on expiry of the order.

Empty Dwelling Management Orders (EDMOs) will only be used as a last resort where all other avenues of investigation and negotiation have been exhausted, and then only in situations whereby the property is beginning to cause problems for neighbours, for example attracting anti-social behaviour, detracting from the appearance of the neighbourhood, attracting fly tipping etc.

4.3 Compulsory Purchase Order

The Council has the power under various Acts to compulsory purchase a property. Compulsory Purchase Orders (CPO) can be used for a number of purposes, including:

- Clearance of unfit housing - Housing Act 1985
- Bringing empty properties back into use - Housing Act 1985
- Development or regeneration - Town and Country Planning Act 1990

The Acts also lay down rules for compensating persons who have had their legal interests compulsory purchased, based upon putting that individual into a similar position as before they lost their interest, either by compensating them financially and / or providing them with alternative accommodation.

After compulsory purchasing a property the Council are likely to sell it in order to recover the costs.

5.0 PLANNING FOR THE FUTURE

The Borough Council take a proactive stance on long term empty properties and are continuing to explore new ways of encouraging empty home owners to bring their properties back into use.

5.1 Upcoming Projects

The following projects are being considered:

Empty Homes Loans – Empty Homes (formerly the Empty Homes Agency) are working with a loan provider to offer loans of up to £15K at a fixed rate of 5% APR to owners who are looking to renovate their empty homes and bring them back into use. The property then needs to be let at an affordable rent over the repayment period (of a maximum of 5 years).

The Borough Council's involvement would be limited to verifying that the property has been empty for more than 6 months, carrying out a land registry check, a brief visit to the property to check that the funds offered would be sufficient to carry out the works required, and a revisit to check that the works are complete. If the Council do not participate in the scheme the loans will still be available to the public but applicants would have to pay a fee of £425 fee to cover administrative and valuation costs.

Working with Landlords – The Council is exploring options to support and assist landlords, promote high standards within rental accommodation and assist new landlords to enter the market and acquire the property management skills and knowledge required. The Council are also looking at ways in which prospective tenants registered with the Council can be assisted to find suitable accommodation in the private rental sector.

Empty Property Matching Service - An empty property matching service designed to link people that are interested in selling their empty properties with those that are interested in buying an empty property is under consideration. Housing Standards often receive enquiries from people looking to purchase an empty property, however restrictions on data sharing often result in that person having minimal success. The matching service would not be subject to the same restrictions as it would be carried out with the permission of the owner and perspective purchaser, therefore allowing the process to run much more effectively.

6.0 INFORMATION

To contact Housing Standards:

Phone the Customer Information Centre on (01553) 616200

Email: housingstandards@west-norfolk.gov.uk

Visit: King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Additional information can be found on the Empty Homes section of the Borough Council's website at www.west-norfolk.gov.uk

For further information about empty homes:

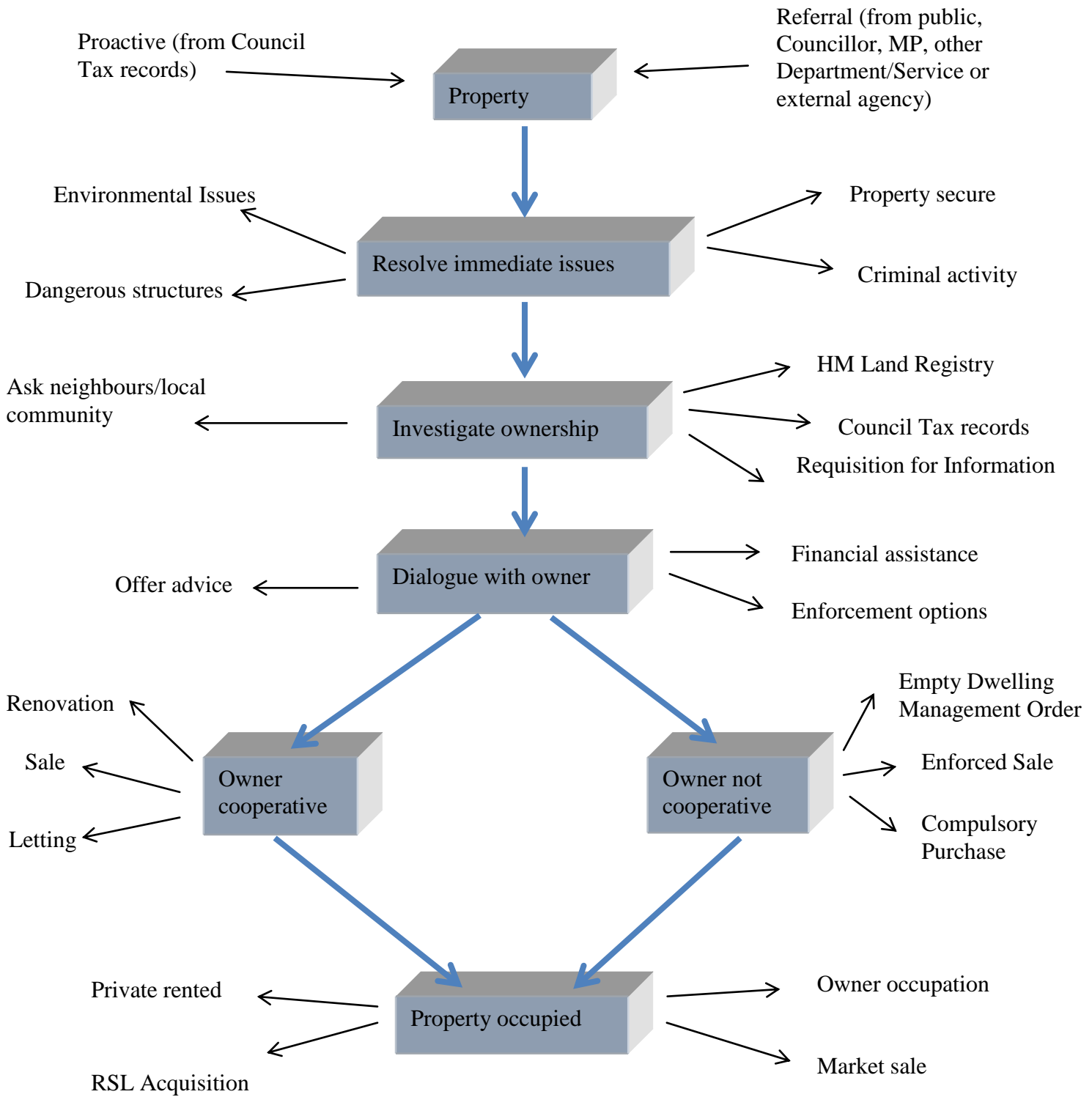
www.emptyhomes.com

www.homesandcommunities.co.uk/ourwork/emptyhomes

www.reportemptyhomes.com

www.ehnetwork.org.uk

APPENDIX A



APPENDIX B

STATUTE & ENFORCING DEPT.		PRIORITY CHARGE (over other Charges)	INTEREST (whether it accrues)
EHS	Other		
<u>Public Health Act 1936</u> Sec 45 (works to closets) Sec 83 (filthy or verminous)		YES	YES
<u>Local Government (Misc. Provs) Act 1976</u> Sec 33 (restore services) Sec 35 (private sewer)		YES	NO
<u>Local Government (Misc. Provs) Act 1982</u> Sec 27 (drains) Sec 29 (boarding up)		NO	NO
	<u>Highways Act 1980</u> Sec 154 (hedges, trees) Sec 165 (unfenced land) [Highways]	YES	NO
<u>Building Act 1984</u> Sec 59 (drainage) Sec 60 (soil pipes) Sec 76 (defective premises) Sec 84 (yards)	<u>Building Act 1984</u> Secs. 77/ 78 (dangerous bldng) [Building Control]	YES	NO
<u>Housing Act 2004</u> Sec 11 (Improvement notice category 1 hazard) Sec 12 (Improvement notice category 2 hazard) Sec 40(2) (emergency remedial action) Sec 49 (powers to charge for certain enforcement action) Sec 50 (recovery of charges under Sec 49)		YES	YES
	<u>Town and Country Planning Act 1990</u> Sec 215 (land condition) Sec 172 (planning breach) [Planning]	NO	NO
<u>Environmental Protection Act 1990</u> Sec 80 (stat nuisance)		YES	YES
<u>Prevention of Damage by Pests Act 1949</u> Sec 4 (rats & mice)		YES	YES

APPENDIX C

Empty Homes Action Plan

Outcomes	Actions	Target date	Responsible officer
<i>Gain a greater understanding of why homes remain empty</i>	Information provided from council tax to housing standards team to ensure records are up to date and action is taken	Monthly	Systems Manager and Revenues Team Leader
	Review all empty homes to ensure data is accurate via one off project	End of October 2013	Systems Manager and Revenues Team Leader
	Review how empty property data and actions are recorded	September 2013	Senior Housing Standards Officer/ Housing Standards project Officer – Housing Standards
<i>Raise awareness of empty homes</i>	Hold annual Empty Homes Forum to raise awareness and offer practical solutions and awareness to home owners	November – annually	Senior Housing Standards Officer
	Ensure information is available and up to date on Borough Council website	On-going	Senior Housing Standards Officer
	Issue press releases to update public on empty home initiatives	Regularly (3 times a year, once to the include the empty homes forum)	Senior Housing Standards officer
	Publicise and support Empty Homes Week	Annually (November)	Senior Housing Standards Officer
<i>To adopt a systematic approach to tackling empty homes</i>	Review new cases of empty homes over 6 months, send survey to owner	Monthly	Senior Housing Standards Officer
	Review progress and take action in accordance with Empty Homes Strategy and Procedures as in Appendix A	On-going	Senior Housing Standards Officer

	Attend and support the Derelict Land and Buildings Group meetings	On-going	Senior Housing Standards Officer
<i>To develop effective pathways to bring empty homes back into use</i>	Support and monitor the Private Sector Leasing Scheme	On-going monthly meetings with Freebridge	Private Sector and Mortgage Rescue Officer
	Investigate models and encourage RPs to acquire or offer management and other solutions to bring suitable empty properties in high demand areas back into use, including the private sector leasing scheme	By March 2014	Private Sector and Mortgage Rescue Officer, & Housing Strategy Officer
	Investigate the introduction of empty property matching service and implement if feasible and useful	December 2013	Senior Housing Standards Officer
	Review the possibility of accessing the national empty homes loans fund to bring empty homes back into use, engaging in the scheme if feasible	By January 2014	Senior Housing Standards Officer
	Review the possibility of people purchasing empty homes through Homebuy or shared equity arrangements	By April 2014	Private Sector and Mortgage Rescue Officer, & Housing Strategy Officer

REPORT TO CABINET

Open	Would any decisions proposed :			
Any especially affected Wards	(a) Be entirely within cabinet's powers to decide NO			
	(b) Need to be recommendations to Council YES			
	(c) Is this a Key Decision NO			
Lead Member: Cllr Adrian Lawrence E-mail: cllr.adrian.lawrence@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr Brian Long; Cllr Vivienne Spikings		
		Other Members consulted:		
Lead Officer: Vicki Hopps E-mail: vicki.hopps @west-Norfolk.gov.uk Direct Dial: 01553 616307		Other Officers consulted: Geoff Hall; Ray Harding; Dave Thomason; Debbie Gates; Chris Bamfield; Nicola Leader; John Greenhalgh; Sheila Farley; Stuart Ashworth; Neil Langley		
Financial Implications No	Personnel Implications No	Statutory Implications (incl S.17) YES	Equality Impact Assessment req'd NO	Risk Management Implications YES

Date of meeting: 3rd September 2013

2 ENSURING PROPORTIONATE ENFORCEMENT

Summary

The report proposes minor amendments to the above policy to take into account minor legislative changes and changes to the Council's management structure.

Recommendation

1. That the Corporate Enforcement Policy be adopted by Cabinet and forwarded to council for approval.
2. Any future administrative amendments to the policy be approved by the Head of Legal Services and the appropriate portfolio holder.

Reason for Decision

To ensure that the Council is seen to be taking a sensible approach to regulation. To demonstrate that any enforcement action required is as a last resort and is applied in a fair and consistent manner to reduce the regulatory burden on businesses and individuals.

1. Introduction

- 1.1. The primary role of the regulatory services within the Council is to ensure the wellbeing and safety of visitors and residents within the Borough and to protect the environment and property from any adverse effects from industries or developments through business support and regulation where necessary.
- 1.2. This report seeks the approval of the amendments to the Corporate Enforcement Policy to demonstrate sensible and rational enforcement.

2. Enforcement Activity

2.1. The Council carries out a wide range of regulatory activity as a result of national Government legislation, for example:

- Food safety inspections and investigation of cases of food poisoning;
- Business compliance with health and safety legislation and investigating causes of workplace accidents to prevent a reoccurrence;
- Ensuring air quality in the borough is of a high standard;
- Working with landlords to improve the quality and standard of private rented housing;
- Assessing housing needs and providing advice to people who find themselves homeless or at risk of being made homeless;
- Carrying out licensing of various activities such as taxis, licensed premises, etc to make sure that they are safe for the public to use;
- Consulting with other departments and developers over the use of sites proposed for development which may have previously been contaminated;
- Investigations into neighbourhood noise complaints to try and resolve neighbour disputes and prevent anti-social behaviour;
- Investigating alleged breaches of planning control (development without planning permission and the failure to comply with a conditional planning permission);
- Untidy land & buildings;
- Works to a Listed Building without prior specific consent;
- Works to Protected Trees without prior specific consent;
- The display of advertisements without prior specific consent;
- Unauthorised demolition of buildings without consent (this does not apply to every building);
- Monitoring and compliance of Section 106 Agreements; and
- Investigating High Hedges under Part 8 of the Anti Social Behaviour Act.

2.2 Whilst the majority of individuals and businesses affected by regulatory activity cooperate fully with the Council and are dealt with relatively informally it is necessary and appropriate, for the protection of the public or environment, that enforcement action is taken where appropriate. It is important that all such action is governed by sensible principles in order that the Council is and is seen to be acting properly by the individuals or businesses affected and also by the courts or Local Government Ombudsman.

2.3 Formal enforcement is an inevitable part of the work of the regulatory services within the Council but nonetheless needs to be carried out in an appropriate manner.

2.4 All actions are subject to rigorous procedural safeguards and requirements laid down in statute and guidance.

- 2.5 Officers do not take formal action without prior consultation with their Line Manager prior to taking action and with reference to the appropriate guidance documents and Council procedural requirements.

3. Enforcement Principles

- 3.1. The basic principles of enforcement activity and the principles of good regulation are outlined in a statutory code of practice, the “Regulators Compliance Code”, given statutory effect by the Legislative and Regulatory Reform Act 2006, which places a duty on regulators to have regard to five ‘Principles of Good Regulation’. The code of practice was issued on 17th December 2007 and came into force on 6th April 2008.

- 3.2. These principles are:

- Transparency;
- Accountability;
- Proportionality;
- Consistency; and
- Targeted only at cases for which action is needed

3.3. Transparency

- 3.3.1. When carrying out formal action it is important that the people affected by the action clearly understand what action is being taken and why it being taken. Any action is discussed with those affected and a time period is given for them to put things right before action is taken.

3.4. Accountability

- 3.4.1. Officers need to demonstrate that they are responsible for their actions and actively work with businesses and the public to advise and to assist with compliance and complaints to ensure that they are dealt with as promptly and efficiently as possible in order to minimise time delays.

3.5. Proportionality

- 3.5.1. Any action required is proportionate to the seriousness of the breach and the risk to health, safety or the environment

- 3.5.2. The most serious formal action, including prosecution, is for serious breaches of the law where there is a significant risk to health, safety or the environment or where there has been a flagrant disregard for the requirements of the law.

- 3.5.3. Formal action is only taken where necessary and as a last resort where an informal approach has failed

3.6. Consistency

- 3.6.1. Consistency of approach does not mean uniformity. It means ensuring that all cases are treated fairly and in the same manner so that any action

taken on one business/person will be the same for another for a similar type of offence.

- 3.6.2. All Officers undertaking enforcement duties are suitably trained, qualified and authorised to ensure that they are fully competent to undertake their enforcement duties and arrangements are in place to ensure discussion and comparison of enforcement decisions between Officers.

Targeted

- 3.6.3. All enforcement action is primarily targeted towards those situations that give rise to the most serious risks, where the risks are least well controlled and against deliberate or organised crime.
- 3.6.4. Any enforcement action is directed against duty holders responsible for a breach. This may be employers in relation to workers or others exposed to risks; the self-employed; owners of premises; suppliers of equipment; designers or clients of projects; or employees themselves.

4. Corporate Enforcement Policy

- 4.1. The existing enforcement policy was updated in 2011 to incorporate the various enforcement and regulatory activity that the Council carries out.
- 4.2. The new policy has been reviewed and changes made to primarily reflect the new structures that exist within the organisation as well as minor administrative changes.

5. Proposal

- 5.1. That the Council approves the Enforcement Policy attached in Appendix 1
- 5.2. That the Council approves that future administrative changes be authorised by the Head of Legal Services and appropriate portfolio holder.

6. Personnel

- 6.1. None

7. Financial Considerations

- 7.1. None

8. Risk Assessment

- 8.1. The Council has the responsibility to ensure that any enforcement action taken is in line with the five principles of good regulation.
- 8.2. By not adopting an enforcement policy, which details the way in which the authority will carry out enforcement duties, the authority may be criticised

where enforcement action is taken which could ultimately bias any case against the authority.

9. Policy Implications

9.1. The Enforcement Policy is a policy document that should be adopted by Council

10. Statutory Considerations

10.1. The Council has a duty to carry out its enforcement functions under various pieces of legislation and to comply with the obligations set out in the Enforcement Concordat and Regulators Compliance Code. Having a formally approved Enforcement Policy in place demonstrates that the Council is meeting its obligations.

11. Access to Information

Previous Policy

Borough Council of
King's Lynn &
West Norfolk



Borough Council of
King's Lynn & West Norfolk

Corporate Enforcement Policy

Date: June 2013

Review date: July 2016

A summary of the Policy is available in large print, on tape
other languages on request

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First published August 2011

1. Introduction

Comment [VH1]: Text cahgned to update regulations

- 1.1. This Enforcement Policy is in accordance with the Regulators' Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006.
- 1.2. It sets out the general principles and approach which the Borough Council is expected to follow and places a duty on regulators to have regard to five Principles of Good Regulation¹.
- 1.3. This enforcement policy accords with the principles of the Human Rights Act 1998, the European Convention on Human Rights, The Freedom of Information Act 2000 and Regulation of Investigatory Powers Act 2000.
- 1.4. The appropriate use of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures.

This enforcement policy reiterates the basic principles of enforcement activity.

¹ Transparency, accountability, proportionality, consistency and targeted action.

2. Enforcement Activity

- 2.1 For the purpose of this document 'enforcement' includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action, such as prosecution or issue of notices, and includes the inspection of premises, including dwellings, to check compliance with legal requirements and the provision of advice to aid compliance.
- 2.2 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.
- 2.3 In certain instances the regulator may conclude that a provision in the Code is either not relevant or is outweighed by another provision. The regulator will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

2.4 Formal Action

2.4.1 Whilst recognising that most businesses² want to comply with the law regulator also recognises that some elements of business and individuals operate outside the law (both intentionally and unintentionally).

Comment [VH2]: Footnote added to explain the term business and to incorporate landlords in this

2.4.2 The Council will consider taking formal action for serious breaches, which may include any of the following circumstances:

- Where there is a risk to people, property, the community or the environment;
- For matters where there has been recklessness or negligence.
- A deliberate or persistent failure to comply with advice, warnings or legal requirements.
- Any act likely to affect animal health or welfare, disease prevention measures, or the integrity of the food chain.
- Obstruction or assault (including verbal assault) of an officer in the execution of their duties. (This list is not exhaustive)

2.4.3 For the purposes of this document 'formal action' means:

- Advice or Warning
- Written or Verbal Instruction
- Works in Default
- Service of Notices
- Revocation/Suspension of a licence or permit, registration or approval,
- Seizure
- Suspension
- Forfeiture
- Issue of Penalty Notices
- Compulsory Purchase Order
- Empty Dwelling Management Order
- Simple Caution
- Prosecution
- or any other criminal or civil proceedings, applied either separately or in any appropriate combination.

Comment [VH3]: Order changed to show escalation of action and to include CPO and EDMO

Comment [VH4]: Added word

² The term "business" seeks to encompass all organisations, including the voluntary sector and private sector landlords, individuals and corporate organisations, etc.

3 Principles of Good Regulation

3.1 The five principles of good regulation are:

- a) Transparency;
- b) Accountability;
- c) Proportionality;
- d) Consistency; and
- e) Targeted only at cases for which action is needed or where it is expedient to take action.

3.2 Transparency

3.2.1 We will communicate in plain English or in the appropriate language or method

3.2.2 In most circumstances we will ensure that people affected by formal action are informed of what is planned, and allow for discussion and time to respond before the action is taken. We will also give them a named officer's contact details. These arrangements must have regard to legal constraints and requirements.

3.2.3 When a notice is served it will say what needs to be done, why, and by when, and that in the officers opinion a breach of the law has been committed and why the notice is necessary

3.2.4 We will make a clear distinction between legal requirements and recommended works.

3.2.5 As part of our commitment to equality we will use the following:

- Where businesses or the public do not have English as a first language we may offer translations of correspondence.
- We also use INTRAN, the Interpretation and Translation Agency for the Public Services of Norfolk covering telephone interpreting, face to face interpreting, sign language and lip speaking service.
- We can provide large print documents and Braille
- We can provide taped information
- Documents can be emailed

3.3 Accountability

- 3.3.1 The regulatory officers will actively work with businesses and the public to advise and to assist with compliance and complaints.
- 3.3.2 Out of hours contact for services will be provided for complaints or requests of an immediate high risk public health impact such as food poisoning outbreaks; serious pollution incidents; serious accidents; animal disease outbreaks; irreversible harm to the environment and unauthorised works and damage to listed buildings and protected trees.
- 3.3.3 We will carry out evening visits and inspections when businesses are open during these times.
- 3.3.4 Regulatory Officers will show their identification (and authority if requested) at the outset of every visit and explain the reason for the visit, unless the nature of the investigation requires otherwise.
- 3.3.5 Contact points and telephone numbers will be provided for business and public use.
- 3.3.6 The whole range of enforcement activities will be dealt with as promptly and efficiently as possible in order to minimise time delays.
- 3.3.7 The Council has a complaint procedure for use by businesses, the public, employees and consumer groups. This is available on request by telephone and from reception desks.
- 3.3.8 Feedback questionnaires will be routinely used to gather and act upon information about the services we provide.
- 3.3.9 We will include information to highlight new legal requirements, with letters or emails sent, after an inspection or visit; information on the internet and direct mailing to help keep businesses up to date.

Comment [VH5]: Reference to EH&H removed and replaced with "The Council"

3.4 Proportionality

- 3.4.1 Any action required will be proportionate to the seriousness of the breach and the risk to people, property, the community or the environment.
- 3.4.2 The most serious formal action, including prosecution, will be for serious breaches of the law where there is a significant risk to people, public health, safety, amenity or the environment, or where there has been a flagrant disregard for the requirements of the law.

Comment [VH6]: "people" included in this paragraph

3.5 Consistency

- 3.5.1 Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.
- 3.5.2 There are arrangements in place to ensure discussion and comparison of enforcement decisions by the Regulatory Officers.
- 3.5.3 All Regulatory Officers undertaking enforcement duties will be suitably trained, qualified and authorised to ensure that they are fully competent to undertake their enforcement duties.

3.6 Targeted

- 3.6.1 All enforcement action will be primarily targeted towards those situations that give rise to the most serious risks, where the risks are least well controlled and against deliberate or organised crime. Other factors also determine priorities for enforcement activity, including Government targets and priorities, new legislation, national campaigns and public concerns.
- 3.6.2 Any enforcement action will be directed against duty holders, landowner or other legally interested parties responsible for a breach. This may be employers in relation to workers or others exposed to risks; the self-employed; owners of premises; suppliers of equipment; designers or clients of projects; or employees themselves. Where several duty holders have responsibilities, enforcing authorities may take action against more than one when it is appropriate to do so in accordance with this policy.

4 Intelligence and Risk Led Enforcement

- 4.1 By having a coherent and robust intelligence system, effective strategies can be formed to enable and co-ordinate solutions to particular problems. This enables the identification of new, current and emerging issues, allowing provision of strategic and tactical direction on how the issues can best be tackled. Activities are targeted based on general or specific risks identified via trends, history or specific incidents. Enforcement Agencies exchange information as part of their partnership work in reducing crime and disorder.

5 Enforcement Action

- 5.1 The Regulatory Officers will have regard to the guidance documents, which exist both generally, for example, the Code for Crown Prosecutors produced by the Crown Prosecution Service (CPS), as well as other guidance relevant to the individual regulator.
- 5.2 In determining the nature of enforcement action to be taken, the Regulators should ensure that any sanction or penalty should:
- Aim to change the behaviour of the offender;
 - Aim to eliminate financial gain or benefit from non-compliance;
 - Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
 - Be proportionate to the nature of the offence and the harm caused;
 - Aim to restore the harm caused by the regulatory non-compliance where appropriate;
 - Aim to deter future non-compliance.
- 5.3 A person who it is believed may have committed an offence may be formally interviewed during an investigation. These interviews will be conducted under the rules of the Police and Criminal Evidence Act 1984.

6 Conflict of Interest in Enforcement Matters

Comment [VH7]: Formatting of text and numbering

- 6.1 Where a breach is detected where the enforcing authority is itself is the responsible operator, then except where the health and safety of an individual or the community is at risk and immediate action is required, the following protocol will be followed:-
- Where the breach is sufficiently serious to warrant more than the provision of advice, information, assistance or a written warning, an Officer from another authority within Norfolk will assist in the decision making process as to the action required to be taken. The Chief Executive will be informed of serious breaches without delay.
 - The additional Officer's role is to assist and challenge the decision making process to ensure that appropriate, proportionate and consistent action is to be taken to remedy the breach, prevent re-occurrence and to minimise the risk of 'conflict of interest' for the enforcing authority. A record of the additional Officer's involvement will be kept such that it is auditable.

7 Prosecution

Comment [VH8]: Format of text and numbering

7.1 Regulatory Officers will follow The Code for Crown Prosecutors 2010 (CPS) guidance which requires two main tests to be considered in relation to instigating a prosecution:

The Evidential Sufficiency Test:

- Is there admissible, substantial and reliable evidence that an offence has been committed? i.e. Can it be used in court? Is there enough evidence? Is the evidence sound and factual? (This may include an expert opinion).
- Has the Police and Criminal Evidence Act 1984 been complied with to ensure fair and open gathering of the evidence?

The Public Interest Test:

- Is it in the public interest to prosecute?

7.2 The CPS guidance gives a number of factors that may lead to a decision not to prosecute which the Council may take into consideration, as well as other local factors, and includes the following:

- a) The Court is likely to impose a nominal penalty;
- b) The offence was committed as a result of a genuine mistake or misunderstanding;
- c) If the loss or harm caused can be described as minor and was the result of a single incident;
- d) There has been a long delay between the offence taking place and the date of the trial, unless:
 - The offence is serious;
 - The delay has been caused in part by the defendant;
 - The offence has only recently come to light; or
 - The complexity of the offence has meant that there has been a long investigation;
- e) A prosecution is likely to have a bad effect on the victim's physical or mental health;
- f) The defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health;
- g) The defendant has put right any loss or harm; or
- h) Details may be made public that could harm sources of information, international relations or national security.

7.3 The Regulatory Officers will also consider whether or not a prosecution is appropriate by consideration of the factors contained in paragraph 2.4.2 of this policy.

- 7.4 When considering formal enforcement action, the Regulatory Officer will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding the best approach.
- 7.5 The Council will have an internal procedure for the authorisation of any investigations that may result in prosecution. All such cases will be regularly reviewed.
- 7.6 If formal action is taken, the Council is likely to seek to recover the costs of the investigation. The Court determines the level of fine imposed and costs awarded.

7.7 Simple Cautions

- 7.7.1 A simple caution in certain cases may be offered as an alternative to a prosecution. The purpose of a simple caution is to deal quickly with less serious offences, to divert less serious offences away from the Courts, and to reduce the chances of repeat offences.
- 7.7.2 The regulators will comply with the provisions of the Home Office Circular 016/2008. The following conditions must be fulfilled before a caution is administered:
- The offender has made a clear and reliable admission (either verbally or in writing);
 - There is a strong realistic prospect of a conviction;
 - It is in the public interest to offer a simple caution; and
 - The offender is 18 years or more at the time that the caution is to be administered
- 7.7.3 If a person/Company declines the offer of a simple caution, the regulator will normally pursue the prosecution action.

8 Forfeiture

- 8.1 Where an accused has not agreed to voluntarily surrender any infringing goods then, on successful conclusion of legal proceedings, forfeiture may be applied for. This does not preclude a regulator taking forfeiture proceedings in their own right in appropriate circumstances.

9 Proceeds of Crime

- 9.1 Where appropriate, working in partnership as necessary, the regulatory authority will seek to recover the assets of convicted offenders under the Proceeds of Crime Act 2002 (as amended).

10 Directors

- 10.1 On the conviction of a Director connected with the management of a company the prosecutor will, in appropriate cases, draw to the Court's attention their powers to make a Disqualification Order under the Company Directors Disqualification Act 1986.

11 Civil Claims

- 11.1 Any enforcement action is completely separate and distinct from civil claims made by individuals for compensation or other remedy. Enforcement is not undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.
- 11.2 The Council may, upon request, provide a factual report which details its' investigation and involvement in the case to individuals, or their solicitors, pursuing a civil claim. There may be a charge for this report.
- 11.3 Where the civil claim results in an Officer being formally subpoenaed to Court to give evidence, the Council reserves the right to recover in full any costs incurred

12 Working with external agencies and enforcement bodies

- 12.1 If a business has a Primary Authority (also, if appropriate, a Lead or Home Authority scheme or informal Lead or Home Authority scheme), the regulator will contact the Primary Authority before enforcement action is taken, unless immediate action is required because of imminent danger to health, safety or the environment.
- 12.2 The Council will liaise with the other partner regulators to ensure that any proceedings instituted are for the most appropriate offence.

13 Publicity

- 13.1 Regulatory authorities have a responsibility to protect the public from detrimental trading and environmental practices. Regulators undertake a range of activities to achieve this. These include actions that are taken after the detection of an offence, as well as measures to prevent and deter their commission.
- 13.2 One such measure is the publication of convictions and information concerning significant detrimental trading or other behaviour. The publicity generated by prosecutions and other enforcement action acts as a deterrent to others. It also reassures the general public that Regulators take a serious view of such detrimental behaviour.
- 13.3 The Executive Director for the service area may therefore consider publishing the name and address of each person convicted of an offence together with details of the issues involved.
- 13.4 To reach decision as to whether to publish such information, the Executive Director will consider the following factors:
- The specific details of the offence committed or detrimental activity.
 - The public interest in disclosing personal information e.g. the deterrent effect of the publication.
 - Whether the publication would be proportionate.
 - The personal circumstances of the offender.

This list is not exhaustive and other factors may be relevant in the circumstances of an individual case.

Copies of this document and other advisory leaflets are available from:

Borough Council of King's Lynn and West Norfolk

King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Telephone: 01553 616200

Email: contact@west-norfolk.gov.uk

Website: www.west-norfolk.gov.uk

We will make this policy available on tape, in Braille, large type, or in another language on request,

The policy will be reviewed regularly.

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory	(a) Be entirely within Cabinet's powers to decide YES		
		(b) Need to be recommendations to Council	NO	
		(c) Is this a Key Decision	NO	
Lead Member: Cllr Nick Daubney E-mail: cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
Lead Officer: David Thomason E-mail: david.thomason@west-norfolk.gov.uk Direct Dial: 01553 616246		Other Members consulted:		
Lead Officer: David Thomason E-mail: david.thomason@west-norfolk.gov.uk Direct Dial: 01553 616246		Other Officers consulted: Management Team		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications YES	Equalities Impact Assessment YES If YES: Pre-screen only	Risk Management Implications YES

Date of meeting: 3 September 2013

3 BUSINESS CONTINUITY MANAGEMENT POLICY STATEMENT & STRATEGY

Summary

The Council is a Category 1 responder under the Civil Contingencies Act 2004, which places a duty on it to develop and maintain plans to ensure that if an emergency occurred, the authority is able to continue to perform its critical activities and key services.

The Council's Policy Statement on Business Continuity Management was agreed by full Council in November 2011; the Policy Statement has been updated to reflect the changes to the Council's Management structure with effect from April 2013.

Whilst updating the Policy Statement, the whole document, including progress made against the council's strategy and approach has been refreshed.

Recommendation

It is recommended that

1. Cabinet endorse the new version of the Business Continuity Policy Statement and Strategy
2. Delegated authority be granted to the Deputy Chief Executive, in consultation with the Leader, as Portfolio Holder for Business Continuity, to make further minor changes if deemed necessary.

Reason for Decision

To ensure that the Council continues to meet the requirements placed upon it by the Civil Contingencies Act 2004 and is well placed to react in the event of a disruption or emergency.

1.0 Background

- 1.1 The Civil Contingencies Act 2004 places a duty on Category 1 responders (as defined by the act and which includes all local authorities) to develop and maintain plans for the purpose of ensuring that, so far as is reasonably practicable, if an emergency occurs they are able to continue to perform their key services / critical activities. This means that, in the event of a disruption or emergency, the Council must have plans available to ensure that it can mobilise the functions it needs to:
- deal with any emergency
 - ensure that the impact of the emergency on the Council's day-to-day activities is kept to a minimum, and
 - ensure that, so far as possible, vital services for the community can be maintained at appropriate levels.
- 1.2 The Business Continuity Management Policy Statement and Strategy, attached, are the framework documents around which the Council's arrangements are based.
- 1.3 In March 2009, Council considered and endorsed a newly formulated Business Continuity Policy Statement and Strategy document, which had been devised as a result of a Business Impact Analysis undertaken in 2008, in conjunction with the Council's insurers.
- 1.4 In 2011, following an internal audit, which identified development areas, Management Team set up a Business Continuity Corporate Officer Group, which includes officers from across the authority, led by the Deputy Chief Executive, to review the Council's Policy and Strategy, and the wider Business Continuity Management arrangements.
- 1.5 Cabinet and Council adopted a revised and updated Policy Statement and Strategy document in November 2011.

2.0 Document update

- 2.1 In line with industry best practice and the adopted Policy, the Policy Statement and Strategy document has been reviewed and refreshed again in 2013 by the Business Continuity Corporate Officer Group. The Policy Statement itself has not materially changed.
- 2.2 The main changes made to the document are:
- removing reference to the Executive Director, Health & Housing from the Policy Statement
 - updating section 7 with progress made / activities undertaken since November 2011
 - updating list of Critical Activities in Appendix A
- 2.3 The Corporate Officer Group will review this document regularly to ensure it remains fit for purpose and relevant. This is a 'living document' which will need to be updated on a reasonably regular basis. It is therefore proposed that delegated authority be granted to

the Deputy Chief Executive, in consultation with the Leader, as Portfolio Holder for Business Continuity, to make further minor changes if deemed necessary.

3.0 Updates

- 3.1 The Audit & Risk Committee receive annual updates on the work being undertaken on Business Continuity. The last update was in August 2013.

4.0 Policy Implications

- 4.1 This is a refresh to a document containing a policy adopted by Council in November 2011.

5.0 Financial Implications

- 5.1 There are no financial implications associated with adoption of this policy.
- 5.2 In the event that the Council needs to bring Business Continuity plans into operation it will mean that an event has occurred which will threaten service provision in some way. It is highly likely that this will also bring about additional expenditure / lost income and the financial implications will need to be met from the Council's general fund balance and / or its reserves.

6.0 Personnel Implications

- 6.1 There are no personnel implications associated with this document.

7.0 Statutory Consideration

- 7.1 Adoption of this updated Policy Statement and Strategy document will help to ensure that the Council continues to meet the requirements placed upon it by the Civil Contingencies Act 2004 and is well placed to react in the event of a disruption or emergency.

8.0 Risk Assessment

- 8.1 Business Continuity planning is a statutory requirement and clearly is aimed at managing risk following the occurrence of an event / disruption. Plans are not aimed at prevention of an event, which is dealt with in other ways by Service Managers, but at mitigating the impact of any serious interruption to the business of the Council.

9.0 Equality Impact Assessments

- 9.1 An Equalities Impact Assessment pre-screening form has been completed, this is attached for information. The Business Continuity Management Policy Statement does not affect people differently according to their equality communities and therefore a full assessment is not required.

10.0 Access to information

- 10.1 None

Borough Council of
**King's Lynn &
West Norfolk**



Business Continuity Management

Policy Statement and Strategy

September 2013

Title	Business Continuity Management – Policy & Strategy	
Date of Publication:	Cabinet	September 2013
	Council	November 2011 (not req'd in 2013)
Published by	Borough Council of King's Lynn & West Norfolk	
Edition	1.0	First Published January 2009
	2.0	Second edition November 2011
	3.0	Third edition September 2013

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Links to other documents:

This is a strategic document which makes reference to and runs in conjunction with the suite of Business Continuity Management documents within the Council.

Business Continuity Management

Policy & Strategy

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1. Introduction

The Business Continuity Policy Statement set out in this document outlines the Council's vision for Business Continuity Management. It is vital that we are able to continue to provide essential services to the residents and businesses of West Norfolk, whatever disruption or emergency might affect the Council.

All services have a role, and every member of staff has a responsibility to make sure the Council can continue to service our communities whatever the disruption. The Policy Statement in Section 5 demonstrates that the Council is committed to ensuring that robust and effective Business Continuity Management is in place as a key mechanism to restore and deliver continuity of key services in the event of a disruption or emergency.

Section 6 contains the Council's strategy for achieving the stated policy and outlines how this document – together with other documents such as the Invocation Process and Incident Checklist, Threat Plans and Team Business Continuity Plans – fit together to form the overall Business Continuity Management programme.

Section 7 outlines the methodology that has been undertaken to develop business continuity in the Council since the adoption of the previous plan in 2011 and Section 8 updates progress to date.

Cllr Nick Daubney
Leader of the Council
September 2013

Ray Harding
Chief Executive
September 2013

2. Background

The Business Continuity Management policy and strategy set the framework for the Business Continuity Management (BCM) Programme.

The policy and strategy indicate the authority's clear buy-in to the implementation of the BCM programme and makes a public statement of intent, endorsed by the Leader and Chief Executive.

The main elements and purpose of this BCM policy and strategy are to:

- Assign accountability for BCM
- Demonstrate strategic support for BCM
- Identify key roles & responsibilities
- Gain assurance that the BCM programme is aligned with the organisational strategic objectives
- Set the framework for compliance with all aspects of the Civil Contingencies Act 2004

3. Relationships to other plans / arrangements

3.1 Civil Emergency

If the incident causing serious disruption to services is defined as a 'borough-wide emergency', the Borough Emergency Response & Recovery Plan may be invoked. The aim of the Borough Emergency Response & Recovery Plan is to enable management of the emergency situation affecting the wider environment and would include a multi-agency response. Dependant on the severity and scale of the incident or emergency, the corporate Critical Incident Team process and / or Business Continuity Plan(s) could also be activated if the civil emergency affected Council services.

3.2 Critical Incident Team

The Borough Council has a corporate Critical Incident Team (CIT) and related process. The Critical Incident Team will usually be the first point of contact for an incident of a critical nature. The full CIT process is documented at Appendix C of the Invocation Process and Incident Checklist document.

3.3 Invocation Process and Incident Checklist

This document outlines the process within which the decision may be taken to invoke the Business Continuity Plan(s) and includes an outline of the Gold/Silver/Bronze Internal Management Structure, definitions of Recovery Response Times, and an example BC Incident Log. It is designed to demonstrate how accountability will be assigned for BCM within the Council and provides a checklist for use by those involved in any BC incident.

3.4 Business Continuity Threat Plans

In 2008, the main threats to the continuation of the Council's services and activities were identified in reference to the Corporate Risk Register and the Community Risk Register. These threats have been reviewed in 2011 and 2013.

3.5 Critical Activity Bronze Level BC Team Plans

In addition to identifying the main overall threats to the Council's operations, the authority undertook a Business Impact Analysis which identified those services that protect life and safety, or are considered essential to support such activity and were considered critical to restore and deliver in the event of a disruption or emergency. These are termed 'Critical Activities' and identification in this way means that if / when an interruption happens, the response will focus resources – people, space, time and money – to these services first. Detailed plans are therefore in place to ensure that in the event of an emergency or disruption, these services are restored and delivered within a maximum of 24 hours.

3.6 Departmental Specific Bronze Level BC Plans

Departments within the Council have BC plans specific to their operations (outside of the Critical Activities mentioned above). In the

event of an emergency or disruption, services that are not a Critical Activity would be prioritised for restoration according to an agreed priority.

3.7 Overview of BCM documents

An overview diagram of the suite of documents that form the Council's Business Continuity Management arrangements (including detail on the agreed Threats and Critical Activities) is shown at Appendix A.

4. Updates to the Policy, Strategy and plans

4.1 Responsibilities and timetable for updates

The Deputy Chief Executive is the Officer responsible for Business Continuity within the Council. Management Team has set up a small BC Corporate Officer Group who will assist the Deputy Chief Executive in maintaining, reviewing and testing the suite of documentation which form the Council's Business Continuity Management arrangements.

The BC Corporate Officer Group (BC COG) will review the following Business Continuity documents on a regular basis and report to Management Team on the preparedness accordingly of:

- BCM Policy and Strategy
- BCM Invocation Process and Incident Checklist
- agreed Threats
- agreed Critical Activities

The BC COG will also

- ensure that the agreed Critical Activities are kept under review and any proposed changes reported to Management Team as appropriate, outside of this timetable
- regularly assess risks to the Council to establish where new plans are required

Maintenance of and updates to BC plans for agreed Critical Activities and any Departmental Specific BC plans are the responsibility of the relevant Service Manager and are included in the Corporate Service Manager responsibilities.

4.2 Shared Services / changes to delivery arrangements

The Deputy Chief Executive (DCE) will be made aware of any potential shared service arrangements as well as any other changes to the way the Council delivers its services. Business Continuity Management arrangements will be considered by the relevant Officers at the time that contracts / activities are put in place for alternative delivery. The BC COG will assist the DCE to ensure that relevant changes are incorporated into the BCM arrangements.

4.3 Documentation storage and update protocol

A protocol has been established for the storage of BCM documentation and for the archiving of superseded versions. This is shown at Appendix B.

5. Business Continuity Management – Policy Statement

1. The Council is committed to ensuring robust and effective Business Continuity Management as a key mechanism to restore and deliver continuity of key services in the event of a disruption or emergency.
2. The Council's Business Continuity Management (BCM) arrangements will meet the statutory requirements within the Civil Contingencies Act 2004 and will be aligned to the following standards:
 - BS 25999 Business continuity management – Part 1:Code of Practice
 - BS7799 Information Security Management System.
 - Recognised standards of corporate governance.
3. At a corporate level the Council will determine its main Critical Activities and identify the main threats. A review of these will be undertaken regularly and this will determine the priority areas for business continuity planning.
4. Each service delivery process within the Council is owned by a respective Executive Director who will ensure that they understand, support and implement the elements of the BCM programme.
5. Each Executive Director will contribute to an annual review of the BCM documentation, via the Council's Management Team monitoring the review process, challenging the results and providing support where necessary.
6. Contracts for goods and/or services deemed critical to the Borough Council of King's Lynn and West Norfolk Council business continuity will aim to include a requirement for each nominated supplier to provide, for evaluation, a business continuity plan covering the goods and/or services provided. Every tender for business continuity critical goods and/or services will include business continuity as an element of the tender evaluation model.
7. All Council staff will be made aware of the plans that affect their service delivery areas and their role following invocation of any Business Continuity plan(s).
8. The Council will implement a programme of BCM testing exercises.

Cllr Nick Daubney
Leader of the Council
September 2013

Ray Harding
Chief Executive
September 2013

6. Business Continuity Management – Strategy

6.1 Introduction

This Business Continuity Strategy provides the framework within which the Borough Council of Kings Lynn and West Norfolk complies with the business continuity requirements of the Civil Contingencies Act 2004 and which is consistent with corporate governance best practice.

Business Continuity plans will ensure that the Council can continue to deliver a minimum level of service in its critical functions following a significant incident.

The Deputy Chief Executive will provide the focal point for the production, coordination, validation and review of the Council's business continuity activity. Industry best practice guidelines, produced by the British Standards Institute (BS 25999) have been used in the formulation of this strategy.

Corporate business continuity is closely linked to corporate risk management and this strategy should be read in conjunction with the Council's Risk Management Strategy.

The basic principles¹ of the Business Continuity Strategy have been accepted by the Council's Management Team (MT).

6.2 Scope

This strategy applies to all parts of the Council. The requirement to plan applies to activities identified as 'Critical' through the Council's Business Impact Analysis and agreed by Management Team. This allows planning to be focused on the key Critical Activities of the Council in the event of an emergency or disruption.

Business Continuity Planning includes the management of outsourced contracts, and requires those responsible for negotiating and managing them to ensure appropriate business continuity standards are included in contracts so that the service provider is able to deliver acceptable standards of service following a disruption to the Council or the supplying company.

6.3 Definition of Business Continuity Management (BCM)

Business Continuity Management (BCM) can be defined as²:

'A holistic management process that identifies potential threats to an organisation and the impacts to business operations that those threats, if realised, might cause, and which provides a framework for building organisational resilience with the capability for an effective response that safeguards the interests of its key stakeholders, reputation, brand and value creating activities.'

¹ BS25999 Part 1: Code of Practice and BS7799 Information Security Management

² BS25999 Business Continuity Management – Part 1: Code of Practice British Standards Institute

BCM is therefore about the Council preparing for a disaster, incident or event that could affect the delivery of services. The aim being that at all times Critical Activities are maintained; and that key elements of other services are maintained, where possible, at a basic level and brought back up to an acceptable level of service as soon as possible.

6.4 Statutory Requirements

The Civil Contingencies Act 2004, as it relates to Business Continuity, requires the Council to:

- a. Maintain plans to ensure that they can continue to exercise critical functions in the event of an emergency as far as reasonably practicable
- b. Include exercises within Business Continuity arrangements, to ensure the approach is effective, and arrangements for the provision of training to those involved
- c. Review its BC arrangements and keep them up to date
- d. Have regard to assessment of both internal and external risks when developing and reviewing its BC arrangements
- e. Have a clear procedure for invoking BC plans
- f. Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency
- g. Provide advice and assistance to businesses and voluntary organisations about business continuity management

6.5 Benefits of Business Continuity Management

Effective Business Continuity Management delivers a number of tangible and intangible benefits to individual services and to the Council as a whole, including:

- a. Develops a clearer understanding of priorities (business impact analysis)
- b. Protects the organisation, ensuring that it can help others in an emergency (facilitated by the BC Policy and Strategy, Invocation Process and Incident Checklist, appropriate BC Team Plans)
- c. Protects the reputation of the organisation
- d. Provides great confidence of arrangements and resilience to key threats
- e. Facilitates legislative compliance and good corporate governance (implementation of BC management arrangements)

7. Delivering the Strategy

7.1 Methodology

The process being used within the Council is aligned with the BCM model outlined in BS 25999 Business continuity management – Part 1: Code of practice published by the British Standards Institute, shown at Fig.1.

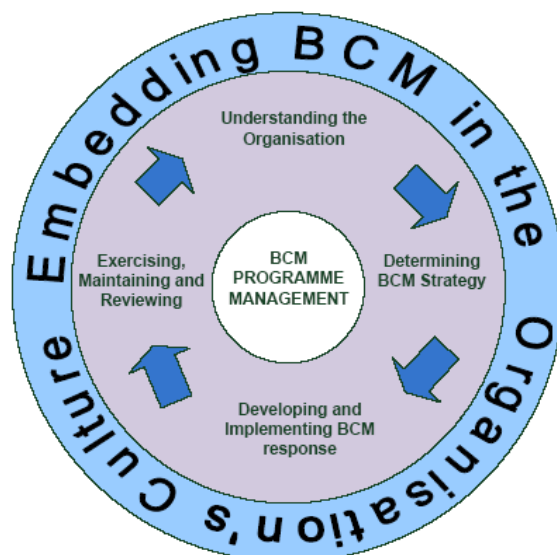


Figure 1

The diagram has at its core, BCM programme management, which is the catalyst for ensuring that robust business continuity plans are developed and maintained. This includes:

- Assigning responsibility for implementing and maintaining the BCM programme within the Council
 - **The responsible Officer is the Deputy Chief Executive Officer**
- Implementing business continuity in the Council
 - **This is the responsibility of the authority's Management Team. All members of staff have a responsibility to be aware of the plans that affect their service area and their role following invocation of any BC plan**
- The ongoing management of business continuity – including regular review and updates of business continuity arrangements and plans
 - **This has been assigned by Management Team to a small group of officers who assist the Deputy CEO. The group is known as the Business Continuity Corporate Officer Group (BC COG)**

The inner level of the diagram defines four stages to developing and maintaining the business continuity plan:

7.2 Step 1 – Understanding the organisation

Achieved through the use of business impact and risk assessments, to identify critical deliverables, evaluate priorities and assess risks to Council service deliveries.

- Business Impact Analysis (BIA) – identifying the critical processes and functions and assessing the impacts on the Council if these were disrupted or lost. BIA is the crucial first stage in implementing BCM, and helps measure the impact disruptions on the Council
 - **A full scale BIA was undertaken in 2008, was reviewed in 2011 and has been reviewed again in 2013**
- Risk assessment – once those critical processes and functions have been identified, a risk assessment can be conducted to identify the potential threats to these processes
 - **The potential threats were again reviewed and agreed by the Council's Management Team in summer 2013**

7.3 Step 2 – Determining BCM strategy

Identifying alternative strategies to mitigate loss and assessment of their potential effectiveness in maintaining the Council's ability to deliver critical service functions.

The Council's approach to determining BCM strategies will involve:

- Implementing appropriate measures to reduce the likelihood of incidents occurring and/or reduce the potential effects of those incidents
- Developing remedial plans to ensure that strategies are workable
- Taking account of mitigation measures in place
- Providing continuity for critical services during and following an incident
 - **These elements have been considered within the Invocation Process and Incident Checklist, the Threat plans and the Team BC plans**

7.4 Step 3 – Developing and implementing a BCM Response

Developing individual service responses to business continuity challenges and overarching Business Continuity arrangements to underpin this.

- The Business Continuity Invocation Process and Incident Checklist, Threat Plans and Team / Departmental BC plans ensure that actions are considered for:

The immediate response to the incident

Critical Activities – ensuring the critical elements of the activity are continued

Other services – key elements will be maintained, where possible, at a basic level and brought back up to an acceptable level of service as soon as possible

Returning to full service

- **The Business Continuity Invocation Process and Incident Checklist, Threat Plans and Team / Departmental BC plans ensure these are covered.**

7.5 Step 4 – Exercising, maintaining and reviewing

Ensuring that Business Continuity arrangements are fit for purpose, kept up to date and quality assured. A test programme will enable the Council to:

- Demonstrate the extent to which strategies and plans are complete, current and accurate
 - **Exercise Metis 12 took place in spring 2012**
 - **Regular meetings of the BC COG take place**
- Identify opportunities for improvement
 - **Testing will be carried out on a regular basis**
 - **Learning from live incidents**

7.6 Embedding BCM in the organisation's culture

- The outer ring of the diagram is possibly the most crucial and elusive step in business continuity terms – embedding BCM in the organisation's culture. This is done by raising awareness throughout the Council and offering training to key staff on BCM issues. Examples of embedding include
 - **Re-launch of the refreshed BCM arrangements to Extended Management Team – December 2011**
 - **Key documents are now being published on the corporate documents area of the corporate intranet**
 - **Critical Activities are now flagged up in Directorate Plans**
 - **BC is now included in the Corporate Service Manager duties**

8. Future plans

The BC Corporate Officer Group mentioned in section 4.1 will

- continue to quality check Bronze Level BC plans
- facilitate the corporate exercising of BC arrangements (Metis 13)
- help to develop and test an external web portal
- explore alternative work areas in the event of loss of premises
- provide support to test the ICT disaster recovery arrangements
- continue to find ways to embed BC arrangements across the authority

Appendix A: Overview of documents that constitute BCM



Appendix B: Documentation Storage & Archiving Protocol

Document Storage

The Borough Council of King's Lynn & West Norfolk Business Continuity Corporate Officer Group (BC COG) have arranged that all documents pertaining to Business continuity are stored on the corporate intranet site.

Examples of documents held under this area include:-

- BC Policy & Strategy
- Recent audits
- Threat plans
- Critical Activity Bronze Level Team plans

The site is administered by the ICT Division, with read and write access granted to members of the BC COG. Regular back-ups of corporate documents are held off site.

Change Control

Any amendments to documents stored on the corporate intranet site will be recorded, and an email notifying the BC COG members of a change will be automatically issued.

Audit information regarding who has made a change to a document and when, will be stored, and up to 20 versions of the document will be archived via SharePoint version control.

REPORT TO CABINET

Open	Would any decisions proposed :			
Any especially affected Wards	(a) Be entirely within cabinet's powers to decide YES			
	(b) Need to be recommendations to Council		NO	
	(c) Is it a Key Decision		YES	
Lead Member: Cllr Alistair Beales E-mail: cllr.alistair.beales@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officers: Ostap Paparega E-mail: Ostap.paparega@west-norfolk.gov.uk Direct Dial: 01553 616890 Jemma Curtis E-mail: jemma.curtis@west-norfolk.gov.uk		Other Officers consulted: Ray Harding, Chief Executive Dave Thomason, Deputy Chief Executive & Executive Director Finance		
Financial Implications YES	Policy/Personnel Implications YES	Statutory Implications (incl S.17) NO	Equal Impact Assessment req'd NO	Risk Management Implications YES

Date of meeting: 3 September 2013

4 KING'S LYNN ENTERPRISE AND INNOVATION CENTRE (KLIC) – GROUND IMPROVEMENT WORKS

Summary

This report outlines the ground improvement works needed to prepare the site on which the King's Lynn Enterprise and Innovation Centre will be built (KLIC). The nature and extent of the improvement works has been established through a comprehensive assessment carried out by environmental and engineering specialists. The report summarises the options assessed and identifies a preferred option for implementation, which is considered the most cost effective to the project.

Recommendation

That Cabinet agrees to allocate £150,000 in the capital programme 2013-2014 and £100,000 in 2014-2015 for ground improvement works on the enterprise centre site

Reason for Decision

In December 2012, the Cabinet approved the delivery of an enterprise and innovation centre on the Nar Ouse Regeneration Area (NORA) in King's Lynn. The centre will offer a wide range of enterprise and business support services, which is one of the borough council's top priorities.

The ground improvement works are engineering works critical to providing a feasible site for the construction of the enterprise centre.

1. Background

- 1.1 In December 2012, the cabinet approved the delivery of a 25,000 sq ft (2,500 sqm) enterprise and innovation centre on a site situated in the Nar Ouse Regeneration Area (NORA). NORA is a Brownfield site with abnormal ground conditions.
- 1.2 Between 2000 and 2010, the borough council undertook a comprehensive site servicing and remediation programme that transformed this derelict and abandoned site into 35 hectares of developable land.
- 1.3 In 2005 the borough council obtained outline consent to develop NORA for a mix of uses including residential, commercial, leisure and community.
- 1.4 Following a site options appraisal undertaken in 2012, site E1a (see Appendix 1) on the Nar Ouse Regeneration Area was chosen for the construction of the enterprise centre.

2 Options Considered

- 2.1 Site E1a presents a number of physical and technical constraints including specific ground conditions that must be addressed to enable the construction of the enterprise centre. These are similar to the ground conditions revealed during preparation works undertaken on the neighbouring residential site by the Housing Joint Venture Company, which prompted an initial assessment of ground conditions on the enterprise centre site.
- 2.2 Following the initial assessment, the council commissioned Ashfield Solutions and Ramboll UK Ltd, environmental and engineering specialists, to undertake a comprehensive assessment to establish the full nature and extent of the ground improvement works required on the enterprise centre site.
- 2.3 The technical assessment completed by Ramboll used previous data from site investigations undertaken on this site over the last 10 years. The ground conditions across the site are derived from alluvial deposits and comprise of alluvial soils (clay/silt), peat and zones of sand and gravel in addition to some areas of made ground. Various loading scenarios were applied and calculations on the range of settlement that would occur across the site as a result. The settlement ranges calculated were 6mm to 272mm based on traffic loads generated by the access road and car park.
- 2.4 Options to stabilise the site prior to development were considered to mitigate settlement affecting development once constructed. Options were assessed against the cost and timescales to complete prior to the construction of the enterprise centre (anticipated summer 2014).

2.5 The options included;

	Option	Construction Cost	Installation & Primary Settlement Period	Development Commencement
1	Excavate and replace with compressible material	£600,000	1-3 months	1-3 months
2	Vibro Stone columns	£150,000	6-8 months	1-2 months
3	Vibro concrete columns	£393,000	1 month	1 month
4	Surcharging	£200,000	1 month	12 onths

- 2.6 Works will only be required to areas outside of the enterprise centre building (i.e. the car park and access road) as the building itself will be piled and therefore not affected by settlement. Vibro stone columns (option 2) have been identified as the preferred option based on the costs and acceptable timescales to enable the enterprise centre to commence as currently scheduled. This solution can reduce settlement by 30-40% and be undertaken relatively quickly.
- 2.7 There is a risk of secondary settlement with option 2 and a period of monitoring is recommended to inform the timing of construction of the final hard standing areas and car park. The worst case scenario considered is that once the enterprise centre is operational, the areas of hardstanding may require areas of reconstruction (which could be scheduled at off peak times). Therefore a contingency allowance of £100,000 to cover this worst case scenario is recommended to cover future maintenance works.
- 2.8 Excavating existing soft material up to 5m and replacing with suitable engineering fill (option 1) would provide nominal settlement for the lifetime of the infrastructure, however this option is estimated to cost £600,000 which is considerably higher the total cost of option 2 taking into account costs associated with the risk of secondary settlement.

3 Policy Implications

- 3.1 The delivery of the enterprise centre meets one of the council's top priorities to provide enterprise and business support services in the borough. Failure to deliver the enterprise centre will reduce significantly

the provision of such services to start-up and micro-enterprises in the borough.

4 Financial Implications

- 4.1 The Capital Programme to be amended by £150,000 in 2013/14 and £100,000 in 2014/15 to include the costs of ground improvement works on the enterprise centre site. As reported as part of the capital closedown in June, capital resources are held in reserve from the underspend and will be used to finance this scheme.

5 Personnel Implications

- 5.1 There are no personnel implications arising from this report as it is a summary of existing projects and proposed projects

6 Statutory Considerations

- 6.1 There are no statutory considerations relating to this report as it is a summary of existing and proposed projects

7 Equality Impact Assessment (EIA)

- 7.1 There are no impacts on equality arising from this report.

8 Risk Management Implications

- 8.1 The recommended option of using Vibro Stone Columns does carry a risk of secondary settlement, which means that some areas around the building may need reconstruction once the centre had been built. A contingency allowance of £100,000 is recommended to cover the reconstruction works. Proper monitoring procedures will be put in place to identify and assess the need for and the extent of the reconstruction works and minimise the cost to the authority.

9 Declarations of Interest / Dispensations Granted

- 9.1 None

10 Background Papers

10.1 Nar Ouse Regeneration Area (NORA) Strategic Design Statement (masterplan) 2005

King's Lynn Enterprise and Innovation Centre (KLIC) file –
Regeneration & Economic Development team

ABBREVIATIONS

BCKLWN – Borough Council of King's Lynn and West Norfolk

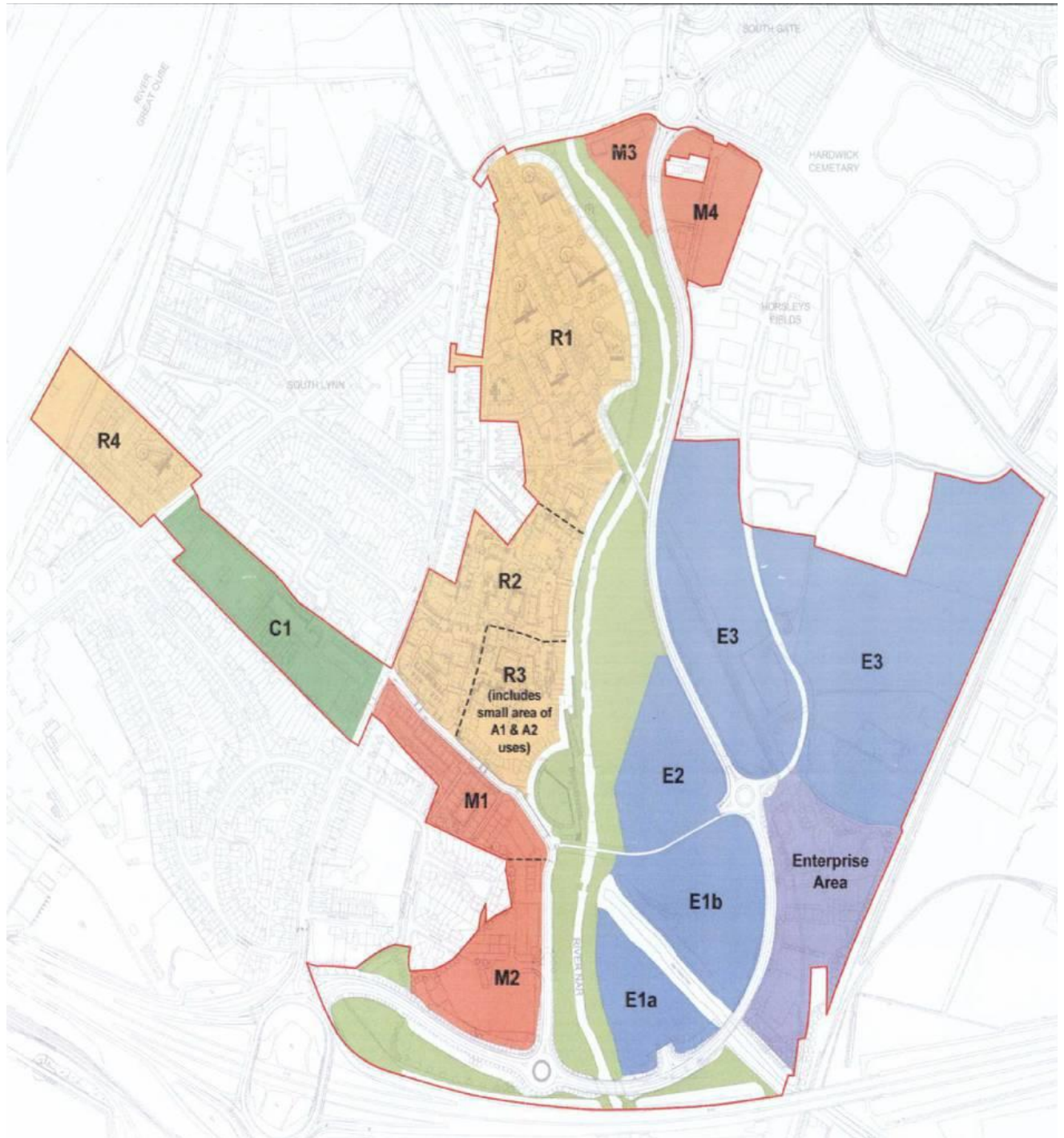
BIS – Department for Business, Innovation and Skills

KLIC – King's Lynn Enterprise and Innovation Centre

NWES – Norfolk and Waveney Enterprise Services

NORA – Nar Ouse Regeneration Area

SMEs – Small and medium size enterprises



REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards None	Operational	(a) Be entirely within cabinet's powers to decide NO		
		(b) Need to be recommendations to Council YES		
		(c) Is it a Key Decision NO		
Lead Member: Cllr Nick Daubney E-mail: cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted: Chairman, Audit and Risk Committee		
Lead Officer: Kate Littlewood, Audit Manager E-mail: kate.littlewood@west-norfolk.gov.uk Direct Dial: 01553 616252		Other Officers consulted: Deputy Chief Executive Democratic Services Officer Chief Executive		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications YES	Equalities Impact Assessment Req'd NO	Risk Management Implications NO

Date of meeting: 3rd September 2013

5 UPDATED TERMS OF REFERENCE FOR THE AUDIT & RISK COMMITTEE

Summary

In accordance with the Accounts and Audit Regulations, the Audit and Risk Committee was established in 2006, with Terms of Reference drawn up in line with the guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). The Terms of Reference need to be reviewed every three years and presented to Council for approval. The last review was carried out in 2010.

Recommendation

That Cabinet recommends to Council that the revised Terms of Reference for the Audit and Risk Committee be adopted.

Reason for Decision

To enable the Audit and Risk Committee to continue to fulfil its role as required by Accounts and Audit Regulations 2011.

1.0 Introduction and Background

1.1 The Accounts and Audit Regulations 2011 require that a council must review the effectiveness of its systems of internal control and that the findings of the review are considered by '*the members of the body meeting as a whole or by a committee*'. The Audit and Risk Committee fulfill this requirement.

1.2 The Audit and Risk Committee was established in 2006 with Terms of Reference based on guidance issued by CIPFA. In order to ensure that they remain relevant and up-to-date it is necessary to review them every three years. The last review took place in 2010 with the current Terms of Reference being approved at the Council meeting on 30th September 2010.

1.3 This report describes the revisions to the Terms of Reference and presents the updated version with tracked changes (**Appendix A**) for approval.

2.0 Details

2.1 The proposed revisions are shown as tracked changes on the attached Terms of Reference (**Appendix A**).

2.2 The main change provides for the Committee to meet in private with the internal and external auditors in paragraph 5.3. This clarifies a point that has been raised at meetings in the past.

2.3 Other minor changes have been made to update relevant legislation dates and expand the range of activities in paragraph 3.1(f) to more accurately reflect those covered by the Committee.

2.4 A new review date of May 2016 has been set.

3.0 Outcomes

3.1 To complete the review and approve the updated Terms of Reference to ensure the continued relevance of the Audit and Risk Committee.

4.0 Policy Implications

4.1 There are no policy implications.

5.0 Financial Implications

5.1 There are no financial implications.

6.0 Staffing Implications

6.1 There are no staffing implications.

7.0 Statutory Considerations

7.1 Although legislation does not require audit committees, a council is required to 'ensure that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of its functions' *Accounts and Audit Regulations 2011*

8.0 Equalities Considerations

8.1 There are no equalities implications.

9.0 Risk Management

9.1 There are no risk implications.

10.0 Background Papers

10.1 Audit Committees: Practical Guidance for Local Authorities', CIPFA
Accounts and Audit Regulations

Accounts and Audit (England) Regulations 2011.

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Borough Council of
**King's Lynn &
West Norfolk**



AUDIT AND RISK COMMITTEE TERMS OF REFERENCE

1.0 Introduction

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1.1 The Audit and Risk Committee was set up in 2006, with Terms of Reference drawn up in line with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). These were approved by Council in November 2006.

1.2 These Terms of Reference describe the purpose, authority and principal responsibilities of the Audit and Risk Committee.

1.32 The Terms of Reference need to be reviewed every three years and presented to Council for approval. The Terms of Reference have previously been reviewed in 2010 and 2013. The next review is due – May 20163.

2.0 Statement of Purpose

2.1 The purpose of an audit committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

3.0 Responsibilities

3.1 The main areas of responsibility for the Audit and Risk Committee will be to:

- a. Monitor the Council's responsibilities under the Accounts and Audit Regulations 2011⁹³, other than approve the Statement of Accounts.
- b. Review the Council's assurance statements, including the Annual Governance Statement (AGS), to check that it properly reflects the risk environment and any actions required to improve it.

APPENDIX A

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- c. Monitor the Council's compliance with Financial Regulations and Contract Standing Orders, and consider any proposals for changes to these.
- d. Discuss with the external auditor the basis of the annual audit, including the overall level and composition of the fee and the content of performance work, making a recommendation to Cabinet.
- e. Receive reports by the external auditor, including all performance reports and the Annual Management Letter and make any relevant comments to Cabinet.
- f. Monitor delivery of the internal audit activity, the Benefit and Fraud Team and Risk Management in of the Council.
- g. Monitor the response to audit reviews and investigations and the implementation of agreed recommendations.
- h. Receive reports by any other inspectorates including all performance reports.
- i. Report and/or bring matters to the attention of Council through the Cabinet on issues that require further review or action.
- j. Instigate an investigation or review on matters that arise from internal and external audits, where further information is required.

4.0 Core Functions

- 4.1 In order to fulfil the above responsibilities, the Audit and Risk Committee will need to carry out the functions described below:
 - a. Consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
 - b. Monitor action taken on risk-related issues identified by management, auditors and inspectors (notably through monitoring progress identified on risks included in the corporate risk register).
 - c. Review internal audit's strategy and plan, and monitor performance.
 - d. Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.

APPENDIX A

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- e. Receive the annual report of the Audit Manager.
- f. Consider the reports of external audit and inspection agencies.
- g. Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- h. Monitor the external auditor's opinion and reports to members.
- i. Monitor management action in response to any issues raised by internal audit.

5.0 Meetings

- 5.1 There will be a minimum of four meetings per annum, but this can be increased if the workload requires it. The forthcoming programme of work will be reviewed at each meeting.

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5.2 Internal Audit should be able to meet privately with the committee.

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- 5.3 There should be opportunity for the audit committee to meet privately and separately with the external auditor, independent of the presence of those officers with whom the auditor must retain a working relationship. If the Committee decides that a meeting is required, suitable arrangements will be made by the Chair.

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