



HOUGHTON REGIS TOWN COUNCIL

Peel Street, Houghton Regis, Bedfordshire LU5 5EY

Town Mayor: **Cllr M.S. Kennedy** Tel: 01582 708540

Town Clerk: **Clare Evans**

E-mail: info@houghtonregis.org.uk

14th June 2019

HOUGHTON REGIS TOWN COUNCIL MEETING

To: **All Town Councillors**

Notice of Meeting

You are hereby summoned to the Meeting of the Houghton Regis Town Council to be held at the Council Offices, Peel Street on Tuesday 25th June 2019 at 7pm.

**THIS MEETING MAY BE
RECORDED ***

Clare Evans
Town Clerk

AGENDA

- 1. APOLOGIES FOR ABSENCE**
- 2. QUESTIONS FROM THE PUBLIC**

In accordance with approved Standing Orders 1(e)-1(l) Members of the public may make representations, ask questions and give evidence at a meeting which they are entitled to attend in respect of the business on the agenda.

The total period of time designated for public participation at a meeting shall not exceed 15 minutes and an individual member of the public shall not speak for more than 3 minutes unless directed by the chairman of the meeting.

- 3. SPECIFIC DECLARATIONS OF INTEREST & REQUESTS FOR DISPENSATIONS**

Under the Localism Act 2011 (sections 26-37 and Schedule 4) and in accordance with the Council's Code of Conduct, Members are required to declare any interests which are not currently entered in the member's register of interests or if he/she has not notified the Monitoring Officer of any such interest.

**Phones and other equipment may be used to film, audio record, tweet or blog from this meeting by an individual Council member or a member of the public. No part of the meeting room is exempt from public filming unless the meeting resolves to go into exempt session.*

The use of images or recordings arising from this is not under the Council's control.

Members are invited to submit any requests for Dispensations for consideration.

4. LINMERE OPEN SPACE STRATEGY

Pages 5-12

The Open Space Management Strategy for HRN1 has been submitted to Central Bedfordshire Council (CBC). In accordance with the s106 CBC are required to respond within 4 weeks of the submission. Accordingly, HRTC have been invited to comment on the strategy in time for this deadline.

The Open Space Management Strategy and appendices have been circulated electronically and are available to read in hard copy at the office if preferred.

A report will be circulated to members in the week commencing 17th June 2019 for consideration.

Recommendation: Strategic comments

1. The council is concerned over the financial implications for new residents of a management company maintaining the open spaces and facilities within Linnere. In particular the following points are made:
 - Residents will receive an annual charge in addition to their council tax;
 - There will be financial implications for social housing providers and their tenants;
 - The OSMS does not definitively impose a restriction on the charge which may be applied. It relies on safeguards of accountability. The effectiveness of these safeguards will only be known once the system is operational;
2. Should the principle of a management company be accepted by Central Bedfordshire Council (CBC), HRTC support the charitable status of the management company, The Lands Trust, being put forward;
3. HRTC would welcome the formulation of a positive working relationship with The Lands Trust so that local services are integrated and mutually supportive. The OSMS should promote this relationship.

Content of the OSMS

4. Consistency of provision - The OSMS seeks to ensure a consistency of provision across the development area. This is supported. However, the OSMS makes limited reference to ensuring consistency between Linnere and current existing provision in Houghton Regis. The OSMS should support a consistency of provision across the areas;

Maintenance work - The OSMS refers to work being contracted out and suggests that the parish / town council would be able to tender or bid for work. This is supported.

5. REPORT ON FINDINGS OF THE EXTERNAL INVESTIGATION

Pages 13-26

The attached report is provided to advise members of the findings of the external investigation, the purpose of which was to investigate the circumstances which led to the Council making an out-of-court settlement to What About Youth Limited.

Recommendation:

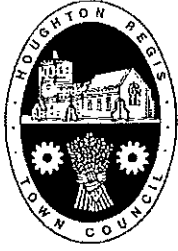
- 1. For the council to consider the need for legal advice as part of any project development process and for legal advice to be sought from legal service providers as put forward by the Society of Local Council Clerks (SLCC)**
- 2. To support the model contract checklist which includes clauses dealing with:**
 - **Impartiality of the Service Provider**
 - **Non-involvement in political matters**
 - **Accountability of service provision**
 - **The services to be provided under the contract**
 - **The performance indicators to be used to measure performance over a stated period of time**
- 3. To note the investigators recommendation for a range of template contracts to be drawn up by an external solicitors' firm but not to proceed with this at this time. Should the need arise for a specific contract to be drawn up legal advice will be sought as part of the project development process.**
- 4. To seek to bank the £500 from the council's former legal advisors in relation professional negligence arising from inaccuracy of a piece of legal advice.**
- 5. For council to confirm that the public version of the report (with names and company names redacted) can be made available to any member of the public or member of the press who directly requests it with a watermark on it that it is intended for the sole use of the recipient and is not for wider circulation.**
- 6. To include a letter of counsel on the staff file signed by the Mayor and to require the staff member to complete suitable training.**
- 7. To conclude that:**
 - **the council has investigated and reported upon the events that lead to the Council making an out of court settlement to What About Youth Ltd;**
 - **has considered what steps could be taken to avoid a recurrence of this situation;**
 - **the council confirms that all issues relating to this matter are concluded and will not be presented to council for any further consideration.**

6. CODE OF CONDUCT COMPLAINT OUTCOME

Members are formally advised that a Code of Conduct complaint was made and has been duly investigated by the Monitoring Officer. The outcome has been advised to the council. It has been found that there has been no breach of the Code of Conduct.

Recommendation: To note the report.

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Date: 25th June 2019

Title: LINMERE OPEN SPACE MANAGMEENT STRATEGY (OSMS)

Purpose of the Report: To present to members for consideration and comment the Open Space Management Strategy for Linnere.

Contact Officer: Clare Evans, Town Clerk

1. RECOMMENDATION

Strategic comments

1. The council is concerned over the financial implications for new residents of a management company maintaining the open spaces and facilities within Linnere. In particular the following points are made:
 - Residents will receive an annual charge in addition to their council tax;
 - There will be financial implications for social housing providers and their tenants;
 - The OSMS does not definitively impose a restriction on the charge which may be applied. It relies on safeguards of accountability. The effectiveness of these safeguards will only be known once the system is operational;
2. Should the principle of a management company be accepted by Central Bedfordshire Council (CBC), HRTC support the charitable status of the management company, The Lands Trust, being put forward;
3. HRTC would welcome the formulation of a positive working relationship with The Lands Trust so that local services are integrated and mutually supportive. The OSMS should promote this relationship.

Content of the OSMS

4. Consistency of provision - The OSMS seeks to ensure a consistency of provision across the development area. This is supported. However, the OSMS makes limited reference to ensuring consistency between Linnere and current existing provision in Houghton Regis. The OSMS should support a consistency of provision across the areas;
5. Maintenance work - The OSMS refers to work being contracted out and suggests that the parish / town council would be able to tender or bid for work. This is supported.

2. BACKGROUND

The Open Space Management Strategy (OSMS) for HRN1 / Linnere has been submitted to Central Bedfordshire Council (CBC). In accordance with the s106 CBC are required to respond within 4 weeks of the submission. Accordingly, HRTC have been invited to comment on the strategy in time for this deadline.

The Open Space Management Strategy and appendices have been circulated electronically and are available to read in hard copy at the office.

3. ISSUES FOR CONSIDERATION

The OSMS has been submitted in accordance with the s106, the relevant section is provided in Appendix A.

The s106 requires CBC to formally respond within 4 weeks, this equates to a response to the developer by 2nd July. CBC are not duty bound to consult with HRTC but in the interests of partnership working have done so.

Strategic comments

- *Open space management* - The OSMS sets out the intention to engage a 3rd party, The Lands Trust, to manage the open space. This is contrary to the resolution of HRTC Minute SD25 (Appendix B). The developer is of course not required to comply with the previously stated position of HRTC, however the council may like to reflect on this position.
- *Fee for properties* - The engagement of a 3rd party will impose a charge on new residents in addition to their council tax. The OSMS sets out the agents' proposals for ensuring potential residents are aware of this additional financial cost. Social landlords will also have to give consideration to how they and / or their tenants meet these additional costs.
- *Fee levels* - The Land Trust is a charitable organisation and as such they are seeking for the charge imposed to meet the costs of management incurred. To this end there are some safeguards in place to ensure the management fee charged is maintained at an acceptable level. The OSMS encourages resident's involvement in the oversight of the management of open spaces so there would be some local direction of service delivery arrangements which may also help to safeguard costs. The use of a managing agent is reported as becoming more usual in large scale developments. Members may like to reflect on whether the safeguards proposed to ensure that the charge is kept at a minimum are suitable / adequate.
- *Relationship with HRTC* - Should this be the route which is accepted by CBC, it will be important for HRTC to develop a good working relationship with The Land Trust. Early indications from The Lands Trust support the development of this relationship. This would be further encouraged if there was clear reference in the OSMS that this relationship would be developed and supported.

Content of the OSMS

- *Consistency of provision* - The OSMS seeks to ensure a consistency of provision across the development area. This is supported. However, the OSMS does not address or refer to ensuring consistency between Linnere and current existing provision in Houghton Regis. There is some reference, but it is suggested that there is not a strong emphasis. Concerns are particularly expressed over charges for sports lettings as a disparity may cause over or under demand in Linnere and in existing provision.
- *Unpredicted expenses* – these expenses may relate to damage to planting, trees, play equipment, fly tipping, graffiti etc. The Land Trust have advised that they would budget for a sinking fund to cover such expenses.
- *Unauthorised traveller encampments* – the OSMS refers to travellers on undeveloped land. It does not refer to unauthorised traveller encampments on developed land. The Land Trust have advised that the sinking fund would cover such expenses.
- *Insurance* - The Land Trust have advised that they would be responsible for insurance.
- *Maintenance work* - The OSMS refers to work being contracted out and suggests that the parish council would be able to tender or bid for work.

4. COUNCIL VISION

The proposed action supports the Objectives of Council's Vision;

2. Face the challenges & maximise the opportunities of growth;
3. A more active, engaged and inclusive community;
5. A strong efficient and proactive Town Council.

5. IMPLICATIONS

Corporate Implications

- This report provides guidance in formulating a consultation response.
- Should the OSMS be approved and ultimately implemented there may be arising committee implications. It is not felt that there are further corporate implications arising from this report.

Legal Implications

- There are no legal implications for HRTC arising from this report.

Financial Implications

- There are no financial implications for HRTC arising from this report

Risk Implications

- There are no risk implications for HRTC arising from this report

Equalities Implications

Houghton Regis Town Council has a duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage

and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This project / issue does not discriminate.

Press Contact

- There are no press implications for HRTC arising from this report

6. CONCLUSION AND NEXT STEPS

The Open Space Management Strategy (OSMS) for Linnere has been submitted to Central Bedfordshire Council (CBC) for approval in accordance with the s106. HRTC have been invited to comment on the strategy in time for this deadline.

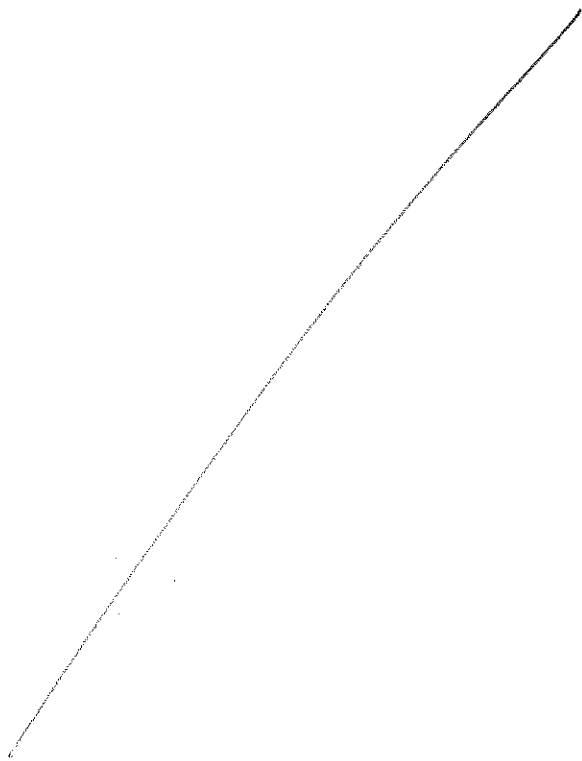
7. APPENDICES

Appendix A: s106 extract
Appendix B: Minute SD25

Appendix A

2.1 The Owner shall not Occupy more than 200 Dwellings until the earlier of (a) and (b) below:

- (a) it has secured approval from the Council (if necessary following pursuit of the dispute provisions within clause 14) of the Management Arrangements;
- (b) the assumption by the Council of the responsibility for management and maintenance of Open Space, which assumption shall take place upon the earliest of:
 - (i) the expiry of four weeks after the Council refuses to approve the submitted Management Arrangements without the Owner invoking the dispute provisions within clause 14 (and for these purposes the Council shall be deemed to have refused to approve the Management Arrangements if it does not reach a decision within six weeks of formal submission);



Members considered land use issues and aspirations to enable a recommendation to be made to Town Council. Members considered examples of Neighbourhood Plan land use policies.

Resolved: To make the following recommendation to Town Council:

To identify the following land use issues for subsequent consideration:

- Protection and enhancement of the town centre;
- Protection and enhancement of other retail outlets;
- Protection of existing car parks;
- Protection of existing green spaces.

SD25 HRN1 & 2

As advised at the previous meeting of the SDWG CBC officers were willing to receive preliminary aspirations of the Town Council in relation to facilities located within HRN1 & 2 which the Council would like to see developed and / or to have the management of.

Members received suggestions for consideration and were asked to put forward any other ideas.

Resolved: To make the following recommendation to Town Council:

To advise CBC of the following:

General

Education provision, Environmental safeguards and Healthcare facilities are currently outside of the remit of HRTC, however it is requested that a CBC commit to enabling HRTC to have a holding watch over the progression of these facilities / services to support an informed position of HRTC within the community it serves.

Education provision

Refer to General and section within Community facilities.

Environmental safeguards

Refer to General

Transport and travel plans

Whilst it is not considered that HRTC would be a direct service provider it is requested that HRTC are stakeholder in transport developments and transport plan formulation and to assist in information provision / sharing and promotion.

Community Facilities

It is anticipated that HRTC will continue to provide community services across the parish of Houghton Regis including the growth area.

In terms of community facilities HRTC desire to have community facility land and / or buildings transferred to it on the basis that it is a democratically elected statutory body.

Deliver of premises and ultimately services is likely to be secured through partnership working with other statutory organisations and the voluntary and community sector.

HRTC consider it imperative to the successful development of new communities that community facilities and services are provided at the outset. As such HRTC request that CBC acknowledge this requirement and seek to ensure that provision is made for interim facilities whether through the use of suitable physical space such as education space (which may be underused initially) or through the establishment of community houses.

Healthcare facilities

Whilst it is not considered that HRTC would be a direct service provider it is requested that HRTC are a stakeholder in provision and would be able to assist in information provision / sharing and promotion.

Open space

This facility includes a wide variety of provision including:

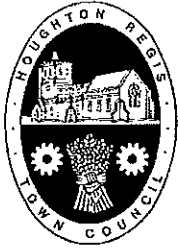
- Countryside Recreation Sites (country parks, nature reserves etc)
- Urban Parks
- Large Recreation Areas Formal (including sports provision)
- Large Recreation Areas Informal
- Small Amenity Spaces
- Play Areas for Children (and young people)
- Facilities for Young People
- Allotments
- Cemeteries and Churchyards
- Access and public rights of way

HRTC desire to have transferred to it all open space provision, outside of Access and Public Rights Of Way, and facilities on the basis that it is a democratically elected statutory body,. Delivery of management and maintenance would be considered on a site by site basis being determined by the nature and purpose of each site and options would include, particularly for countryside recreation sites, partnership delivery with the voluntary and community sector.

The Chairman declared the meeting closed at 6.30pm.

Dated this 10th day of February 2015

Chairman



TOWN COUNCIL

Agenda Item 5

Date: 19th June 2019

Title: Report on Findings of the External Investigation

Purpose of the Report: To advise members of the findings of the external investigation conducted the purpose of which was to investigate the circumstances which led to the Council making an out-of-court settlement to What About Youth Limited.

Contact Officer: Clare Evans, Town Clerk

1. RECOMMENDATION

1. For the council to consider the need for legal advice as part of any project development process and for legal advice to be sought from legal service providers as put forward by the Society of Local Council Clerks (SLCC)
2. To support the model contract checklist which includes clauses dealing with:
 - Impartiality of the Service Provider
 - Non-involvement in political matters
 - Accountability of service provision
 - The services to be provided under the contract
 - The performance indicators to be used to measure performance over a stated period of time
3. To note the investigators recommendation for a range of template contracts to be drawn up by an external solicitors' firm but not to proceed with this at this time. Should the need arise for a specific contract to be drawn up legal advice will be sought as part of the project development process.
4. To seek to bank the £500 from the council's former legal advisors in relation professional negligence arising from inaccuracy of a piece of legal advice.
5. For council to confirm that the public version of the report (with names and company names redacted) can be made available to any member of the public or member of the press who directly requests it with a watermark on it that it is intended for the sole use of the recipient and is not for wider circulation.
6. To include a letter of counsel on the staff file signed by the Mayor and to require the staff member to complete suitable training.
7. To conclude that:
 - the council has had investigated and reported upon the events that lead to the Council making an out of court settlement to What About Youth Ltd;

- has considered what steps could be taken to avoid a recurrence of this situation;
- the council confirms that all issues relating to this matter are concluded and will not be presented to council for any further consideration.

2. BACKGROUND

On 8th October 2018 the following was resolved:

For the independent person to meet with Town Council forthwith to agree remuneration, terms of reference and specific questions to be answered, together with an agreed time frame. The independent person shall provide the report direct to the Town Council, initially through the Chairman of the Council.

The matter was further considered on 5th December 2018¹ when the following was resolved:

To approve the appointment of the independent person, sourced from SOLACE on the terms discussed, to investigate the circumstances which led to the Council making an out-of-court settlement to What About Youth Limited, and to report back to the Chairman of the Council as soon as practicable. The independent person shall have access to all records, written and electronic, and may take evidence from any person they deem relevant to the investigation.

The matter was further considered on 20th December 2018² when the following was resolved:

Following the resolutions passed on 8 October and 5 December in relation to the appointment of an independent investigator, this additional resolution is made to provide clarity to the procedures detailed, and thus to assist in their implementation.

1. *Under Standing Order 27(a)(II) that Councillors Abbott and Hillyard are nominated and authorised to issue orders, instructions and/or directions jointly in relation to this and the previous resolutions referred to above. Members were invited to submit any specific questions they consider need answering to the nominated members, who will advise a deadline in due course.*
2. *The independent investigator is authorised, but not restricted to, the consideration of all aspects of the legalities, policies, and governance, as well as the conduct and decisions made or lack of decisions made by members and officers in relation to the circumstances which led to a claim being made against the Town Council, the settlement itself, and changes already made to procedures.*
3. *The independent investigator will also consider the legal advice received and the support given in this matter, and shall give an opinion on the apology received and sum offered by way of compensation; is thus authorised to*

¹ For further background members are referred to the minutes of the meeting which are available on the council's website.

² For further background members are referred to the minute of the meetings which are available on the council's website.

request and review the relevant file(s) held by external solicitors (and counsel if any) who had conduct of the matter forming the subject of this resolution and if necessary to liaise with the said external solicitors (or counsel) to clarify and review the legal advice given to the Town Council.

4. *Lastly, advice from SOLACE is that the investigation is unlikely to exceed five working days. On this basis, the independent investigator expects to complete his work and produce his report by the end of January 2019. The report the independent investigator produces shall conclude by detailing any issues and/or other failures found, whether changes already made to procedures and policies are sufficient, and provide recommendations for members to consider*

Members are advised that the external investigator submitted the report to the Chair of the Council on 2nd April 2019³. It is not known whether the report was shared by the investigator to any other councillor.

A further report was received on 10th April 2019 by the Chair of the Council and the 2 nominated councillors. This report was considered suitable by the investigator for publication by the council.

A special meeting of Town Council was called for 11th April 2019⁴. The meeting commenced and duly progressed to consider the report. However, concerns were raised that such consideration and any resulting decision may be politically sensitive and as such contrary to the purdah period. As such it was agreed to cease the meeting.

As the council had not concluded its deliberations on the report nor made any resolution to publish the report, it has not been officially released into the public domain. Requests for copies of the report have been received from the public and from the press, however due to the lack of a resolution to make either report available these requests have been declined and an explanation provided.

Notwithstanding this, the report has been shared outside of the council and the council has received negative publicity through the press and social media.

3. ISSUES FOR CONSIDERATION

Terms of Reference

The report states the following in relation to the purpose of the report:

'Investigate and report upon the events that lead to the Council making an out of Court settlement to What About Youth Ltd?

What steps can be taken to avoid a recurrence of this situation again?'

A number of specific questions from serving councillors were also put to the investigator to consider.

³ Due to confidentiality concerns, members are invited to inspect the report in the council offices prior to the meeting.

⁴ For further background members are referred to the minutes of the meeting which are available on the council's website.

Persons Interviewed⁵

The investigator interviewed senior members of staff, some serving councillors and a former councillor.

Chronology of events

The report provides a chronology of events from April 2011 to September 2018.

Findings of fact

The report details outcomes of meetings held, conversations which were had and communications which were sent. The investigator also provides personal opinion in relation to some of these.

The investigator makes a recommendation in relation to the inaccuracy of a piece of legal advice received by the council. However as this is outside of the terms of reference this has not been considered further.

Internal Review

The investigator considers the internal review which was conducted. The investigator makes a comment in relation to a staffing matter. It is suggested that a letter of counsel be placed on the staff file, the content of which to be based on HR advice and to be signed by the Mayor and that the staff member be required to undertake suitable training.

Response to specific questions

The investigator considers and comments on the specific questions asked.

Under the question 'What steps can be taken to avoid a recurrence of this situation again?' the investigator makes the following recommendations:

1. The Council should adopt a new Agenda Template which sets out relevant implications, including legal implications of a particular decision. This would remind officers and members to have regard to any legal procedures which need to be taken in relation to the decision.
2. The annual review of existing contracts which is provided to Corporate Services Committee be amended to include a column confirming that a signed contract is in place.
3. The Council enter into a formal arrangement with an external legal provider to provide legal support for the Town Clerk as and when needed. This would provide support to the Town Clerk and ensure that the Town Clerk can draw upon legal support as and when needed and would not have to carry on blindly.
4. That the Council instructs an external Solicitor's firm with experience of public law to devise a range of template contracts which the Council can draw upon to enter into arrangements with service providers. At the present time, the Council relies on the supplier to come forward with their own contract. By definition,

⁵ Although the report does not state it, members are advised that the investigator considered communications between the council, the contractor and the council's legal advisors along with council agendas and minutes in addition to conducting a number of interviews.

this means that the Council is at the mercy of the supplier as to whether its interests are properly protected or not. The supplier is likely (and is only responsible) to provide a contract template which protects its interests, rather than those of the Council. For the Council to be protected, it should have a range of contracts which reflect its priorities, values and expectations in a given case.

5. Related to the previous point, the Council should ensure that the new template contracts include clauses which would deal with the problems which arose under the contract with What About Youth Ltd. In particular, those clauses would include clauses dealing with:

- Impartiality of the Service Provider.
- Non-involvement in political matters.
- Accountability of service provision.
- The services to be provided under the contract.
- The performance indicators to be used to measure performance over a stated period of time.

The report ends after consideration of 'Response to specific questions'.

4. **RESPONSE TO REPORT'S RECOMMENDATIONS**

The terms of reference for the investigation were:

Investigate and report upon the events that lead to the Council making an out of Court settlement to What About Youth Ltd?

What steps can be taken to avoid a recurrence of this situation again?'

Commentary has been provided on the contents of the investigation report within this agenda report. The investigation report has provided a chronology of events and reports on the events. This agenda report is not confirming the accuracy or otherwise of the report and does not comment on the personal opinions of the investigator, however it is suggested that the report has met the first term of reference, namely to investigate and report on the events that lead to the Council making an out of Court settlement to What About Youth Ltd?

The investigators report makes 5 recommendations which relate to the second term of reference, namely 'What steps can be taken to avoid a recurrence of this situation again?' These are specific and are responded to below:

1. The Council should adopt a new Agenda Template which sets out relevant implications, including legal implications of a particular decision. This would remind officers and members to have regard to any legal procedures which need to be taken in relation to the decision.

This recommendation was included as part of the internal investigation report and was agreed by Town Council on 8th October 2018 and actioned accordingly.

2. The annual review of existing contracts which is provided to Corporate Services Committee be amended to include a column confirming that a signed contract is in place.

This recommendation was included as part of the internal investigation report and was agreed by Town Council on 8th October 2018 and actioned accordingly.

3. The Council enter into a formal arrangement with an external legal provider to provide legal support for the Town Clerk as and when needed. This would provide support to the Town Clerk and ensure that the Town Clerk can draw upon legal support as and when needed and would not have to carry on blindly.

Professional advice is available to the council from its membership of the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC), and from the existing contract with human resources support. These services are already utilised by the council.

Although the SLCC has a dedicated legal advice team, it may be prudent for the council to have a formal relationship with an external legal services provider to provide dedicated assistance. The SLCC has 2 recognised legal services partners. Preliminary contact has been made with both to explore options. Neither offers any retainer arrangement; services are engaged on an as and when required basis.

4. That the Council instructs an external Solicitor's firm with experience of public law to devise a range of template contracts which the Council can draw upon to enter into arrangements with service providers..... For the Council to be protected, it should have a range of contracts which reflect its priorities, values and expectations in a given case.
5. Related to the previous point, the Council should ensure that the new template contracts include clauses which would deal with the problems which arose under the contract with What About Youth Ltd. In particular, those clauses would include clauses dealing with:
 - Impartiality of the Service Provider.
 - Non-involvement in political matters.
 - Accountability of service provision.
 - The services to be provided under the contract.
 - The performance indicators to be used to measure performance over a stated period of time.

As recommendations 4 and 5 are inter-related they are considered together.

However, members are advised that the council has no budget provision for this service in 2019/20. Equally it is not anticipated that the council will enter into any new contracts during 2019/20 largely as the council has its priorities set out in the councils Vision which does not include any new contracts and equally there is no budget provision or capacity in general reserves for any new contracts for service delivery.

However, members may decide on an unanticipated project which may involve a new contract. In support of this it is suggested that the attached model contract checklist (Appendix A) be endorsed by council. It can be built upon to fit specific requirements and if the specific committee deem it necessary a draft contract can be reviewed by the partner legal advisor.

Equally this model contract will be used by officers to assess contractors' contracts against. Members are requested to note that larger suppliers, such as utility companies, have very little, if any, flexibility in the contracts they offer out. However, officers can use the model report to assess these contracts against and to decline to enter into the contract if it is felt that the terms offered are not suitable.

5. OTHER MATTERS FOR CONSIDERATION

In addition, members are requested to consider the following matters:

1. Incorrect legal advice from the previous legal advisor / banking of cheque

As background members are advised that the previous legal advisor provided the council with one piece of incorrect legal advice during the process. A complaint was made and a payment of £500 was offered by cheque with the stipulation that it be banked within 6 months (early March 2019). As such it is not known whether it is possible or not to bank the cheque now.

Minute 9748 (Town Council 21st January 2019) resolved that the cheque received in relation to the incorrect legal advice received should not be banked until the outcome of the investigation was known.

As such members instructions are requested.

Should members be minded to challenge and seek financial compensation the following points are made:

- The success of a challenge would be based on evidence being produced which demonstrates damage to the council's reputation as a direct result of this advice;
- Additional expenses would be incurred by the council in securing legal advice to support a challenge
- In taking out legal action it would serve to keep the matter on the council's agenda going forwards.

This report recommends that the council seek to bank the cheque and effectively conclude this issue.

2. Publication of the investigation report

Requests for copies of the report have been received from the public (1) and from the press (1), however due to the lack of a resolution to make the report available these requests have been declined and an explanation provided.

Members are requested to consider the publication of the report. The following points are made:

- The report was shared on 2nd May 2019 - unauthorised

- The public version of the report as supplied by the investigator provides personal and company names. Those named may take issue with their details being made available.
- The Council seeks to be open and transparent
- This agenda report provides some detail and is publicly available and could be used instead as a means of communication back to the public.
- In light of the above this report recommends that the public version of the report (with names and company names redacted) be made available to any member of the public or member of the press who directly requests it with a watermark on it which states that it is intended for the sole use of the recipient and is not for wider circulation.

3. Going Forwards

There have been many and varied issues that the council has had to deal with in relation to the contract with What About Youth Ltd, dating back to 2011, including management of the contract, the cessation of the contract, the legal claim by What About Youth Ltd the internal investigation and the external investigation. These matters have been ongoing for 8 years and have had an impact on council productivity, employee and councillor morale and relationships, on budgets and on the council's reputation.

It is suggested that this report and its recommendations be used to effectively conclude matters to enable the council, its members and staff, to move forwards.

6. COUNCIL VISION

The proposed action supports the Objectives of Council's Vision;

5. A strong efficient and proactive Town Council.

7. IMPLICATIONS

Corporate Implications

A formal arrangement with legal services provider will aid working efficiencies and will highlight to staff the need to consider whether legal advice is required;

A model contract template will assist staff in evaluating suppliers' contracts and will be a useful starting point for any new HRTC contract;

The formal support of a model contract by the council will support staff in requiring suppliers to meet the requirements of the model contract.

It would be prudent to extend financial regulations and specifically the section relating to contracts to refer to the need for a contract to be in place and for it to cover the aspects of the model contract.

Legal Implications

Failure of the council to agree these recommendations will mean that the council will continue to seek legal advice as and when deemed necessary. There is a risk of the need for legal advice being overlooked or for contracts being entered into which do not meet the requirements of the council.

Financial Implications

There is a cost implication of obtaining legal advice. This will need to be factored into the overall project costs.

Should the council be minded to incur expense in relation to these matters in 2019/20 a suitable budget needs to be identified.

Risk Implications

Suitable legal advice is increasingly necessary to ensure that the council acts lawfully. This will protect the reputation of the council going forwards. Members need to consider at what point in the project development process legal advice is sought and how the council will consider the legal advice. Depending on the process agreed this may have a bearing on the project timescales.

Equalities Implications

Houghton Regis Town Council has a duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This project / issue does not discriminate.

Press Contact

Given the unauthorised release of the public version of the report, the requests for a copy of the report and the press coverage of this investigation, it is suggested it would be appropriate for the council to make a press statement. This will be drafted by the Proper Officer in accordance with the Press Protocol Policy and will refer to the following:

- The claim has been settled;
- The circumstances around the claim have been investigated internally and externally;
- Recommendations have been made and agreed to seek to prevent a re-occurrence;
- That the public version (redacted) of the report is available to any member of the public or member of the press who directly requests it;
- That all matters relating to this have now been concluded by the council
- That the new council is looking forwards to working effectively and productively together in delivering services and facilities to the local community.

8. CONCLUSION AND NEXT STEPS

There have been many and varied issues that the council has had to deal with in relation to the contract with What About Youth Ltd, dating back to 2011, including management of the contract, the cessation of the contract, the legal claim by What About Youth Ltd, the internal investigation and the external investigation. These matters have been ongoing for 8 years and have had an impact on council productivity, employee and councillor morale and relationships, on budgets and on the council's reputation.

In summary:

- The claim has been settled;
- The circumstances around the claim have been investigated internally;
- The circumstances around the claim have been investigated externally;
- Recommendations have been made to seek to prevent a re-occurrence;
- Two of these recommendations have already been agreed and actioned;
- This report considers the remaining recommendations, and the outstanding issues of the cheque from the previous legal advisor, the staffing issue, whether the public version of the report should be released, press implications and includes a recommendation, given the process undertaken, to conclude and draw a line under the matter.

The report's recommendations seek to:

- Place the council in a better position in terms of access to legal advice;
- Provide officers with guidance on contract detail;
- Conclude the outstanding issue with the previous legal advisor in seeking to bank the cheque;
- Conclude the staffing issue;
- Provide guidance to staff on the availability of the public version of the report;
- Provide an official press statement
- Confirm that all issues relating to this matter are concluded and will not be presented to council for any further consideration. This is to enable the council to fully conclude the matter.

9. APPENDICES

Appendix A: Model Contract Template checklist

Background

There are 4 elements to a valid contract:

1. An intention to create legal relations
2. An offer
3. An acceptance
4. Consideration

In considering either a new relationship with another party or an extension of an existing relationship with another party the council should consider whether there is the intention to create a legal relationship. If there is the intention to create a legal relationship the council should take steps to ensure a suitable contract is in place.

The model contract checklist has been developed to assist the council in:

- making an initial assessment of a contract as provided by the supplier
- identifying key elements of a contract to be provided by the council

The council will need to decide as part of its project development process the following:

- What the key contractual elements are
- Whether a new contract should be assessed by legal services¹.

There are different types of contract which include but are not restricted to:

- Receipt or provision of services
- Receipt or provision of goods
- Receipt or provision of works
- Occupation of land or buildings

In considering a contract the council should have regard to:

- Relevant council policy, in particular Standing Orders and Financial Regulations.
- The up to date Legal Topic Notes produced by NALC

¹ This is included in the model agenda report template.

Model contract checklist

A contract should contain the following elements:

<p>1. The purpose / scope of the contract</p>	<p>Provides detail about the work to be done or the result that is expected. It should clearly establish what the contract is for ie:</p> <ul style="list-style-type: none"> • Provision of IT services • Provision of summer and winter bedding plants • Build of a new pavilion • Transfer of ABC recreation ground
<p>2. The parties to the contract</p>	<p>This should identify all those party to the contract. This will include HRTC, the supplier or recipient and any other parties. It should include a point of contact and an address as a minimum. It may also be helpful to include other contact details and business information such as phone and email addresses.</p>
<p>3. Definitions / terminology</p>	<p>This should set out what acronyms stand for, who is being referred to as the supplier, the contractor etc</p>
<p>4. Contract period</p>	<p>This should state the start date and finish date of the contract ie 1st April 2019 to 31st March 2020.</p>
<p>5. Quality / KPI's</p>	<p>This sets out what the contract is assessed against. It may list technical drawings and reports, quantities, standards, reporting arrangements etc. These are specific to each contract.</p> <p>These may be covered in terms and conditions instead.</p>
<p>6. Contract value</p>	<p>This should set out the monetary value of the contract covering the entire contract period. It should include specific dates if the contract value is to increase and how much the increase will be or whether the price is fixed for the contract duration.</p>
<p>7. Payment details</p>	<p>Sets out the method, manner and timing of payments and who pays for expenses.</p>
<p>8. Dispute arrangements</p>	<p>This details the process to follow if either party to the contract is dissatisfied with the other party's compliance with their obligations. It should offer:</p> <ol style="list-style-type: none"> 1. informal resolution (discussion & negotiation)

	<ol style="list-style-type: none"> 2. mediation (a form of negotiation using an independent person or body) 3. early neutral evaluation (an independent person (e.g. solicitor or subject expert) gives an opinion on the merits of a dispute) 4. arbitration (an independent person or body makes a binding decision)
<p>5. Termination arrangements</p>	<p>This sets out:</p> <ul style="list-style-type: none"> • when and how each party can end the contract: • what the consequences can be in certain circumstances • the termination period
<p>6. Variations</p>	<p>Sets out how or when the parties can vary the contract by mutual agreement. These may include:</p> <ol style="list-style-type: none"> 1. Break clauses - This may be included if either party seeks to enable the contract to be varied during the contract period. For example if the contract period was for 5 years there may be a break clause in year 3 related to an increase in contract value. 2. Contract extension possibilities - This may be included to enable the contract to be extended at the end of the contract period for another fixed period.
<p>3. Other specifics / Terms & conditions</p>	<p>These are specific to each contract and may include:</p> <ul style="list-style-type: none"> • Intellectual Property: Clarifies rights to intellectual property. • Confidential Information: Protects information such as profit margins, the client lists or other confidential business information. • Indemnity: Sets out when and how a party can be compensated for any loss as a result of the other party's work. • Insurance: Identifies the insurance obligations of each party • Subcontracting: Clarifies whether subcontractors can be used and if there are restrictions on choosing a subcontractor. • Exclusivity agreement: Restricts the contractor from working for other clients during the contract period • Restraint of trade: Restrictions on trading with a party's clients for a specified period of time. • Contract monitoring: how, when and by whom is the contract monitored, how arising issues resolved, use of performance indicators / KPI's, • Project completions process: project hand over process, defect liability period, warranties, guarantees • Health & safety responsibilities, management plan, risk

	assessments, RAMS, • Specifics such as access, time and days of work, parking, welfare facilities • Impartiality of the Service Provider • Non-involvement in political matters
4. Acceptance of the contract	To be signed and dated by all parties

Reference documentation²

NALC LTN15 Legal Proceedings (July 2015)

NALC LTN35 Contracts (February 2017)

NALC LTN36 Unfair Contract Terms (January 2017)

NALC LTN87 Procurement (June 2018)

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² Checks should be made to see if these LTN have been updated or whether any new and relevant LTNs have been provided.