



Notice of meeting of

Executive Member for Housing & Adult Social Services and Advisory Panel

- To:** Councillors Sunderland (Chair), Bowgett (Vice-Chair), Sue Galloway (Executive Member), Horton, Morley, Simpson-Laing, Taylor, Wiseman, Mrs Mildred Grundy (Co-opted Non-Statutory Member) and Ms Pat Holmes (Co-opted Non-Statutory Member)
- Date:** Monday, 14 July 2008
- Time:** 5.00 pm
- Venue:** Guildhall

AGENDA

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

10:00 am on Friday 11 July 2008, if an item is called in *before* a decision is taken, *or*

4:00 pm on Wednesday 16 July 2008, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes (Pages 1 - 10)

To approve and sign the minutes of the meeting held on Monday 2 June 2008.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Panel's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is 5.00 pm on Friday 11 July.

ITEMS FOR DECISION

4. Empty Homes Policy (Pages 11 - 30)

This report updates the Executive Member and Advisory Panel on the number of long term empty homes in York and of the work undertaken to bring properties back into use and briefs Members on the use of Empty Property Dwelling Management Orders (EDMO's), including the resources implications in using these measures.

5. Social Care Complaints Report - April 2007- March 2008
(Pages 31 - 52)

This report informs Members of the number of complaints, compliments, comments and requests made about social care services between April 2007 and March 2008 and provides information about the lessons learnt as a result of complaints received and the service improvements made.

6. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

Contact Details:

- Telephone – (01904) 552030
- E-mail – catherine.clarke@york.gov.uk and louise.cook@york.gov.uk

(If contacting us by e-mail, please send to both democracy officers named above)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
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Further information about what's being discussed at this meeting

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The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	EXECUTIVE MEMBER FOR HOUSING & ADULT SOCIAL SERVICES ADVISORY PANEL
DATE	2 JUNE 2008
PRESENT	COUNCILLORS SUE GALLOWAY (EXECUTIVE MEMBER), HORTON, MORLEY, SIMPSON-LAING, TAYLOR, WISEMAN AND FUNNELL (SUBSTITUTE)
APOLOGIES	COUNCILLORS BOWGETT AND SUNDERLAND (CHAIR)

1. ELECTION OF CHAIR

In the absence of the Chair and Vice Chair, Members agreed that Cllr Morley should take the Chair for the duration of the meeting.

2. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Cllr Taylor declared a personal, non prejudicial interest in agenda item 5 (Minute 70 refers), as his mother was an elderly resident of the City who may have been interviewed as part of the consultation relating to this item.

Cllr Funnell declared a personal, non prejudicial interest in agenda item 5, as a member of the executive of the Older People's Assembly.

3. MINUTES

RESOLVED: That the minutes of the meeting held on 17 March 2008 be approved and signed by the Chair and Executive Member as a correct record.

4. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

5. HOUSING AND ADULT SOCIAL SERVICES 2007/08 SERVICE PLAN OUTTURNS

Members considered a report which presented the performance and financial out-turns for the Housing and Adult Social Services departments at the end of the 2008/09 financial year.

Details of performance within each service plan area were set out in Annexes 1-6 to the report. Progress on key service objectives included:

- Continued improvement on letting empty homes, completion of repairs and reducing rent arrears (Housing Landlord services);
- Helping 31 households via the Golden Triangle and Homebuy schemes, a 33% improvement in preventing homelessness and replacement of 100 Discus Bungalows (Housing General Fund);
- A 30% reduction in staff sickness absence, and approval of 4 joint projects with NY&Y Primary Care Trust (Corporate Services);
- A reduction in delayed hospital discharges attributable to the Council, the establishment of personal plans for day centre customers, and reduced waiting times for assessments (Adult Social Services).

With regard to financial performance, the Housing Revenue Account (HRA) working balance had increased by £916k to £6,546k at out-turn, while the approved Housing General Fund (HGF) budget now stood at £1,400k. The draft out-turn on the HGF was £110k less than the approved budget, representing an underspend of £92k after carry-forwards. The approved budget for Adult Social Services was now £34.3m, with a draft out-turn of £941k less, representing a net underspend of £656k. Reasons for the budget variations were detailed in the report annexes. It was proposed to carry forward HRA projects totalling £8.4k and HGF projects totalling £302.2k into the 2008/09 financial year. Details were set out in paragraph 19 of the report. Executive Member approval was sought for the following virements exceeding £100k:

Description	Variation (£,000)
Transfers from other departments	-213
Corporate Services	-177
Older People & Physical Disabilities	+300

Officers responded to Members' questions regarding Annex 1 (HRA Service Plan / Outturn). In particular, it was noted that the out-turn figures for minor and major adaptations under the 'Process Based Measures' section should read 28% and 26% respectively and that a report on revised processes for estate improvements would be brought to EMAP in July. The Executive Member paid tribute to staff in both departments for their hard work during a difficult and challenging year

Advice of the Advisory Panel

That the Executive Member be advised to:

- Note the contents of the report;

- (ii) Agree the carry forwards set out in paragraph 19 of the report, to be forwarded to the Executive for approval;¹
- (iii) Approve the virements over £100k outlined in paragraph 12.²

Decision of the Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: For information and in accordance with the requirements of the Constitution and Financial Regulations.

Action Required

1. Seek Executive approval for budget carry forwards. LE

6. OUTCOME OF THE CONSULTATION ON THE FUTURE CHALLENGES FOR SOCIAL CARE

Members considered a report which presented the outcome of the above consultation, authorised by the Executive Member in October 2007, together with progress on delivery of the commissioning plan for the Long Term Commissioning Strategy, agreed by Members in January 2007, and sought approval for further action to develop appropriate care choices for older people in York.

The consultation had comprised two events for stakeholders at the start and end of the process, a survey of over-50's in the City over a 4-week period in March / April and four focus groups, meeting during April / May. Results of the survey were summarised in Annex A to the report and conclusions from the focus groups were set out in Annex C. In the light of these results, and in line with the report presented last October on The Future Challenges, Members were asked to consider the following options:-

Option 1 – increase the funding available for older people's services, by lobbying Government, increasing Council Tax and / or redirecting funding from other council services.

Option 2 – reduce demand for services, by raising the eligibility level, developing new preventative services and / or providing older people with resources to choose their own arrangements through personalised budgets.

Option 3 – deliver services more efficiently, by considering further savings targets in the context of the review process of current contracts and SLAs and / or undertaking an option appraisal to explore opportunities to develop more appropriate specialist residential care, both in-house and with partners.

A full analysis of the above options, incorporating views from the consultation, was provided in paragraphs 21 to 47 of the report. The recommendation was that a combination of the suggestions presented under each of these options be adopted.

Advice of the Advisory Panel

That the Executive Member be advised to agree that:

- (i) Any opportunities to lobby Government regarding the funding requirements for older people's services should be used (*Option 1*);¹
- (ii) Work to develop new low level and preventative services to increase health and well being should continue through the joint project with the Primary Care Trust (*Option 2*);²
- (iii) Work to develop personalised budgets for older people should be undertaken as part of the Transforming Social Care agenda (*Option 2*);³
- (iv) Any consideration of further savings targets within home care services will be undertaken only within the context of the review process of the current 3-year contracts and Service Level Agreements (currently December 2009) (*Option 3*);⁴
- (v) An option appraisal be undertaken to explore the opportunities to develop more appropriate specialist residential care and housing choices for older people, in partnership with other providers, and to consider the options for the development of Council run homes to provide more specialist care (*Option 3*).⁵

Decision of the Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: So that the Council can begin to address the challenges that face social care services for older people, taking into account the feedback received from the consultation process.

Action Required

- 1. Lobby government on funding. LE
- 2. Continue development work with PCT LE
- 3. Develop personalised budgets as part of Transforming Social Care. LE
- 4. Take possible savings targets into account when planning review process. LE
- 5. Undertake option appraisal.

7. HOUSING AND SOCIAL SERVICES CAPITAL PROGRAMME 2007/08 OUTTURN

Members considered a report which presented the out-turn position of the 2007/08 Housing and Adult Social Services Capital Programme and the resources available to support it.

The value of the approved Housing Capital Programme was £9,453k, of which £4,712k was funded through the MRA. There was a total of £165k

slippage into 2008/09 on the capital funded element of this programme and an overall overspend of £468k, with an underspend of £222k on the MRA funded element. Details were set out in paragraphs 8 to 24 of the report.

The approved Social Services Capital Programme was £646k, of which £311k was grant funded. There was slippage of £77k, (£51k on the grant funded element) and a total net underspend of £2k, as detailed in paragraphs 25 to 28.

Advice of Advisory Panel

That the Executive Member be advised to:

- (i) Note the out-turn position of the Housing and Adult Social Services Capital Programme, as set out in the report;
- (ii) Refer the slippage of £165k on Housing and £77k on Social Services to the Executive for approval.¹

Decision of Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: For information, and in accordance with the requirements of the Constitution and Financial Regulations.

Action Required

1. Seek Executive approval for slippage.

LE

8. SOCIAL CARE REFORM GRANT

Members considered a report which introduced the Department of Health policy paper 'Putting People First' and sought approval for plans regarding the use of the new Social Care Reform Grant in 2008/09..

The Government was providing funding over three years, through the Social Care Reform Grant, to support the transformation of social care. York would receive £245k in 2008/09, £573k in 2009/10 and £709k in 2010/11. The guidance in Putting People First made it clear that transformation must deliver the personalisation of services and a focus on early intervention and prevention. Changes would need to be delivered in partnership with health colleagues to ensure integrated services. Those areas considered to be priorities for action were set out in paragraphs 16 to 23 of the report. Suggested principles for agreeing use of the grant were listed in paragraph 24.

Proposals for the use of grant funding in the first year (2008/09) were outlined in paragraph 25 and comprised support for the following:

- Culture change - £15k
- Capacity building - £120k
- Collaboration - £17k

- New services - £90k

More detailed plans would be developed during Year 1 for use of the grant in the next two years, as a vision of how the transformed services would look was developed and shared.

Advice of Advisory Panel

That the Executive Member be advised to:

- (i) Note the priorities for action to deliver the transformational change that Government requires;
- (ii) Note the proposed principles for use of the grant to deliver these priorities;
- (iii) Note the proposed investment plan for the grant in 2008/09;
- (iv) Receive further reports on the delivery of personalisation and early intervention, once the impact on current service delivery models is clear.¹

Decision of Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: For information, and on the basis that the proposals will ensure that the Social Grant can be used effectively to meet the challenges that transformational change will bring, and support the delivery of personalisation of services and early intervention.

Action Required

1. Include report on forward plan for appropriate meeting. LE

9. STRATEGY FOR THE COMMISSIONING OF SUPPORT TO PEOPLE WITH PHYSICAL AND/OR SENSORY IMPAIRMENT

Members considered a report which outlined work undertaken to date to develop a Physical and / or Sensory Impairment Strategy for adult social care in York and sought approval for action to progress this work.

A draft of the first few chapters of the Strategy was annexed to the report. Consultation had revealed a strong interest amongst people with a physical and / or sensory impairment for further dialogue in developing the Strategy. In addition, there was a need for strong partnership working between the Council and people with a disability in order to meet the requirement to put in place a user led Centre for Independent Living (CIL) by 2010.

It was therefore recommended that a Partnership Board, involving the Council and representatives from the 'community' of people with disabilities be created, to move the Strategy forward and support the development of a CIL. The Board would be formally linked to the Local Strategic

Partnership and the Local Area Agreement by reporting to the Healthy City Board.

Advice of Advisory Panel

That the Executive Member be advised to:

- (i) Note the attached draft of the first chapters of the Strategy;
- (ii) Approve completion of the Strategy after further consultation;¹
- (iii) Endorse the proposal to establish a Partnership Board framework for the consideration of further developments that will support people with a physical and / or a sensory impairment within York.²

Decision of Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: To support the continuing development of the Strategy and the development of a Centre for Independent Living.

Action Required

- 1. Carry out consultation, and complete the Strategy. LE
- 2. Establish Partnership Board. LE

10. REVIEW OF GRANTS POLICY

Members considered a report which informed them of proposed changes to the Grants and Assistance Policy with regard to the Energy Efficiency Grant and the Disabled Facilities Grants (DFG) Programme.

The changes had arisen from national policy developments. The Carbon Emissions Reduction Target (CERT), which came into effect on 1 April 2008, required suppliers to direct at least 40% of carbon savings to a priority group of low income and elderly customers. This would affect the uptake of the Energy Efficiency Grant currently offered by the Council. Changes were therefore proposed to maximise eligibility for the grant, including lowering the age criteria for grants for cavity wall and loft insulation and for heating measures to meet decent homes standards.

The government had recently published a package of reforms to the DFG, as part of an ongoing review. These included significant key changes, particularly in relation to funding and allocations. It was noted that while funding for the programme had increased, this was not reflected in York's allocation for 2008/09. A letter had been sent to Government Office expressing disappointment at this year's allocation and requesting details of the new approach being developed for allocations in future years. A response had now been received, indicating that the comments would be taken into account when considering next year's allocations. Information was awaited on a proposal for discretionary consent, which would enable

the Council to place a charge on adapted properties of owner occupiers, where the DFG exceeded £5k.

Members were invited to consider the following options:

Option 1 – revise the existing policy in line with this interim review, as recommended in the report and the amended Policy attached as Annex 1;

Option 2 – maintain the current policy with no revisions;

Option 3 – amend the proposals outlined in the report.

In response to a query raised during discussion, Officers agreed to look into the reason why the Kirklees model of loans to home owners could not be used in York and inform the Member concerned.¹

Advice of Advisory Panel

That the Executive Member be advised to:

- (i) Note the contents of the report, and that a letter has been sent to Government Office expressing the Council's concern over the budget allocation;
- (ii) Approve the revision to the existing policy in line with this interim review, including:²
 - a. The change to the eligibility criteria for the energy efficiency grant
 - b. The briefing on proposed changes to the DFG (noting the short term and long term impact of the changes on the delivery of the disabled facilities grant programme)
 - c. Endorsement of the Council's adaptation programme across all tenures (noting the potential financial implications) and continued support for this area of work.

Decision of Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: To respond to changes in national policy and to assist vulnerable residents of the City of York.

Action Required

1. Find and communicate this information.
2. Revise the Grants Policy.

LE
LE

11. HOMELESS STRATEGY 2008-13

Members considered a report which sought endorsement of a draft York Homeless Strategy for the period 2008-2013, following a review of the 2003/08 Strategy. A copy of the draft Strategy was annexed to the report.

The over-arching aspiration of the Strategy was to eradicate the use of emergency accommodation and move away from a reactive approach to

homelessness. It included four key strands - Partnership working; Advice and information and prevention; Accommodation; Support Services. An action plan set out what was required over the next five years to achieve the aims of the Strategy. Development of the Strategy had been overseen by a Homeless Strategy Steering Group, with a membership reflecting the wide range of services involved. This group would also be responsible for monitoring the action plan.

It was noted that the draft Strategy at Annex 1 was a working version that still contained some gaps in relation to certain statistics. An updated version had been prepared for referral to the Executive.

Advice of Advisory Panel

That the Executive Member be advised to endorse the draft Homeless Strategy and recommend it to the Executive for approval.¹

Decision of Executive Member

RESOLVED: That the advice of the Advisory Panel be accepted and endorsed.

REASON: In accordance with the legal requirement for the Council to have a Homeless Strategy.

Action Required

1. Add item to Forward Plan for appropriate Executive meeting and write report to Executive. LE

CLLR SUE GALLOWAY
EXECUTIVE MEMBER FOR HOUSING AND ADULT SOCIAL SERVICES

CLLR MORLEY,
Chair of Advisory Panel
[The meeting started at 5.00 pm and finished at 6.50 pm].

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Meeting of the Executive Member for Housing and Adult Social Services and Advisory Panel

14th July 2008

Report by the Director of Housing & Adult Social Services

Empty Homes Policy

Summary

1. To update the Executive Member on the number of long term empty homes in York and of the work undertaken to bring properties back into use.
2. To brief the Executive Member on the use of Empty Property Dwelling Management Orders (EDMO's), including the resources implications in using these measures.

Background

3. Following the council motion on the 24th January 2008 a detailed field survey was undertaken to establish the number of the empty properties within the city. Three sources of information were used to provide the address list:
 - Council tax records - 761 homes were identified as being empty for more than six months;
 - Councillor's own knowledge - We asked each councillor to identify the number and location of long term empty properties in their ward that they were aware of. Twelve homes were brought forward, eight of which were homes that had already been identified. Two of the remaining four properties were also found to be commercial properties;
 - Properties already known to the Housing Standards and Adaptations team - 35 dwellings, again these were already included in the council records.
4. Each dwelling was visited at least once and information about the property was recorded using a standard survey form to ensure a consistent approach to recording the findings.
5. The key messages from the survey were that of the 761 properties:
 - 229 (30.1%) of the properties were occupied;
 - 181 (23.8%) were actively being marketed for sale or for rent; and
 - 20 (2.6%) properties were closed /brick up or in a derelict state.

Total number of properties	761	
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Total Occupied	229	30.1%
Unsure ¹	79	10.4%
Total empty	453	59.5%

6. Of the 453 empty properties:

Empty for sale /rent	181	39.95%
Empty - other ²	146	32.22%
Empty - repairs	106	23.39%
Empty - derelict	15	3.31%
Empty - closed / brick up	5	1.10%

7. When the empty properties were assessed against the current eligibility criteria for empty homes grants, 214 properties were identified as being eligible. The main criteria for the grant was established with our partnering organisation, York Housing Association. Suitable homes are those which are situated within the outer ring road and which have 2/3 bedrooms. We also took account of comments made by owners during the survey e.g. renovating the dwelling in readiness for their retirement.
8. Having obtained owners details from council tax records, postal questionnaires were sent out at the beginning of May 2008. The form was accompanied by a leaflet about the empty homes grant and an equalities monitoring form. 70 questionnaires were returned and the key messages from this survey were:

Reason	Numbers	%
Properties now occupied	21	30
Questionnaire returned as no longer at that address as the property had been sold	5	7
Properties remaining empty	44	63

9. Drilling down in to the information gathered about the 44 remaining empty properties we found that:
- 5 were empty as the owners classed them as second / holiday homes;
 - 5 were empty as the owners were awaiting probate before selling;
 - 23 were empty as the owners had put the empty dwelling on the market for sale / letting;
 - 6 were empty as the owners were repairing their property
10. Only 5 owners requested information about the empty homes grants 37 declined further information. Officers are already actively pursuing these leads

¹ 13 were not found or demolished, 1 was a commercial property, 2 were caravans, 17 couldn't be accessed as they were in blocks of flats. The remaining 46 could not be classified either way despite two visits, all were left cards.

² Surveyors indicated that property was empty but didn't fall into one of the other categories e.g. property was in a reasonable order but not for obviously for sale

Empty Dwelling Management Order's (EDMO'S)

11. The Housing Act 2004 received Royal Assent in November 2004 and came into force in April 2006. From this date the council has had the discretionary power to use Empty Dwelling Management Orders (EDMO's). An EDMO allows a Local Housing Authority (LHA) to effectively 'step into the shoes' of the owner of an unoccupied dwelling. There are two types of order - interim EDMO and final EDMO. They allow a LHA to secure occupation and proper management of privately owned houses and flats that have been unoccupied for a specified period of time and where certain other conditions are met.
12. When an EDMO is in force, the LHA takes over most of the rights and responsibilities of the relevant proprietor and may exercise them as if it were the relevant proprietor. For example, it has the right to possession of the dwelling whilst the order is in force. However, it does not become the legal owner of it and hence cannot sell the property or take out a mortgage on it.
13. To make an interim EDMO, a LHA must apply for authorisation from a Residential Property Tribunal. There must be no one in occupation of the dwelling, whether the occupation is lawful or unlawful. The LHA must make reasonable efforts to notify the relevant proprietor that they are considering making an EDMO and ascertain what steps (if any) he is taking, or is intending to take, to secure occupation of the dwelling. The LHA must consider that making an interim EDMO is the most appropriate course of action taking account of the rights of the owner and the wider community in which the dwelling is located.
14. Before a Residential Property Tribunal can authorise the making of an interim EDMO it must be satisfied that:
 - the dwelling has been unoccupied for at least 6 months;
 - that there is no reasonable prospect that the dwelling will become occupied in the near future;
 - there is a reasonable prospect that the dwelling will become occupied if an interim EDMO is made; and
 - the LHA has complied with its duties in seeking to make an interim EDMO, including any matters that may be prescribed in regulations.
15. A LHA may make a final EDMO either to replace an interim EDMO or a previous final EDMO if it considers the dwelling would otherwise become or remain unoccupied. For example, if the relevant proprietor refused to allow the grant of occupation rights under an interim EDMO and the LHA considered that once the order ceased to have effect the dwelling would be likely to remain unoccupied, that would be grounds to revoke the interim order early and make a final EDMO to replace it.
16. If a dwelling subject to a final EDMO remains unoccupied, a LHA may make a new final EDMO to replace it provided it is satisfied it has taken all steps it was appropriate for it to take to secure occupation of the dwelling. The LHA must consider that making a final EDMO is the most appropriate course of action taking account of the interests of the community and the effect the order will have on the rights of the relevant proprietor and any third parties.

17. Central to government guidance on the use of EDMO's is that they are only to be used as one of a range of options, and only when other methods of bringing properties back into use are not appropriate or have failed. They are specifically for empty homes or "dwellings", and cannot be used for commercial properties.
18. It should be noted that not all properties are suitable for consideration of an EDMO, the following summarises the current exemption criteria:
 - It has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because:
 - (a) he is temporarily resident elsewhere;
 - (b) he is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
 - (c) he is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or
 - (d) he is a serving member of the armed forces and he is absent from the dwelling as a result of such service;
 - It is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
 - It is genuinely on the market for sale or letting;
 - It is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986 or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995;
 - It is usually occupied by an employee of the relevant proprietor in connection with the performance of his duties under the terms of his contract of employment;
 - It is available for occupation by a minister of religion as a residence from which to perform the duties of his office;
 - It is subject to a court order freezing the property of the relevant proprietor;
 - It is prevented from being occupied as a result of a criminal investigation or criminal proceedings;
 - It is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or
 - The relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.
19. The decision whether to grant an interim EDMO, which is the first stage in the process, is made by a Residential Property Tribunal (RPT - a housing tribunal which works on a similar basis to a small claims court). The Council must convince the RPT that there is a reasonable prospect of the property coming back into use as a result of the EDMO. The Council would have to do this by managing the property, as it has no right to sell or dispose of it as the owner can apply for the EDMO to be cancelled at any time.
20. The Council cannot let a property that is subject to an interim EDMO without the written consent of the owner. In a large number of cases this would not be possible as the owners, or their whereabouts are unknown. In these situations the Council could go through the process of obtaining a final EDMO, where

owners consent is not necessary in order to let the property, but if the owner has not been consulted at the interim EDMO stage, it is unclear whether the RPT would grant the final EDMO.

21. In order to let the property it must be in a habitable state and the Council would be responsible for ensuring that the necessary repairs were carried out.
22. The capital costs incurred by the Council in carrying out the necessary repairs and ensuring that the dwelling meets the decent homes standard could be registered as a legal charge against the property and would be recoverable, in a small amount through any excess rental income following the deduction of any management costs. The majority of the costs however would only be recoverable on the sale of the property at a future date.
23. Discussions with councils which have considered EDMO's have indicated that where the cost is more than £20,000 to make the house habitable then the cost is prohibitive as there is considerable uncertainty about when the money would be recovered. In addition the empty properties that present the most severe nuisance or other problems, would involve substantial costs to the Council and the repairs would take some time, thus further delaying re-occupation.
24. Revenue costs which would also need to be taken and offset against the rental income include:
 - Surveying time;
 - Officer time in preparing the interim EDMO;
 - Interim costs associated with preparing RPT case e.g. legal;
 - Building Insurance;
 - Any security costs associated with the dwelling;
 - Property management costs;
 - Furniture storage (if appropriate);
 - Maintenance of electrical goods / servicing of boilers etc;
 - Void loss periods;
 - Council Tax bills (for any void period);
 - Utility bills (linked to any usage whilst renovating the property).
25. Under current guidance the use of EDMO's is highly restrictive and the process complex. At the time that this report was prepared, 14 EDMO's have been implemented in the UK as a result of the Housing Act 2004 powers and nine of those by two councils.
26. It is the officers view that at the moment there is little evidence that EDMO's provide any advantage over other tools that are already being successfully used to deal with empty properties, especially when the associated costs are taken into account.
27. Annex 1 to this report outline in more detail issues that need to be taken into consideration of other enforcement powers available, these are:
 - Use of building act legislation and planning legislation to deal with unsightly and dangerous buildings
 - Compulsory purchase

28. Annex 2 outlines the councils current position with regard to empty properties. which is briefly to use a carrot and stick approach using a mixture of advice, grants and enforcement action.

Consultation

29. Consultation has taken place through the field survey of the property and subsequent postal questionnaire, and through discussion with other councils including the Regional Empty Property Forum and LACORS.

Options

30. The information provided by the field survey, the questionnaires and other sources of information on empty homes leads to the question of how best to balance the need to minimise the number of empty homes in the city with the level of resources that might be needed to bring more of these back into use to provide value for money for the council. There are three main options presented for the Executive Member to consider.
31. **Option One** - To maintain the current level of empty homes work and the resources attached to it.
32. **Option Two** - Increase the level of dedicated resources to empty homes through the employment of an Empty Property Officer with responsibility to lead on all of the initiatives and raise the profile of empty homes work in the city.
33. **Option Three** - Increase the level of resources to empty homes work through the Employment of a temporary officer on a fixed term, (as and when required) to release other staff within the team to take on the more proactive role in pursuing an EDMO as and when the need arises.

Analysis

34. **Option One** - The Housing Standards and Adaptation Team and local housing associations have a good record of working in partnership to bring homes back into use. This is achieved by using the following tools:
- Free advice and assistance including advice on how to get any necessary repairs, safety or modernisation works completed, the availability of grant funding and leasing schemes with local housing associations;
 - Information presented on our Website;
 - Forums for discussion of particular issues or concerns through the York Residential Landlord Association (for private landlords) and the York Housing Liaison Group (for housing associations);
 - The availability of grants to be used for the repair and modernisation of properties owned by private landlords. Grants are channelled through housing associations that lease the homes for a minimum of five years with the council nominating homeless households to them;
 - Enforcement powers to bring properties back to a reasonable condition (although this doesn't necessarily mean bringing them back into use);
 - Decent Home Grants which are aimed primarily at Houses in Multiple Occupation to bring them up to the Decent Home Standard. This can

include an empty flat, for example, within a larger house of multiple occupation (HMO).

35. The current low level of resources, which equates to about 300 hours per year of officer time put into empty homes work has produced good results especially when considering the very low numbers of long-term empty homes in York. In 2007/2008 24 properties were brought back in to use.
36. Using the most recent data from the Empty Homes Agency based on 2007 figures the national average for the percentage of homes being empty (both long and short term empty) was 3.02%. York's compares favourably to the national figure with 2.40%, which also is the second lowest in the Region.
37. If this option is chosen, it would mean that where the existing policy / procedures did not result in the property been brought back into use, the council would not be able to pursue an EDMO without adversely impacting on the other areas of work, which would affect the councils CPA (Housing) performance. This would also result in the council not being able to address any estate 'blight' associated with any such empty property.
38. **Option Two** - The Empty Property Officer would have responsibility for introducing and promoting new initiatives and for maximising the effectiveness of existing activities. Subject to identifying the necessary funding, these could include:
 - Production of an Empty Homes Information pack with details of the options and opportunities to bring homes back into use;
 - Establishing an empty property telephone 'hotline';
 - Continuing to working with the key partners to visit properties and verify they are empty. – including targeting the 144 properties which have been identified as possibly suitable to grant aid but which did not respond to our second questionnaire;
 - More frequent use of council tax records to identify empty homes and contact their owners;
 - Ensuring a more 'streamlined' service with better co-ordination between departments of the council (Street Environment, Planning, Building Control, Ward Committees etc);
 - A commitment to utilise the powers given in the Housing Act and in particular pursuing Empty Dwelling Management Orders.
39. It is extremely difficult to predict and measure with certainty what impact these additional activities might have.
40. It must be remembered too, that homes brought back into use, other than through grant aid may well be sold or rented on the open market or let at market rents. Only a small proportion would be affordable homes let to vulnerable households and those in housing need in the city.
41. In addition to the officer time associated with the works, there would be other costs associated with the use of EDMO's which would need additional financial provision to be made. These are legal costs, management and maintenance costs, some of which would be recoverable from the rent, subject to a surplus. Where a property also required capital improvements, the council would also

need to make provision for these costs within the General Fund Capital Programme. There is currently no capital provision.

42. **Option Three** - An alternative to employing a full-time Empty Homes Officer would be to release officer time spent within Housing Standards and Adaptations on empty homes work. By employing a technical officer on those occasions when an EDMO may be suitable, it may be expected that some additional homes could be brought back into use. However, it is difficult to predict how many this might be. This option would give a commitment to utilise the powers given in the Housing Act and in particular pursuing Empty Dwelling Management Orders, but the more wide ranging work outlined in option 2 would not be possible.

Summary

43. In conclusion we have now a good picture of the very low number of properties within the city. On balance the level of additional resources needed to significantly increase the number of homes brought back into use is difficult to justify.
44. Continuing current partnership work on empty homes will ensure that appropriate advice and information is given to owners on the options for bringing them back into use. The use of the York Landlord Grant will also ensure a proportion of the homes are leased to local Housing Associations for homeless families and those in housing need.
45. This policy can always be re-examined if future changes in the housing market results in an increase in the number of empty homes. We also play an active part in the regional empty property forum and will seek to use best practise.

Corporate Priorities

46. This report contributes to two of the Council's seven direction statements and four corporate priorities.

Direction statements

- We will seek to place environmental sustainability at the heart of everything we do.
 - Bringing empty homes back in to use improves the physical environment
- We will promote cohesive and inclusive communities
 - Empty homes are a cause, symptom and symbol of neighbourhood decline giving rise to environmental deterioration and acting as a focus for crime and anti-social behaviour

Corporate Priorities

- Reduce the environmental impact of council activities and encourage, empower and promote others to do the same
 - By using the existing stock to provide homes
 - By encouraging owners of empty properties to bring in them back in to use

- Improve the health and lifestyles of the people who live in York
 - Empty properties are a wasted resources of sustainable and decent homes which could support independent health lifestyles.
- Improve the quality and availability of decent, affordable homes in the city.
 - By ensuring that homes are brought back it use via the grant rout will ensure that they are at affordable rents
- Improve the actual and perceived condition and appearance of the city's streets and housing estates and publicly accessible spaces
 - Well maintained homes are central to creating safe, and thriving neighbourhoods

Implications

47. **Financial Implications** - The recommended option has no financial implications.
48. The additional staffing costs associated with options 2 and 3 are set out in the table below and show that the maximum cost would be £16k in the current financial year and £33k in 2009/10. There would be an ongoing cost of £33k per annum.

Staffing costs	2008/09		2009/10	
	Min £	Max £	Min £	Max £
Option 2	15,726	16,286	31,315	33,385
Option 3	12,025	14,430	6,013	7,215

49. In addition to the staffing costs identified above there would be further significant revenue costs associated with pursuing EDMO's with options 2 and 3, as outlined in paragraph 24 above. Whilst it is difficult to assess the exact costs it is anticipated that these revenue costs would be in the region of £10k per annum. In addition to the revenue there would be the capital costs of bring the empty property up to the required standard. Obviously the amount will depend on the condition of the individual property but the average is likely to be approximately £35k per property. As outlined in paragraph 23 it is thought that amounts in the region of £20k could be recovered through ongoing rental income. The council would still need to identify capital resources to fund the initial works required and to pay any excess that could not be recovered in the longer term.
50. The following is an example of the potential costs associated with pursuing an EDMO.

Expenditure

Remedial / Capital works	£35,000
7 years Management costs at 15%	£ 5,460
Maintenance (estimated at £500 pa)	£ 3,500
Fee for Rent Property Tribunal	£ 150
Legal costs associated with an EDMO	£ 2,000
Officer time associated with pursuing an EDMO	£ 7,215
Buildings insurance @ £200 pa	£ 1,400

Total Expenditure **£54,725**

Income

7 year social rent for 3 bed house (£433.33 per month)	£36,400
Less 7 Years social rental void loss at 10%	£ 3,640
Less bad debt provision (10%)	£ 3,640
Total Income	£29,120

Shortfall over 7 years **£25,605**

51. There is no approved budget for any of these additional revenue costs. If either option 2 or 3 were approved it would be necessary to identify existing revenue budgets within the department that could be reduced to fund this work. It is unlikely that any additional budget could be identified within housing and therefore the savings would need to be found within adult social services budgets.
52. The councils capital programme is predicated on receiving a number of high risk receipts and is currently fully committed, with no additional funding available until 2010/11 at the earliest. Again, should either option 2 or 3 be approved other capital programme schemes will need to be reduced to meet the funding available.
53. The total estimated costs of options 2 and 3 are summarised in the table below

Estimated costs	Option 2 £'000		Option 3 £'000	
	2008/9	2009/10	2008/9	2009/10
Staffing	16	33	14	7
Other running costs	10	10	10	10
Total revenue	26	43	24	17
Capital investment per property	35	35	35	35

54. **Legal Implications** - There are no immediate legal implications associated with either option. The use of Empty Dwelling Management Orders would require the involvement of the council's solicitors.
55. There are no Human Resources (HR), Equalities, Crime and Disorder, Information Technology (IT), Property or Other implications arising directly from this report.

Risk Management

56. In compliance with the Council's risk management strategy there are no risks associated with Option's 1 or 2 of this report. The main risk that has been identified in this report is about being able to maintain the current situation within the existing measure and resources
57. The risks associated with the recommendation of this report are assessed at a net level of below 16

Recommendations

58. That the Advisory Panel advise the Executive Member to approve:

Option One of this report, to maintain the current level of empty homes work and the resources attached to it.

Reason: With the low level of empty homes within the city the current approach provides value for money.

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Wards Affected: *List wards or tick box to indicate all*

All

Specialist Implications Officer(s) *List information for all*

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Background Papers:

EMAP report December 2004
Housing Act 2004
Government Guidance

Annexes

Annex 1 - Other Powers Available
Annex 2 - Current Empty Property Policy

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Annex 1

Summary of the other Enforcement Tools which could be used by the Council to Bring Empty Properties Back into Use

A Compulsory Purchase Order (CPO) involves the Council purchasing the property (without the consent of the owner) then selling it on for redevelopment. It can be a condition of sale that the new owner must bring the property back into use within a set timescale. This is a long, drawn out and complex legal procedure.

Enforced sale involves forcing the sale of the property in order to recoup a debt owed to the Council. Again, the property can then be resold for redevelopment. This option has two draw backs. Firstly, the Council must have a land charge debt registered against the property and secondly, unlike with a CPO, the property must be sold on the open market therefore the Council has no control over the new ownership.

Although both enforced sale and CPO can be complex, they have the advantage of offering a 'final solution' in that ownership changes and therefore, in the vast majority of cases, the property is reoccupied without any further problems.

Summary of the Financial and Resource Implications Associated with the Use of EDMO's

There are a number of resource implications for the Council should Empty Property Dwelling Management Orders (EDMO's) be used. In particular:

A revenue budget would need to be identified to fund the set-up, insurance and ongoing revenue costs of any management contract. Such set up costs are unlikely to be fully recoverable through the scheme.

Capital and revenue budgets would need to be identified to fund the initial refurbishment and on-going maintenance costs for any properties subject to an EDMO.

Due to the limitations in the use of EDMO's, the size and value of any contract for housing management is difficult to determine and this may not therefore be an attractive proposition for potential delivery organisations. This could affect the value for money aspect of any negotiated contract.

Due to the limited suitability of empty homes for EDMO's, the Council could incur significant financial costs to establish the contract and procedures necessary to deliver EDMO's but these may be under-utilised.

Unless additional staff resources were identified to establish the necessary contracts, systems and processes associated with a voluntary leasing and the delivery of EDMO's existing staff would have to be diverted away from current

empty homes activity. This will impact on service delivery in the short term and on the Council's performance against local and national targets.

Summary of the powers under Section 215 of the Town and Country Planning Act 1990

This power can be exercised if it appears to the local planning authority that the amenity of the area is adversely affected by the condition of land or buildings. The local planning authority may serve a notice on the owner and occupier requiring steps to be taken to remedy the condition of the land or buildings within a specified time period. The time period cannot be less than 28 days.

Any person on whom the notice is served, and any other person having an interest in the land, may, within the specified period, appeal against the notice to the magistrates' court. An appeal may be made on a number of grounds, including claiming that the condition of the land or buildings does not adversely affect amenity. There is a right of further appeal to the Crown Court.

Once the notice takes effect, it is an offence to fail to take the steps required within the period specified; and the local planning authority may enter the land or buildings and take those steps, and recover the costs of doing so from the owner. The costs become a charge on the property.

Summary of the powers under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 54

A local authority may carry out any works urgently necessary for the preservation of an unoccupied listed building, after giving seven day's notice to the owner. The notice should specify the works to be carried out. The local authority are entitled to seek to recover their expenses from the owners by serving a further notice and the owner has 28 days to challenge the requirements by making representations to the Secretary of State.

Section 48

The compulsory purchase of a building by the local authority under s47 has to be preceded, at least two months previously, by the service of a repairs notice. The notice should specify the works considered to be reasonably necessary for the proper preservation of the building. The notice can be withdrawn. The owner may serve on the local authority a listed building purchase notice.

Section 47

If, after two months from the service of a repairs notice (served under section 48), the local authority considers that reasonable steps are not being taken for properly preserving the building, the local authority may serve notice of a compulsory purchase order on every owner, lessee or occupier. Any person having an interest in the building may apply to the magistrates' court for an

order staying the compulsory purchase on the grounds that reasonable steps have been taken. There is a provision in this section for the payment of compensation.

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Annex 2

City of York Council Empty Homes Policy Statement

Introduction

The Council recognises that empty homes are a waste of a valuable resource in a city of high housing need. Empty homes can blight a street and are a cause, symptom and symbol of neighbourhood decline.

The council works cross-departmentally and in partnership with other agencies including private landlords and local housing associations to enable owners to bring empty homes back into use. The council has assisted in brought back in to use

This Empty Homes Policy Statement explains the procedures and policies the council has in place to assist in bringing empty homes back into use. The statement will be reviewed in three years time or sooner if changes in legislation or in the number of empty homes warrant this.

How does the council find out about empty homes?

From time to time we will use our council tax records to provide information on the number of homes that have been empty for over six months. We will use this information to contact the owners of these properties and encourage them to bring them back into use

When contact with the council about empty homes comes from the owners of the properties themselves or from other sources including concerned neighbours or councillors, we will investigate the circumstances of the property including visiting it if appropriate.

What does the council do when it is notified of an empty home?

Notification of an empty property may come through several routes. Most commonly these are:

- Concerned neighbours
- Councillors
- Owners of the empty homes

Initial enquiries may be made to different departments of the council including Housing Standards and Adaptations, Environmental Protection, Street Environment Services, Building control or directly through councillors.

Irrespective of where the enquiry originates, Housing Standard and Adaptations Officers should be the first point of contact and will give advice on the options for bringing a property back into use. Where appropriate, they will also refer enquiries to other areas of the council (for example Development Control or Housing Development) for more detailed information.

If a property is causing a statutory nuisance (through disrepair or vandalism for example) Officers will investigate the circumstances and where appropriate contact the owner of the property.

At this stage the emphasis is focused on finding a solution to the problem through negotiation and agreement. This may include:

- Discussing the options and possibilities of leasing the home to a housing association.
- Giving advice on how to apply for a York Landlord Grant and the rules and procedures that need to be followed.
- Giving advice on the repair and modernisation works needed to bring the property up to a satisfactory standard

Where attempts to reach a negotiated agreement are unsuccessful consideration will be given to enforcement measures using appropriate legislation to ensure the problem ceases.

What solutions are available?

A flow chart showing the possible solutions available to bring empty homes back into use is attached.

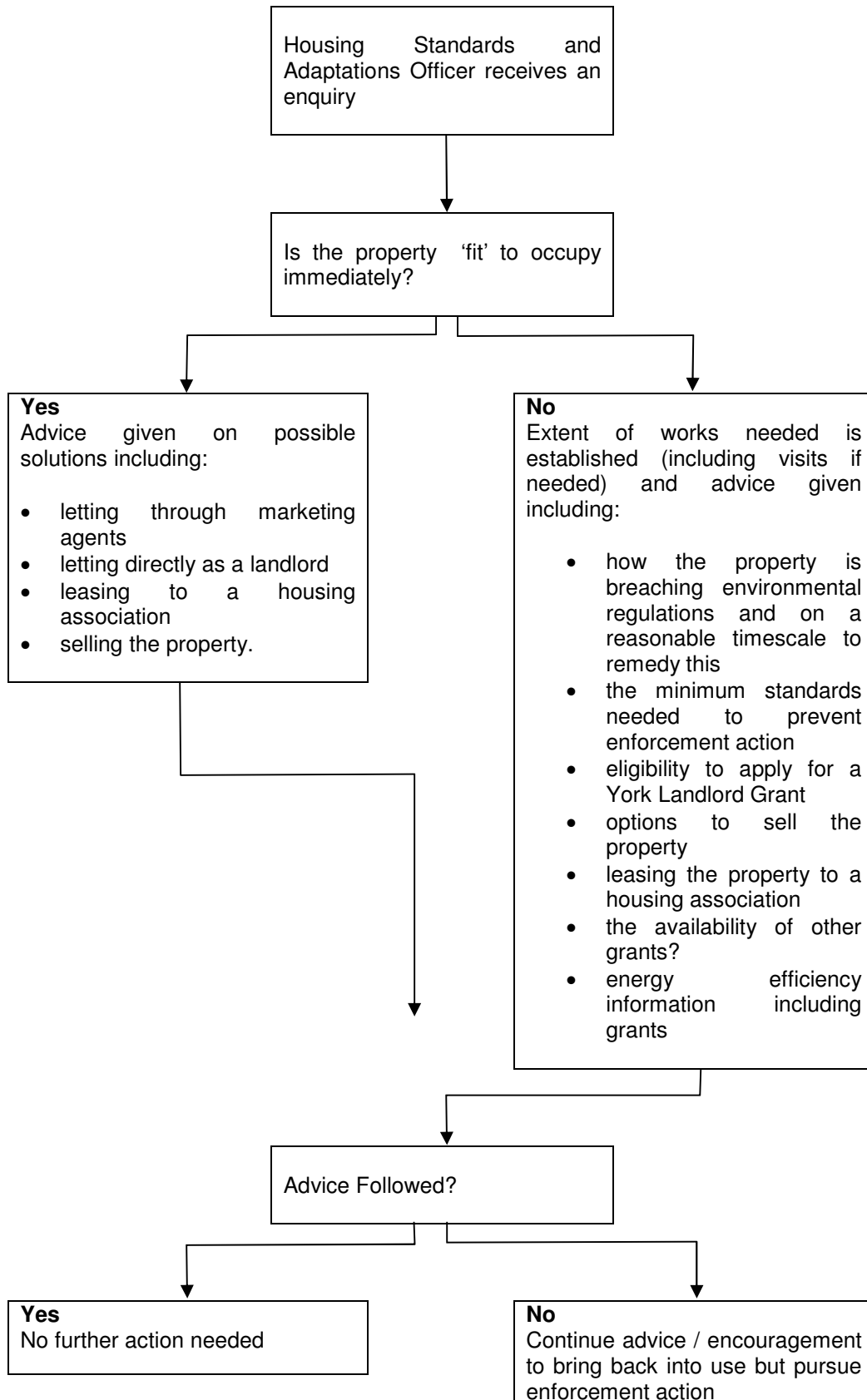
Currently a York Landlord Grant is available to assist in bringing empty homes back into. The terms and conditions of the grant are outlined below.

York Landlord Grant: Qualifying Terms and Conditions

- ✓ The grant is to help landlords bring empty properties back into use as dwellings
- ✓ The grant is for work that will make the empty dwelling meet the decency standard as determined by the council.
- ✓ To qualify for assistance the landlord must be the freeholder of the property or have a lease with at least ten years unexpired term at the time of application. The landlord must enter into a leasehold agreement with a partner housing association for a minimum of five years from the completion of the works.
- ✓ The grant limit is 75% of the cost of the eligible works up to a maximum of £20000 of which £2,000 is payable to the housing association for initial set-up costs
- ✓ Additional capital finance for the improvement works necessary to meet the decent homes standard will either be met by the owner or by the housing association through negotiation with the owner. Evidence of this additional funding must be in place before the grant is paid
- ✓ The grant application will be made by the housing association but the council will determine the eligibility of the proposed schedule of works.
- ✓ Only one grant approval per property will normally be available
- ✓ These grants are repayable should the property be sold or no longer used for letting within ten years of completion of the works.
- ✓ Lettings as holiday lets or to family members are not eligible.
- ✓ The Council has the right to nominate tenants to the homes from the housing waiting list

EMPTY PROPERTY ENQUIRIES FLOW CHART

Notification of an empty property may come from various sources including neighbours, councillors, street wardens and owners. Irrespective of the source of enquiry, it should be referred to a Housing Standard and Adaptations Officer on York 554431





Meeting of the Executive Member for Housing and Adult Social Services and Advisory Panel**14th July 2008**

Report of the Director of Housing and Adult Social Services & Director of Learning Culture & Children's Services

Social Care Complaints Report April 2007 – March 2008**Summary**

1. This report includes the number of complaints, compliments, comments and requests made about social care services between April 07 – March 2008. It also includes information about the lessons learnt as a result of complaints received and the service improvements made.
2. The report is for information prior to becoming a public document and members are asked to note and accept the contents of the report.

Background

3. Local authorities which provide social care services, are required to have a procedure to ensure the effective review and investigation of complaints and to provide a report on an annual basis which should be made publicly available. These procedures for the City of York Council are A) adult social care complaints. B) children and young people's social care complaints. Reports have been supplied to members on an annual basis since 1998.

Social Care Complaints Procedure

4. There are three different stages of the social care complaints procedure.
5. Stage one, allows the complaint to be remedied as close as possible to the point of service delivery.
6. Stage two, the adjudicating officer (head of service or group manager) appoints a senior manager within their directorate to undertake a full investigation. The investigating officer (IO) will have had no prior involvement in the complaint nor have responsibility for the service under investigation. Where an appropriate person is not available, or the complaint is serious or complex, an independent investigator may be commissioned. On receipt of the IO's report, the adjudicating officer will respond in writing. They may also offer to meet with complainant either before or after completing their final response.

7. If the complaint relates to children's services or a complaint about adult services is complex or the complainant is vulnerable then an Independent Person (IP) is also appointed to provide the statutory independent element to the investigation.
8. The complainant will also be offered support to assist them in making their complaint; this may be through the use of an advocate, translation or other support as appropriate.
9. If the complainant is dissatisfied with the stage two outcome, they can request their complaint is heard at stage three at a complaint review panel. The review panel consists of an independent chair (not employed by CYC), another IP and either a councillor or third IP. The panel will judge whether the complaint has been properly investigated and make recommendations to the Director. They are not empowered to overturn the professional decisions of officers.
10. If the complainant remains dissatisfied, then the matter can be referred to the Local Government Ombudsman (LGO). The Ombudsman may decide to investigate the complaint and the council will abide by their direction as appropriate.
11. The time scale for the completion of each stage of the procedure is:
 - Stage one 10 working days.
 20 working days in exceptional circumstances with the complainants agreement.
 - Stage two 25 working days, can be extended to 65 working days.
 - Stage three 30 working days to hold the panel
 5 working days for the panel to send the report to the complainant and Director
 15 working days for the Director to send their final response.
12. The complaints team writes to complainants at the conclusion of every stage to ensure that they are satisfied and aware of their rights to pursue their complaint and to request feedback on the complaints service.
 - After every stage the manager who had responsibility for providing the response completes an action plan for service improvements to ensure that lessons are learnt and acted on effectively.

Consultation

13. Not applicable

Options

14. To accept the contents of this report.

Analysis

Total number of complaints received in the last 3 years:

	2005 – 2006	2006 – 2007	2007 - 2008
Upheld	18	Upheld 25	Upheld 16
Partly Upheld	26	Partly Upheld 33	Partly Upheld 29
Not Upheld	20	Not Upheld 31	Not Upheld 23
Withdrawn	25	Withdrawn 18	Withdrawn 16
Ongoing	0	Ongoing 4	Ongoing 0
Total	89	Total 111	Total 84

Total number of Stage One complaints received between April 2007 – March 2008:

	Adults	Mental Health	Learning Disability	Children
Total received	40	6	13	16
Total pursued	37	4	11	9
Total in target	31	3	11	7
Total not pursued	3	2	2	7
Total resolved did not progress	34	4	9	6

15. In Children's Services 2 of the Stage One complaints became stage Two complaints under the corporate complaints procedure as they were not eligible to be pursued under the social care legislation. This is because the complaints were not made on behalf of the child or young person.

Total number of Stage Two complaints received between April 2007 – March 2008:

	Adults	Mental Health	Learning Disability	Children
Total received	6	0	2	1
Total from stage one	3	0	2	1
Total direct to stage two	3	0	0	0
Total pursued	5	-	1	1
Total in target	0	-	0	0
Total not pursued	1	-	1	0
Total resolved did not progress	5	-	1	1

16. Reasons for delay include arranging advocates and difficulties arranging appointments with both staff and complainants, particularly at adjudication. However the council considers it of upmost importance to invite complainants to an adjudication meeting before the response is finalised so that they have the opportunity to discuss their complaint with a senior manager and ensure that their concerns have been heard clearly by them. Complainants are kept updated where there are delays in providing a final response to their complaint and in most cases have preferred to take up the offer of a meeting with the adjudicating officer before the response is finalised, even though they realise this may take some time to arrange. It is considered that the opportunity for complainant to discuss their concerns directly with a senior manager at adjudication has in part contributed to the fact that no complaints have progressed to stage three in this period.

Total number of Stage Three complaints received between April 2007 – March 2008:

17. There were no Stage three complaints received during this period. A review panel was originally organised for one complaint, but this was postponed when the complainant wanted the panel to consider additional information. The additional information was then made available to the Head of Service who was the adjudicating officer at stage two and they then made a further offer to settle the complaint without the need to re-convene a review panel.

Local Government Ombudsman Enquiries

	Adults	Mental Health	Learning Disability	Children
Total received	2	1	0	0
Total in target	1	N/A (outside jurisdiction)	-	-

MP Enquiries

	Adults	Mental Health	Learning Disability	Children
Total received	22	2	7	2
Total in target	19	2	7	1

Councillor Enquiries

	Adults	Mental Health	Learning Disability	Children
Total received	25	3	7	1
Total in target	19	3	6	0

Comments and Requests

18. The council also responds to comments and requests made by customers who want a response without this having to be called a complaint. The following number of comments and requests were logged by the council:

	Adults	Mental Health	Learning Disability	Children
Total received	11	4	1	4

Compliments

Total Number of Thank You comments received:

	Adults	Mental Health	Learning Disability	Children
Total received	25	2	1	7

Corporate Priorities

19. The production and acceptance of this report complies with the council's responsibilities to provide a publicly available report on complaints relating to its social care services.

Implications

- **Financial**
There are no implications
- **Human Resources (HR)**
There are no implications

- **Equalities**

There are no implications

- **Legal**

There are no implications

- **Crime and Disorder**

There are no implications

- **Information Technology (IT)**

There are no implications

- **Property**

There are no implications

- **Other**

There are no implications

Risk Management

20. In compliance with the Council's risk management strategy. There are no risks associated with the recommendations of this report.

Recommendations

21. That the Advisory Panel advise the Executive Member to note and accept the information in this report and the annual social care complaints and representations report 2007/08 provided as an annex.

Reason: to comply with the council's responsibilities to provide a publicly available report on complaints relating to its social care services.

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Report Approved Date 27/06/08

Chief Officer's name
Title

Report Approved Date 27/06/08

Specialist Implications Officer(s) N/A

Wards Affected: *List wards or tick box to indicate all*

All N/A

For further information please contact the author of the report

Background Papers:

Not applicable

Annexes

Annex A - Annual Social Care Complaints and Representations Report 2007 – 2008

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City of York Council

Annual Social Care Complaints and Representations Report for Period 2007 - 08

1. Context

This report provides information about complaints made during the twelve months between 1 April 2007 and 31 March 2008 under the complaints and representations procedures established through the Local Authority Social Services Complaints (England) Regulations, 2006, the Representations Procedure (Children) Regulations, 2006.

This legislation was introduced on the 1st September 2006 and this changed the timescales for all stages of the procedure.

All timescales contained within this report are for working days.

In addition to the information given in this report about the number of complaints received in this period there was:

- 1 commendation received in adult services
- 2 commendations received in children's services

Thank you letters recorded were:

- adult services 25
- mental health 2
- learning disability services 1
- children's services 7

The team is also aware that many more letters of thanks are received and is actively working to encourage staff to forward these to ensure they are recorded so that a true picture can be gained regarding our customers experience of the services they are receiving.

The legislation makes it clear that people should be able to provide feedback and have this responded to without this being seen as a complaint. Therefore comments and requests are also logged. A request may for example be from a customer who is not happy with the service provided and requests a meeting or reassessment, but does not want to make a complaint in the first instance.

The number of requests and comments received in this period were:

- adult services 11
- mental health 4
- learning disability services 1
- children's services 4

1.1 What is a Complaint?

A complaint is an expression of dissatisfaction or disquiet about the actions, decisions, or apparent failings of a local authority's social services provision which requires a response.

If it is possible to resolve the complaint immediately this does not need to be logged through the complaints procedure.

Representations may be a positive remark, idea or request about the availability, delivery or nature of a service which requires a response.

Where the representation is not resolved to the persons satisfaction they will be entitled to make a complaint at stage 1 of the procedure about the failure to resolve things.

1.2 Who can make a Complaint?

Adult Services

Someone who:

- The local authority has a power or duty to provide or secure the provision of a social service for him/her and
- His/her need for such a service has (by whatever means) come to the attention of the Authority.

This definition also applies to a person acting on behalf of someone who meets the above requirements.

A complaint can be made by a representative where the complaints manager receives permission from the eligible person, usually in writing, giving their permission for the representative to make the complaint on their behalf. A representative will also be able to make a complaint where the eligible person is not capable of making the complaint themselves, this includes where they have died.

The complaints manager will decide if a person is suitable to act as a representative, if it is decided they are not acting in the eligible person's best interests the complaints manager will inform them in writing of the reasons for this.

If a customer is not eligible under the terms of the Act, they will always be able to have their complaint looked at under the council's corporate complaints procedure.

Children's Services

- Any child or young person (or a parent, or someone who has parental responsibility) who is being looked after by the local authority or is not looked after by them but is in need.
- Any local authority foster carer (including those caring for children placed through independent fostering agencies).
- Children leaving care
- Special Guardians
- A child or young person (or parent) to whom a Special Guardian order is in place.
- Any person who has applied for an assessment under section 14F(3) or (4).
- Any child or young person who may be adopted, their parents and guardians.
- Persons wishing to adopt a child.
- Any other person whom arrangements for the provision of adoption services extend.
- Adopted persons, their parents, natural parents and former guardians and such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant their representations being considered by them.

Where a complaint is received from a representative on behalf of a child or young person, the local authority will, where possible, confirm that the child or young person is happy for this to happen and that the complaint received reflects their views.

The complaints manager in consultation with relevant operational managers will decide whether the person is suitable to act in this capacity and has sufficient interest in the child's welfare. If it is decided that a person is not suitable to act as a representative for a child, they will be informed of the decision in writing by the complaints manager and that no further action will be taken.

Complaints may also be made by adults relating to a child or young person, but are not being made on their behalf. The complaints manager in consultation with operational managers will decide whether the person has sufficient interest in the child's welfare for the complaint to be considered. The child may also be consulted as part of the decision making process.

2. Stages of the Complaints Procedure and statistics

The complaints procedure has 3 stages.

Stage One. This is the most important stage of the complaints procedure. The department's teams and external contractors providing services on our behalf are expected to resolve as many complaints as possible at this initial point.

The council's complaints procedure requires complaints at stage one to be responded to within 10 working days (this can be extended for a further 10 working days in some circumstances where further time is needed to arrange an advocate, or where staff may be away from work. This can only be extended with the agreement of the complainant).

Stage Two. This stage is usually implemented where the complainant is dissatisfied with the findings of stage one. Stage two is an investigation conducted by either an internal manager who has not had any previous involvement in the complaint and has no line management responsibility for the area being complained about, or an external investigating officer. The head of service adjudicates on the findings, although on occasions this can be delegated to a group manager.

The council must appoint an independent person to oversee the investigation process for all stage two complaints in children's services and must be considered in adult services where the complaint is considered to be serious or the complainant is considered to be vulnerable.

Stage two complaints falling within the social services statutory complaints procedures should be dealt with in 25 days, although in certain cases this can be extended to 65 days.

Stage Three. The third stage of the complaints process is the review panel.

Where complainants wish to proceed with complaints about statutory social service functions, the council is required to establish a complaints review panel. The panel makes recommendations to the director who then makes a decision on the complaint and any action to be taken. Complaints review panels are made up of 3 independent panellists for children's services. In adult services the panel may have a maximum of one elected councillor and must have an independent chair and at least one independent panellist, the third person can either be an elected councillor or a third independent person. There are various timescales relating to stage three complaints. These are:

- setting up the panel within 30 days;

- producing the panel's report within a further 5 days; and
- producing the local authority's response within 15 days.

A further option for complainants is the Local Government Ombudsman (LGO) who is empowered to investigate where it appears that a council's own investigations have not resolved the complaint. Complainants can refer their complaint to the LGO at any time, although the ombudsman normally refers the complaint back to the council if it has not been considered under our procedure first.

3. Activity

The complaints service recorded 84 complaints during the year, compared with 111 last year. This figure is the total number of complaints that the complaints services handled for social care services.

Total complaints made:

Between 1 April 2007 and 31 March 2008, we received 84 complaints and closed 84.

Of the 75 complaints at stage one, 6 progressed to stage two and the rest of the 9 complaints heard at stage 2 moved directly to a stage two either because of their complexity, or because managers who would have responded at stage one had already been involved in attempting to resolve the issues concerned with the complaint.

Of the 9 complaints heard at stage two, none proceeded to stage three. A review panel was originally organised for one complaint, but this was postponed when the complainant wanted the panel to consider additional information. The additional information was then made available to the Head of Service who was the adjudicating officer at stage two and they then made a further offer to settle the complaint without the need to re-convene a review panel.

There was also 3 LGO enquiries received and closed although 1 was heard at stage two in a previous reporting period and then referred to the ombudsman.

3.1 Comparison with the preceding year

This indicates a 24% decrease in complaints from last year within the department.

There is no identifiable reason for the decrease in complaints other than there had been a slight increase last year which may have been in part due to a re-organisation of home care services at the time. However complaints fluctuate up and down from year to year and this is typical of social care complaints received across Yorkshire and Humberside.

3.2 Outcomes of complaints:

2005 – 2006		2006 – 2007		2007 - 2008	
Upheld	18	Upheld	25	Upheld	16
Partly Upheld	26	Partly Upheld	33	Partly Upheld	29
Not Upheld	20	Not Upheld	31	Not Upheld	23
Withdrawn	25	Withdrawn	18	Withdrawn	16
Ongoing	0	Ongoing	4	Ongoing	0
Total	89	Total	111	Total	84

A key requirement of the reform of our complaints procedures has been the importance of informing our service users of the outcome of their complaints.

3.3 Response Times

It is essential that all teams delivering services (including the department's contractors) formally capture and record complaints. It is only by doing so that complaints can be tracked and where things have gone wrong managers can ensure that matters are put right. Senior managers and the complaints team therefore regularly encourage teams to recognise and record complaints and report these to the complaints service.

Stage One Complaints 2007 – 08

Social Care Service	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Services Health & Dis	Children's Services QA	Total	
Number of complaints	no 20	no 20	no 6	no 13	no 8	no 3	no 5	no 0	no 75	% 100

Stage One Response Times 2006 – 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Within 10 days	10	14	1	10	4	0	3	0	42	56
Within 20 days	6	1	2	1	0	0	0	0	10	13
Outside of timescale	2	4	1	0	2	0	0	0	9	12
Withdrawn	2	1	2	2	2	3	2	0	14	19

Stage One Outcomes 2006 - 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Upheld	4	8	1	0	0	0	1	0	14	19
Partially Upheld	7	7	2	5	3	0	1	0	25	33
Not Upheld	7	4	1	6	3	0	1	0	22	29
Not Pursued	2	1	2	2	2	3	2	0	14	18

Stage One Nature of complaint 2007 - 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Attitude of staff	0	2	2	0	0	0	0	0	4	5
Disagree with Policy	0	0	2	5	1	0	0	0	8	11
Disagree with Assessment	2	0	0	1	0	0	0	0	3	4
Discrimination	0	0	0	0	0	0	2	0	2	3
Inappropriate Action	3	11	2	4	6	2	2	0	30	40
Lack of Action	4	2	0	0	0	1	0	0	7	9
Quality of Advice/Communication	0	1	0	1	1	0	1	0	4	5
Disagree with financial Assessment	3	3	0	2	0	0	0	0	8	11
Home Care Changes	8	1	0	0	0	0	0	0	9	12

Complaint made by:

Following the guidance produced by the Department of Health and the Department for Education and Skills, we are identifying who is making the complaint to get a greater understanding of our complainants. However as the team only began looking into this in more detail after the new legislation had been implemented, further information including ethnic origin is not available for this report, but will be included in future.

4.2 Equalities Information – Service Users

Gender of Service User at Stage One

	Adults Purchasing		Adults Providers		Mental Health		Learning Disability		Children's Services 0-10		Children's Services 11+		Children's Health & Dis		Children's QA		Total	
	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%
Male	9		4		2		5		2		1		2		0		25	33
Female	11		16		4		8		6		2		3		0		50	67

Gender of Service User at Stage Two

	Adults Purchasing		Adults Providers		Mental Health		Learning Disability		Children's Services 0-10		Children's Services 11+		Children's Health & Dis		Children's QA		Total	
	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%
Male	0		1		0		0		1		0		0		0		2	22
Female	2		3		0		2		0		0		0		0		7	78

Surveys are sent to every complainant after each stage of their complaint, 29 were returned at stage one and 3 were returned at stage two.

29 people stated they were White British and 1 stated they were Irish.

19 people responded to say they had a disability and the following categories were recorded:

Physical Disability	12
Learning Disability	1
Mental Illness	1
Sensory impairment	2
Other	2

At stage one 43 complaints were made on the customers behalf either by a friend, family member or advocate.

At stage two 8 complaints were made on behalf of the customer.

4.3 Stage Two Complaints

There were 9 Stage two complaints during the year, compared to 15 last year.

4 stage two complaints required investigations undertaken by external independent investigating officers.

Reasons for delay include arranging advocates and difficulties arranging appointments with both staff and complainants, particularly at adjudication. However the council considers it of upmost importance to invite complainants to an adjudication meeting before the response is finalised so that they have the opportunity to discuss their complaint with a senior manager and ensure that their concerns have been heard clearly by them. Complainants are kept updated where there are delays in providing a final response to their complaint and in most cases have preferred to take up the offer of a meeting with the adjudicating officer before the response is finalised, even though they realise this may take some time to arrange. It is considered that the opportunity for complainant to discuss their concerns directly with a senior manager at adjudication has in part contributed to the fact that no complaints have progressed to stage three in this period.

Stage Two Complaints 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Number	2	4	0	2	1	0	0	0	9	100

Stage Two Response Times 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Within 25 days	0	0	0	0	0	0	0	0	0	0
Within 65 days	2	0	0	0	0	0	0	0	2	22
Over timescale	0	3	0	1	1	0	0	0	5	55.5
Withdrawn	0	1	0	1	0	0	0	0	2	22
ongoing	0	0	0	0	0	0	0	0	0	0

Stage Two Outcomes 2006 – 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Upheld	1	1	0	0	0	0	0	0	2	22
Partially Upheld	1	2	0	1	0	0	0	0	4	44
Not Upheld	0	0	0	0	1	0	0	0	1	9
Not Pursued	0	1	0	1	0	0	0	0	2	22
ongoing	0	0	0	0	0	0	0	0	0	-

Stage Two Nature of Complaint 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Attitude of staff	0	1	0	0	0	0	0	0	1	9
Disagree with Policy	0	0	0	2	0	0	0	0	2	22
Disagree with Assessment	1	0	0	0	0	0	0	0	1	9
Discrimination	0	0	0	0	0	0	0	0	0	
Inappropriate Action	0	1	0	0	1	0	0	0	2	22
Lack of Action	0	2	0	0	0	0	0	0	2	22
Quality of Advice/Communication	0	0	0	0	0	0	0	0	0	
Disagree with Financial Assessment	1	0	0	0	0	0	0	0	1	9

In addition to the figures above in Children’s Services 2 of the Stage One complaints became stage Two complaints under the corporate complaints procedure as they were not eligible to be pursued under the social care legislation. This is because the complaints were not made on behalf of the child or young person.

5. Stage Three Complaints

There were 0 Stage Three complaints this year. This compares with 2 complaints at this stage last year. Timescales relating to statutory social services Stage three complaints include:

Timescales

- A panel should be held within 30 working days.
- The panel is required to produce a report within 5 working days of the panel meeting detailing its recommendations.
- The local authority should send a response within 15 days of the panel’s report.

5.1 Stage Three complaints by Service Area, Timescales and Outcome.

	Number received	Setting up Panel (28 day timescale)	Setting up Panel (30 day timescale)	response & panel report (28 day timescale)	Panel report produced (5 day timescale)	Council Response (15 day timescale)	Outcome
Adult Purchasing	0	0	0	0	0	0	-
Adult Providers	0	0	0	0	0	0	-
Mental Health	0	0	0	0	0	0	-
Learning Disability	0	0	0	0	0	0	-
Children Services	0	0	0	0	0	0	-

6. Ombudsman complaints and enquiries.

During the year, 3 complaints were considered by the LGO. The conclusions reached by the Ombudsman are detailed below.

Service Area	Total	Outcome of Ombudsman Consideration	
		Ombudsman Discretion – no or insufficient injustice	Premature Complaint
Adults Purchasing	1	No evidence of maladministration.	-
Adults Purchasing	1	Local settlement	-
Mental Health	1	Outside jurisdiction	-

7. Percentage escalation (last year's figures are in brackets)

The following table indicates how many complaints have escalated from stage one to stage two and how many have progressed from stage two to stage three. By measuring these figures as a percentage we are to gauge customer satisfaction with our responses to their complaints.

Stage 1 to Stage 2	6 (8%)
Stage 2 to Stage 3	0

8 Expenditure

There are ongoing costs attached to delivering an effective complaints service for the department. These costs should be seen against the inherent costs of not providing this service. These may include customers dissatisfaction escalating and compensation awards being recommended by the LGO, increased judicial reviews and non compliance with legislation.

8.1 Cost of delivering the complaints procedure:

	£
Investigating Officers	11718.00
Independent Persons	1379.00
Review Panel	36.00
Training	0
IP contract	7462.00
Advocates	0
Other	28,329.00
Service Budget Total	48,924.00

8.2 Compensation Payments

The council provides compensation if, after a complaint has been investigated or as part of an LGO's investigation, it is concluded that:

- the LGO would find that there has been maladministration by the council causing injustice to the complainant; and
- he would recommend that compensation should therefore be paid to the complainant.

During the year 2 amounts of compensation were paid following consideration of complaints, at Stage 2. This was a total of £750 with £250 being paid to one case and £500 to the other.

9 Alternative Dispute Resolution

The council is always happy to consider appropriate ways of resolving a customer's complaint. Some of the types of action the council has undertaken to resolve complaints have been: issuing apologies, meeting with customers to hear their concerns and suggestions for improvements and putting these improvements into place. This has been particularly relevant in the case of communicating effectively with customers and putting strategies into place to ensure that people are kept up to date. The council also offers a re-assessment of needs where possible, to ensure that nothing has been missed or that circumstances have not changed. In addition to this Direct Payments have been offered as a means of enabling a customer to have more flexibility around how their needs are provided for.

10 Complaints dealt with by the local authority and NHS Bodies

The complaints team works with contracted agencies and statutory agencies to identify the main themes concerned in a complaint. Informal agreements are in place to provide the customer with a co-ordinated response with the agency responsible for the provision of the main areas of complaint taking the lead with co-operation from the other agencies as required.

11 Learning Lessons/Practice Improvements

Complaints provide senior managers with useful information in respect of the way that services are delivered. The consideration of complaints has resulted in agreement to undertake the following actions:

- Procedures for supporting self medication during respite care were reviewed to ensure they were in line with National Minimum Standards and adequately assessed risk and balanced this against the customers desire and ability to control their own medication.
- The procedure for gathering information about people prior to admission for respite has been improved to ensure information is clear and comprehensive so that staff can have a more detailed understanding of customers needs, wants, abilities and limitations.
- The process of transition between children's and adult services for people with learning disabilities is being reviewed and the information on the process updated to provide more clarity for customers and their families.
- A "Welcome" document has been drawn up, and an Admission Pack for people being admitted into respite care.
- A named worker system has been introduced for people using respite care facilities.
- Procedures for discharge from respite care have been amended to include a checklist to ensure all belongings are returned anything lost is reported and anything noted for follow up/passing on information etc is actioned.
- Reinforced to social workers the need for a discussion at the start of placements about the amount of pocket money a young person will receive & what this will cover. Also reinforced to foster carers that young people must have some 'unconditional' amount of pocket money, even if they operate an 'earned' amount of pocket money for their own children.
- The need for clear written plans regarding contact including telephone contact for looked after children to be reinforced with staff.

Cath Murray
Complaints Manager

Date: 11 June 2008