



Officer Decision Record

1. Subject and details of the matter (to include reasons for the decision)

To seek approval of the distribution methodology to be used to share a surplus water charges provision currently held in the Council's accounts for the Fitties site, in the sum of £101,000.

2. Is it a Key Decision as defined in the Constitution?

No.

3. Details of Decision

Agree to share the £101,000 provision to Tenants, Bourne Leisure and Humber Yacht Club who made payments towards the water charges incurred at the Fitties site in 2017/18.

The refunds would be made based on what proportion of the water bills they would normally be liable for (based on an average of the 3 prior years shares). The parties would then be refunded the difference between this calculated liability and the amount they have actually paid. See below calculation and suggested refund amounts -

Option	Bourne Leisure	Tenants	Humber Yacht Club	Total
Amount Paid	£152,339.88	£60,384.94	£587.53	£213,312.35
Amount to Refund	£81,695.41	£19,054.00	£250.59	£101,000.00
Net Contribution to Water Bills	£70,644.47	£41,330.94	£336.94	£112,312.35

4. Is it an Urgent Decision? If yes, specify the reasons for urgency Urgent decisions will require sign off by the relevant scrutiny chair(s) as not subject to call in.

No.

5. Anticipated outcome(s)

A fair share of the provision would be paid as water refunds to Fitties tenants who occupied the site in 2017/18, Bourne Leisure and Humber Yacht Club.

6. Details of any alternative options considered and rejected by the officer when making the decision

The surplus provision could be distributed in a number of ways but these were filtered to two alternatives after taking into account the following –

- The Council cannot make a profit on utilities recharging and therefore cannot retain the £101,000 or any part thereof. The surplus arises due to the water company's errors in recording consumption and subsequently not billing for some usage as a result.
- Tenants have already received a partial refund, totalling £100,879, for water charges initially made to them for the year and therefore this is to be factored into any sharing arrangement.

The other alternative would be to refund Bourne Leisure and Humber Yacht Club for any element of the surplus deemed to be 'profit' and the remainder to tenants. This would, however, be inequitable and mean that the tenants would have made no contribution to water charges during that year. This could be subject to challenge by Bourne Leisure and Humber Yacht Club as a result. If this option was agreed then the calculation and refund amount would be –

Option	Bourne Leisure	Tenants	Humber Yacht Club	Total
Amount Paid	£152,339.88	£60,384.94	£587.53	£213,312.35
Amount to Refund	£40,364.47	£60,384.94	£250.59	£101,000.00
Net Contribution to Water Bills	£111,975.41	-	£336.94	£112,312.35

7. Background documents considered

None.

8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons

No

9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

No conflicts of interest were identified.

10. Monitoring Officer Comments (Monitoring Officer or Deputy Monitoring Officer)

It is clear that the surplus must be distributed. The above recommended basis appears reasonable in all the circumstances.

11. Section 151 Officer Comments (Deputy S151 Officer or nominee)

The decision record recommends distributing the £101,000 provision already set aside. The distribution is proposed across the three parties that paid funds towards water bills for the respective year and thus contributed to the creation of the provision.

12. Human Resource Comments (Strategic Workforce Lead or nominee)

There are no direct HR implications

13. Risk Assessment (in accordance with the Report Writing Guide)

The main risk is that tenants will not be satisfied with the level of refund made to them and may feel entitlement to sharing the whole £101,000 provision or a larger element than recommended in this decision record. Historically, individual tenant challenges have been referred to external oversight bodies, such as external audit, which can lead to additional challenge and evidence gathering in support of Council decisions.

However, if tenants were provided with the full 100% share of the provision then the Council could be considered to have made a profit in charges to Bourne Leisure and Humber Yacht Club and operated illegally. The other alternative outlined above, to refund Bourne Leisure and Humber Yacht Club for any element of the surplus deemed to be 'profit' and the remainder to tenants, could also be subject to challenge by Bourne Leisure and Humber Yacht Club as inequitable.

14. Decision Maker(s):

Name: Sharon Wroot

Title: Director of Resources and Governance

Signed: REDACTED

Dated: 14th December 2020

15. Consultation carried out with Portfolio Holder(s):

Name: Councillor Shreeve

Title: Deputy Leader of the Council and Portfolio Holder for Finance and Resources

Signed: REDACTED

Dated: 6th January 2020

16. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor

Name: N/A

Title: N/A

Signed: N/A

Dated: N/A