



**Gloucester
City Council**

Cabinet

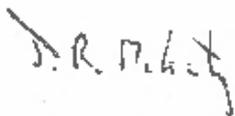
**Meeting: Wednesday, 7th November 2018 at 6.00 pm in Civic Suite -
North Warehouse, The Docks, Gloucester, GL1 2EP**

Membership:	Cllrs. James (Leader of the Council and Cabinet Member for Regeneration and Economy) (Chair), Watkins (Deputy Leader and Cabinet Member for Communities and Neighbourhoods), Cook (Cabinet Member for Environment), Noakes (Cabinet Member for Culture and Leisure), H. Norman (Cabinet Member for Performance and Resources) and Organ (Cabinet Member for Planning and Housing Strategy)
Contact:	Democratic and Electoral Services 01452 396126 democratic.services@gloucester.gov.uk

AGENDA

1.	APOLOGIES To receive any apologies for absence.
2.	DECLARATIONS OF INTEREST To receive from Members, declarations of the existence of any disclosable pecuniary, or non-pecuniary, interests and the nature of those interests in relation to any agenda item. Please see Agenda Notes.
3.	MINUTES (Pages 5 - 8) To approve as a correct record the minutes of the meeting held on 10 th October 2018.
4.	PUBLIC QUESTION TIME (15 MINUTES) The opportunity is given to members of the public to put questions to Cabinet Members or Committee Chairs provided that a question does not relate to: <ul style="list-style-type: none"> • Matters which are the subject of current or pending legal proceedings, or • Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers

<p>5.</p>	<p>PETITIONS AND DEPUTATIONS (15 MINUTES)</p> <p>To receive any petitions or deputations provided that no such petition or deputation is in relation to:</p> <ul style="list-style-type: none"> • Matters relating to individual Council Officers, or • Matters relating to current or pending legal proceedings
<p>6.</p>	<p>LEADER AND CABINET MEMBERS' QUESTION TIME (15 MINUTES)</p> <p>Any Member of the Council may ask the Leader of the Council or any Cabinet Member any question without prior notice, upon:</p> <ul style="list-style-type: none"> • Any matter relating to the Council's administration • Any matter relating to any report of the Cabinet appearing on the summons • A matter coming within their portfolio of responsibilities <p>Only one supplementary question is allowed per question.</p>
<p>7.</p>	<p>SEVERE WEATHER EMERGENCY PROTOCOL (SWEP) 2018/2019 (Pages 9 - 12)</p> <p>To consider the report of the Cabinet Member for Communities and Neighbourhoods seeking to update Members on the changes that have been made to the Gloucestershire SWEP Protocol 2018/2019, including the inclusion of yellow weather warnings that will further support those who are rough sleeping during adverse weather conditions.</p>
<p>8.</p>	<p>ACCESSING THE PRIVATE RENTED SECTOR FOR TEMPORARY & PERMANENT ACCOMMODATION (Pages 13 - 20)</p> <p>To consider the report of the Cabinet Member for Communities and Neighbourhoods seeking support for revised incentives to be made to landlords to secure referrals from the local authority to prevent or relieve homelessness.</p>
<p>9.</p>	<p>BUSINESS RATES - REQUEST FOR WRITE-OFF APPROVAL OVER £100K (Pages 21 - 36)</p> <p>To consider the report of the Cabinet Member for Performance and Resources seeking the views of Members to write off Non-Domestic Rate debts in excess of £100,000.</p>



Jon McGinty
Managing Director

Date of Publication: Tuesday, 30 October 2018

NOTES

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area. For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with

whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

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- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.



CABINET

MEETING : Wednesday, 10th October 2018

PRESENT : Cllrs. Watkins, Cook, H. Norman and Organ

Others in Attendance

Cllrs Hilton and Pullen

Managing Director

Corporate Director

Head of Policy and Resources

Head of Communities

Head of Place

Head of Cultural and Trading Services

Democratic Services and Elections Officer

APOLOGIES : Cllrs. James and Noakes

41. DECLARATIONS OF INTEREST

There were no declarations of interest.

42. MINUTES

RESOLVED:

that the minutes of the meeting held on 12th September 2018 be taken as read and signed by the Chair

43. PUBLIC QUESTION TIME (15 MINUTES)

A member of the public drew Members' attention to the City Council's Housing and Homelessness Strategy 2014-19 and asked for up to date statistics concerning the use of the sanctuary scheme for victims of domestic violence, statutory notices and compulsory purchase orders to bring properties back into accommodation use and the length of waiting times for people in temporary accommodation to be housed. The Cabinet Member for Communities and Neighbourhoods stated that the data would be sought and offered to discuss it with the questioner at a later date. The member of the public further asked if the answers would be made publicly available. The Cabinet Member for Communities and Neighbourhoods gave assurance that they would and commented that advance notice of detailed questions would better enable Members to answer them.

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44. PETITIONS AND DEPUTATIONS (15 MINUTES)

There were no petitions and deputations.

45. LEADER AND CABINET MEMBERS' QUESTION TIME (15 MINUTES)

Cllr Pullen referred to the closure of the Hempsted Household Recycling Centre every Thursday announced by the County Council and asked if the Cabinet Member for Environment had been consulted. The Cabinet Member for Environment replied that the matter had been discussed at the last Joint Waste Committee meeting although he had not made a personal response. Cllr Pullen further enquired if additional resources had been allocated to deal with any fly tipping that might accumulate when the centre was closed. The Cabinet Member for Environment responded that the situation would be monitored and the forthcoming environmental enforcement contractor (3GS) would address the issue if necessary.

Cllr Hilton sought clarification of when the Public Space Protection Order (PSPO) to create an alcohol free zone in London Road would be implemented. The Cabinet Member for Communities and Neighbourhoods stated that work was still being done to engage people on addressing the issues as this was the approach favoured over enforcement but that plans to implement the zone at the end of the year would be brought before members soon. Cllr Hilton advised Members of problems associated with street drinking reported in Kingsholm Road and Worcester Street and further asked if the PSPO would be extended to those areas. The Cabinet Member for Communities and Neighbourhoods replied that the option was available and took the opportunity to encourage everyone to make reports and raise awareness among the public of the importance of reporting issues so that they can be addressed.

Concerning agenda item 8 (Membership of Key Cities Group) Cllr Hilton enquired if the Member of Parliament for Gloucester was a member of the Key Cities All-Party Parliamentary Group referred to in the report (3.2). The Cabinet Member for Communities and Neighbourhoods gave assurance that the Managing Director would raise the matter with the Member of Parliament. In relation to the cost of membership to the Key Cities Group Cllr Hilton further asked how this would be met in the light of current budget constraints. The Head of Policy and Resources stated that the cost would be met from efficiencies outlined in the Money Plan to be presented in November.

46. LOCAL GOVERNMENT ASSOCIATION CORPORATE PEER CHALLENGE

Cabinet considered the report of the Leader of the Council that presented progress made in implementing the recommendations from the Local Government Association (LGA) Corporate Peer Challenge in November 2017 and sought the action plan to be signed off as complete.

The Cabinet Member for Communities and Neighbourhoods highlighted the positive findings made by the Peer Challenge team that represented substantial progress since the last assessment in 2013. The Cabinet Member for Planning and Housing Strategy emphasised the benefits of learning from external scrutiny and commented

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that Members were not complacent. The Cabinet Member for Environment stated that he was encouraged to see such a positive response to the challenge to improve performance.

RESOLVED that:

- (1) the Council's progress in implementing the recommendations in the feedback report be noted
- (2) the Action Plan be signed off as complete and made available to the LGA, staff and the public via the Council's website

47. MEMBERSHIP OF KEY CITIES GROUP

Cabinet considered the report of the Leader of the Council that sought Members to note the scope and potential of the Key Cities Group and sought approval for the City Council to join as a full member.

The Cabinet Member for Communities and Neighbourhoods reminded Members of Gloucester's recent achievements such as obtaining the 'Purple Flag' standard and being named 'Local Authority of the Year' at the South West Property Awards as well as its aspiration to be City of Culture 2025 which demonstrated this city's emerging status as a national player. She commented that joining the Key Cities Group represented good value for money as it would assist Gloucester's ambitions.

The Cabinet Member for Planning and Housing Strategy highlighted the strong performance in the Centre for Cities' latest assessment and welcomed the opportunity to learn from the strengths and weaknesses of others. The Cabinet Member for Performance and Resources asked if there would be opportunities for Gloucester to act as host for delegations to learn from us and for Members to visit other cities to do the same. The Managing Director responded that although this was not the current Key Cities operating model, it would be suggested.

RESOLVED that Gloucester City Council becomes a member of the Key Cities Group.

48. ARMED FORCES COMMUNITY COVENANT UPDATE

Cabinet considered the report of the Cabinet Member for Communities and Neighbourhoods that provided an update on the support offered to current and former members of the armed forces, reservists and their families as part of our commitment to the Gloucestershire Armed Forces Community Covenant.

The Cabinet Member for Communities and Neighbourhoods emphasised that the commitment was not just to members of the armed forces but to their families as well and highlighted the positive measures undertaken so far. The Cabinet Member for Planning and Housing Strategy drew Members' attention to the high numbers of both veterans and young people referred to in the report (3.6, 3.7).

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The Cabinet Member for Environment reminded Members of the positive contribution service personal bring to the wider community and the importance of engaging with and supporting them. The Cabinet Member for Performance and Resources commented on the role that the development of the new City Council website can play in engaging people and the work being done by the Armed Forces Champion, Cllr Lewis, to bring issues forward. The Cabinet Member for Communities and Neighbourhoods took the opportunity to encourage members of the public to comment and contribute ideas on how best to support the armed forces community.

RESOLVED that work undertaken to support current and ex-service personnel as part of the Council's ongoing commitment to the Covenant be endorsed.

Time of commencement: 6.00 pm

Time of conclusion: 6.28 pm

Chair



Meeting:	Cabinet	Date:	7 November 2018
Subject:	Severe Weather Emergency Protocol (SWEP) 2018/2019		
Report Of:	Cabinet Member for Communities & Neighbourhoods		
Wards	All		
Affected:			
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Lloyd Griffiths – Head of Communities		
	Email:	Lloyd.griffiths@gloucester.gov.uk	Tel: 39(6355)
Appendices:	None		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 To update Cabinet on the changes that have been made to the Gloucestershire SWEP Protocol 2018/2019, including the inclusion of yellow weather warnings that will further support those who are rough sleeping during adverse weather conditions.

2.0 Recommendations

2.1 Cabinet is asked to **RESOLVE** that:

- (1) Changes to the SWEP 2018/2019 definition of ‘Extreme Weather’ and the additional support and protection this will provide are endorsed and welcomed.

3.0 Background and Key Issues

3.1 Gloucestershire Local Authorities (LA’s) have previously developed a humanitarian response to support rough sleepers (regardless of legal status or needs) during extreme cold weather by means of active outreach and provision of nightly accommodation during Severe Weather Emergency Protocol (SWEP) periods.

3.2 The 2017/2018 protocol as in previous years defined extreme weather (‘the definition’) as –

'A temperature forecast of zero degrees or lower for three or more consecutive days'

3.3 The street homeless assertive outreach team (P3) is contractually obliged to provide a service to support the work carried out by and on behalf of the six district Local Authorities during SWEP. Where SWEP is triggered by a Council(s), P3 will actively seek out and engage those who are rough sleeping by using their own intelligence and that shared by partner agencies (including Councils) who have their own local knowledge. The triggering of SWEP is also communicated to key partner agencies such as the Police and the Faith & Voluntary Sector so that they may refer should they come into contact with somebody who is homeless or rough sleeping.

3.4 During 2017/2018 some councils triggered SWEP outside of the County protocol, such as for one night of extreme cold weather, a flood event or more recently when it snowed heavily.

3.5 Therefore during 2018 a review of SWEP was undertaken collaboratively by Gloucestershire LA's. The focus of the review which was to ensure that SWEP was providing support during those times when it was most needed and to ensure a consistent level of service was being provided across all council areas in the County. Following this review 'the definition' 'has been amended to –

'Temperatures forecast of 0^oC or lower for three or more consecutive nights or of -3^oC or lower for one night only. Night(s) of any Met Office weather warning (yellow, amber or red) relating to other types of severe weather which could have a detrimental effect on rough sleepers – i.e. snow, ice, high winds, flooding (but not fog).'

3.6 This change in definition which has been unanimously agreed by all council's, will ensure that those who are rough sleeping or homeless will be provided with support on a nightly basis during a wider range of extreme weather conditions and not just freezing temperatures. In addition it will provide consistency across all 6 District Council areas in the County and bring the protocol in line with that recommended by Homeless Link Best Practice.

3.7 The other key change to the protocol concerns when SWEP is triggered. As of this year SWEP will now be called the day before the definition applies and provision is implemented, providing to the Outreach team more time to find all potential service users and for support services to mobilise. SWEP will therefore be implemented on the first day that this definition applies, having been activated the day before.

3.8 Although formally SWEP is contracted to be available (if triggered) between 1st November and 31st March each year, the Council would of course consider implementing such support outside of this period if the situation warranted it.

3.9 In Gloucester SWEP accommodation providers include Newton House (Riverside Housing), George Whitefield Centre (Gloucester City Mission),

Taylor House (Elim Housing) and Park View Court (Home Group). In addition for those who are assessed by the assertive Outreach team as unlikely or unable to access 'crash-pad' accommodation because of particular issues or circumstances then pop up arrangements can be set up at the P3 Navigator Hubs in Gloucester.

- 3.10 It is important to point out that whilst saving lives in extreme temperatures is the primary objective of SWEP, the second objective is to facilitate access into the homelessness pathway and associated support services for clients. This engagement work has previously been undertaken the morning after somebody has benefited from SWEP but this year will commence during the evening of arrival to try and maximise uptake of ongoing support that seeks to break the cycle of rough sleeping.

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 It would be prudent to engage our Community Builders and key community contacts during periods of adverse weather as they are likely to be able to assist with providing information on those who may be vulnerable and rough sleeping during these periods but in addition they are ideally placed to advise on what assets are available within their localities that are relevant and may assist with repatriation.

5.0 Alternative Options Considered

- 5.1 There are no alternative options for consideration

6.0 Reasons for Recommendations

- 6.1 Through the changes made to the Gloucestershire SWEP Protocol, the Council and its partners will be able to support those who are homeless and rough sleeping, during a wider range of severe weather conditions when they most need it.

7.0 Future Work and Conclusions

- 7.1 The Council will continue to work in collaboration with its partner agencies to ensure that the SWEP Protocol remains effective including communicating the protocol during the winter months but in addition when particularly poor weather is forecast.
- 7.2 In addition it will be important that the SWEP protocol is kept under review in collaboration with not just local authority partners but support services and the charity and faith sector so that SWEP is clearly understood and communicated widely when it needs to be triggered.

8.0 Financial Implications

- 8.1 With a broadening of the definition of 'Extreme Weather' it is likely that SWEP will be called more frequently and may incur extra costs during 2018/2019. These extra costs can be met from within existing budget.
(Finance have been consulted in the preparation of this report)

9.0 Legal Implications

- 9.1 There are no legal implications associated with this report.
(One Legal have been consulted in the preparation of this report)

10.0 Risk & Opportunity Management Implications

- 10.1 N/A

11.0 People Impact Assessment (PIA):

- 11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

- 12.1 Rough sleepers in particular are one of the most vulnerable groups in our society and this increase in support they will be offered during adverse weather conditions will have a positive impact on their well-being in the short term, but as importantly provide them with an opportunity to receive further personal support with a view to them sustaining a life off the street.

Sustainability

- 12.2 There are no sustainability comments associated with this report.

Safeguarding

- 12.3 In addition to the day to day work being carried out by the Council's Housing Service and through collaborative projects such as the Entrenched Homelessness Social Impact Bond, the engagement element of outreach work during SWEP will allow P3 practitioners to identify and raise safeguarding alerts should they arise. There are no safeguarding comments associated with this report.

Staffing & Trade Union

- 12.4 There are no staffing or trade union comments associated with this report.

Background Documents: N/A



Meeting:	Cabinet	Date:	7 November 2018
Subject:	Accessing the Private Rented Housing Sector for Temporary & Permanent Accommodation		
Report Of:	Cabinet Member for Communities and Neighbourhoods		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Maxine Kyprianou – Housing Officer		
	Email: Maxine.Kyprianou@gloucester.gov.uk		Tel: 396534
Appendices:	None		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 This report is to seek support for revised incentives to be made to landlords to secure referrals from the local authority to prevent or relieve homelessness. The funds are to be sourced from central government funding made available to local authority to prevent homelessness (Homelessness Prevention Grant Funding).

2.0 Recommendations

2.1 Cabinet is asked to **RESOLVE** that:

- (1) the range of options as outlined in paragraph 3.3 to 3.7 of the report be approved
- (2) the Head of Communities, in consultation with the Cabinet Member for Communities and Neighbourhoods, be authorised to agree any variations to the scheme or the way in which deposits are protected.

3.0 Background and Key Issues

3.1 The local authority has duties placed upon it to either prevent or relieve homelessness.

3.2 Through the Housing Act 1996 (as amended) and the more recent Homelessness Reduction Act 2017, the local authority has a duty lasting 56 days to assist in the prevention of a household’s homelessness. If a household presents as homeless, or if prevention of homelessness has been unsuccessful and if the local authority has reason to believe a household member might be vulnerable and considers they

have a priority need, we will likely owe an “interim duty to accommodate the household.

- 3.3 Should a household be found to be eligible for assistance, in priority need and unintentionally homeless, the local authority may also owe a ‘main’ homelessness duty and be required to identify suitable longer-term accommodation to be able to discharge their duty. Discharging this duty may be achieved by offering a tenancy through Part VI of the Housing Act (a social tenancy); or through a ‘private rented sector offer’ Private Rented Sector Offer (PRSO) – provided it is for a period of 12 months) or if it is refused by the applicant. Such offers or refusals will then bring to an end our use of temporary accommodation.
- 3.4 The demand for social housing outweighs the supply available last year 63 affordable units (of all types) were developed; our current housing register has 3979 applicants, and our numbers in gold band are 174 who will include those determined as being homeless and our silver band is 1,583 which includes those with a significant need or where their homelessness is being investigated. At the end of quarter 1 there were 170 households in temporary accommodation. Last year the cost of temporary accommodation to the Council was £725,000
- 3.5 Currently there is a reliance on temporary accommodation and hotels which is costly, and unsustainable, as well as being unacceptable for long term temporary accommodation and on many occasions over runs the government 6 week target; an alternative is to help through the private Rented Sector, however the market rates are buoyant and also not keeping pace with the Local Housing Allowance rates. Incentives to landlords would bridge the gap.
- 3.6 These incentives have been developed having had regard to feedback from our previous initiatives and as a consequence of considering best practice in other local authority areas.
- 3.7 The basis of the offer(s) is identified below. It will be for the negotiating officer to consider which of a range of incentives it may be appropriate to make available, depending on the circumstances at any one time.

- (1) **The offer of** a ‘one off’ landlord ‘finder’s fee’ dependent on the size of the property. The fee is on a sliding scale of £100 to £500 at the start of a tenancy and is not repayable, with a caveat to consider higher finders fee for exceptional cases.

Studio	One Bed	Two Bed	Three Bed	Four Bed
£100	£200	£300	£400	£500

- (2) **And** the offer of one month deposit which a landlord must place into a suitable deposit scheme **and** one month ‘rent in advance’. In cases of ‘Universal Credit’ ‘Discretionary Housing Payments’ (DHP) can be utilised for this purpose, for legacy cases where Housing Benefit is still in place, these costs will be ‘reclaimed’ until such time as all claimants transfer across to ‘universal credit’. Rent in advance will not be re-claimed in the case of a PRSO where we are discharging a full homelessness duty and allow the local authority to end its use of temporary accommodation.

- (3) **Or** an alternative to option 2, will be that instead of a cash deposit, the offer of a landlord ‘bond’ whereby we keep the equivalent of a deposit in a protected bond fund, and in the event a tenant’s activities or rent management warrants a claim on the deposit, only then would the Council provide funds to the landlord. In cases where a tenancy has been managed successfully, the local authority never releases any funds. If there is call on the deposit, the tenant will then be ‘recharged’ the equivalent amount that has been charged to the local authority. The proposal increases the level of the bond the larger the property, recognising the difficulty in securing larger properties, and the significant level of rent at risk if unpaid. The bond approach means the landlord does not have to make use of a deposit bond scheme.

Studio	One Bed	Two Bed	Three Bed	Four Bed
One Month Bond equivalent to 1 months rent	One Month Bond at equivalent to 1 months rent	One and Half Month Bond equivalent to 1.5 months rent	One and Half Month Bond equivalent to 1.5 months rent	Two Months Bond at equivalent to 2 months rent
£350 = £350	£450 =£450	£600 + £300 = £900	£800 + £400 = £1,200	£1,000 + £1000 = £2,000

- (4) **In cases where a property rent is above ‘Local Housing Allowance’ (LHA) levels, we will offer a landlord a ‘one off’ payment to bridge the gap to an ‘average market rate’.** This payment would be to new or existing landlords for each new tenant. These funds wouldn’t be recoverable from tenants.

	LHA per month	Approx Average Market Rate	Shortfall	Incentive Shortfall	Incentive Rent Increase	Incentive Payment 6 months	Incentive Payment 12 months
Studio	£295	£350	£55	£50	£345	£300	£600
1 Bed	£399	£450	£51	£50	£449	£300	£600
2 Bed	£530	£600	£70	£50	£580	£300	£600
3 Bed	£638	£800	£162	£100	£738	£600	£1,200
4 Bed	£811	£1,000	£189	£140	£951	£840	£1,680

- (5) **Optional** - Offer a free property inspection so we can make sure your property complies with rental regulations, such as health and safety; the availability of free advice and information relating to tenancy management or maintaining the property in compliance with regulations.
- (6) **Optional** - Free Blank inventory pack for the start of the tenancy. (Information for Landlords, e.g. Right to Rent, How to Safeguard Deposits, Prescribed information leaflet)
- (7) **Optional** - A referral for appropriate ‘community based support’ where appropriate, for good relationships with landlords and successful tenancies an offer of ongoing support for the Landlord and tenant if and when needed, for example referral to one of the partner agencies Green Square, Home Group or project Solace
- (8) **Optional** - A link to website(s) offering a facility to download or print a tenancy agreement.

- (9) **Optional** - Financial help towards gas, energy performance certificate, and electric safety certificates up to a value of £100.

3.8 The table below show the costs associated with each type of property

	Finders Fee	LHA shortfall 6 months	LHA shortfall 12 months	Bond Rent Guarantee	Incentives EPC etc.	Total Cost with 6 month LHA shortfall	Total cost with 12 month LHA shortfall
Studio	£100	£300	£600	£350	£100	£850	£1,150
One Bed	£200	£300	£600	£450	£100	£1,050	£1,350
Two Bed	£300	£300	£600	£900	£100	£1,600	£1,900
Three Bed	£400	£600	£1,200	£1,200	£100	£2,300	£2,900
Four Bed	£500	£840	£1,680	£2,000	£100	£3,440	£4,280

	Finders Fee	LHA shortfall 6 months	LHA shortfall 12 months	Incentives EPC etc.	Including RIA & Deposit	Total Cost 6 months LHA shortfall	Total cost 12 month LHA shortfall
Studio	£100	£300	£600	£100	£700	£1,200	£1,500
One Bed	£200	£300	£600	£100	£900	£1,500	£2,700
Two Bed	£300	£300	£600	£100	£1,800	£2,500	£2,800
Three Bed	£400	£600	£1,200	£100	£2,400	£3,500	£4,100
Four	£500	£840	£1,680	£100	£3,360	£4,800	£5,640

- 3.9 In order to compare the cost of supporting households in current provision (based on average rates) with the amount that could be achieved by use of the bond or rent deposit, estimates based on current costs are shown below. For the purposes of the estimate and for the scope for initial budget consideration, we would aim to achieve between 20 to 50 PRSOs; if we were able to go beyond those figures, we would seek revised approval in line with the delegated authority.

Household size	Cost of B & B or dispersed provision	Estimated HB recoverable	Cost of landlord incentive (using deposit approach)	Saving to the Council
1 Bed	£17,108	£4,428	£1,500	£11,180
2 Bed	£23,400	£5,670	£2,800	£14,930
3 Bed (4 children)	£36,400	£7,020	£4,100	£25,280
4 Bed (couple 6 children)	£41,600	£9,180	£5,640	£26,780

- The above savings figures are based on 12 months
- The cost of Landlord figure is derived over a 12 month period e.g. for a Studio (Finder's Fee of £100 + LHA shortfall for 12 months of £600 + £700 RIA & Deposit + £100 incentive = £1,500).

- 3.10 Based on the figures in 3.9 above, our estimate of the potential annual cost savings to the Council range from £zero (no landlord interest) to using a prudent maximum is/of £363,397 (based on a mix of 20 required properties - 6 one bedroom, 6 two bedroom, 5 Three bedroom and 3 four bedroom).

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 This initiative has been considered in conjunction with local landlords and received warm approval. It might be that further options are considered with the group and whether as a consequence there is encouragement for landlords to use their resources to acquire more premises.

5.0 Alternative Options Considered

- 5.1 Our current approach to providing emergency accommodation, beyond our own or what is provided by our Registered Provider partners is to use bed and breakfast type establishments or other self-contained accommodation. Bed and Breakfast costs in 2017/18 amounted to £725,000. This takes account that through the previous scheme, we also paid out a total of £60,127.30 for rent in advance and deposits 2017/18.

6.0 Reasons for Recommendations

- 6.1 The main reasons for the recommendations are associated with the desire to avoid single people, couples and families unnecessary long periods in short term hotel/bed and breakfast provision. The intention is either through prevention activity to relieve homelessness more quickly; increase the supply of housing or create greater access to the private rented market. The provision of self-contained homes where households can lead settled lives. It is unacceptable to MHCLG or families to reside in bed and breakfast for any longer than is absolutely necessary whilst more suitable longer term options are secured. To avoid or reduce the time and cost households spend in temporary accommodation including B&B and increase the chances of households of settling into permanent accommodation. Similar schemes have been operating in Southwark, Bournemouth and Bristol. A consultation took place at a Landlord Forum in Gloucester March this year, giving a PowerPoint presentation pitch, offering proposed incentives, the Landlords discussed wanting a deposit rent guarantee, the LHA rates are lower than the market rates an incentive to bridge the gap would be welcome and ongoing support if necessary through the life of the tenancy.

7.0 Future Work and Conclusions

- 7.1 To promote landlord incentives to increase interest numbers of private rented accommodation available to the Council to support homeless applicants.
- 7.2 To advertise on social media, local radio and other marketing outlet newspapers.
- 7.3 To develop a customer brochure for advertising 'how to find your own private rented accommodation' and a corresponding 'how we can help' brochure detailing headlines from our incentives as above.

- 7.4 Enhance web content to promote initiatives.
- 7.5 To consider hosting a 'landlord expo' to be undertaken in 2019 – this will promote this and overlapping initiatives
- 7.6 To consider the use of supplemental agreements where the Council chooses to protect a deposit bond.
- 7.7 To implement as soon as possible on a pilot basis, organize advertising for the Promotion pack ready for Landlords and Letting Agents. Consult the market for potential names for the scheme.
- 7.8 An application is being made to the Private Rented Sector Access Fund for a bid with partnership authorities.

8.0 Financial Implications

- 8.1 As noted above the Council has a statutory obligation to help people who are homeless by taking reasonable steps to secure suitable accommodation for them. If appropriately managed and controlled the proposed approach offers a potential opportunity to reduce the current overall costs to the Council of meeting these obligations.
- 8.2 The approach to the offering of incentives needs to be carefully managed to ensure that appropriate accommodation is secured within the bounds of the incentive costs quoted. The financial risk being that the monies available for the provision of accommodation are not applied timeously to reduce the short term temporary accommodation need and its related costs.
- 8.3 There also needs to be measures in place to ensure that the financial obligations created with the landlords for the provision of the necessary accommodation are fully utilised and that there are appropriate provisions for the situations whereby housed individuals leave properties of their own accord.

(Financial Services have been consulted in the preparation of this report.)

9.0 Legal Implications

- 9.1 The Council has a duty under section 189B of the Housing Act 1996 (inserted by the Homelessness Reduction Act 2017) to help people who are homeless by taking reasonable steps to secure suitable accommodation becomes available for the applicant's occupation for at least 6 months.
- 9.2 The Secretary of State for Housing, Communities and Local Government has issued a Homelessness Code of Guidance to assist local authorities in discharging their duties under the 1996 Act. Paragraph 11.23 of the Guide states that "reasonable steps" includes "providing support to applicants, whether financial or otherwise, to access private rented accommodation". The proposals set out in this report would fall within this paragraph.
- 9.3 If Cabinet resolves to proceed with the proposal, appropriate legal documents will be prepared.

(One Legal have been consulted in the preparation of this report.)

10.0 Risk & Opportunity Management Implications

10.1 The main areas of risk concerning these proposals are the ability to keep within budget and the ability to source adequate good quality provision. These matters may be mitigated by careful management of the budget area and by ensuring assessments conducted using the Housing Health and Safety Rating System. An additional risk would be that the deposit has to be paid by the Council to the landlord if the tenant defaults under the terms of the tenancy agreement, and the Council is unable to obtain repayment from the tenant.

11.0 People Impact Assessment (PIA) and Safeguarding:

11.1 The report would be inclusive of all households being without prejudice or discrimination.

11.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

12.1

Sustainability

12.2

Staffing & Trade Union

Background Documents: None

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Report to:	Cabinet	Date:	7 November 2018
Subject:	Business Rates – Request for Write-Off Approval over £100k		
Report Of:	Cabinet Member for Performance and Resources		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	No
Contact Officer:	Alison Bell – Intelligent Client Officer		
	Email: Alison.bell@gloucester.gov.uk	Tel:	396014
Appendices:	A. Frontbank Developments Ltd Overview B. Flexiway Stores Ltd Overview C. Africa Relief Trust Inquiry Report		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 To seek the views of the Cabinet to write off Non-Domestic Rate debts in excess of £100,000.

2.0 Recommendations

Cabinet is asked to **RESOLVE** that the amounts detailed in paragraph 4.0 of the report be written off.

3.0 Background and Key Issues

3.1 Business Rates, or National Non-Domestic Rates, are the means by which businesses and others who occupy non-domestic property make a contribution towards the cost of local services, for example, the police and fire services. Other services such as education and housing are of indirect benefit to business ratepayers.

3.2 Business Rates are usually payable by the occupier of a non-domestic property. This will normally be the owner-occupier or the leaseholder. If a property is empty, the owner or leaseholder pays.

3.3 Under the Business Rates Retention Arrangements introduced from 1st April 2013, local authorities keep a proportion of the Business Rates paid locally. This provides a direct financial incentive for authorities to work with local business to create a favourable environment for growth.

3.4 In 2018/19 the amount of business rates billed for City premises was £56.3m, a rise on the 2017/18 amount which was £55.5m, this was collected on behalf of the City, Gloucestershire County Council and Central Government.

3.5 The council pursue all opportunities to collect any outstanding debt prior to recommending write off.

4.0 PROGRESS

4.1 Frontbank Developments Ltd, Bruton House, 5-7 Whitfield Street, Gloucester.

Reference	Period	Charge	Costs	Balance outstanding
0600328389	20.09.2006 – 24.09.2011	£206,576.41	£52.00	£206,628.41
0600372950	01.04.2011 – 24.09.2011	£1,675.21	£ -	£1,675.21
Total				£208,303.62

The above company was occupying a property in Whitfield Street, Gloucester. Enforcement officers have attempted to engage with Frontbank Developments Ltd, and have investigated address leads in Salford, Wolverhampton and London. Enforcement officers visited the premises at Whitfield Street, however, the property was empty.

Frontbank Developments Ltd were dissolved without leaving any assets in December of 2012 – appendix A.

4.2 Flexiway Stores Ltd, 13-23 Northgate St, Gloucester

Reference	Period	Charge	Costs	Balance outstanding
0600410251	01.04.2015 – 31.01.2016	£129,836.80	£60.00	£129,896.80
Total				£129,896.80

The business rate charge is for less than one financial year. Enforcement officers have attempted to recover, however Flexiway Stores Ltd posted its intention to dissolve in May of 2016, finally being dissolved without leaving any assets on 19.07.2016 – appendix B

4.3 Africa Relief Trust

Suite A, B & C First Floor, Ampney House, Falcon Close, Quedgeley
 Ground Floor, Berkeley House, Falcon Close, Quedgeley
 Ground & First Floor, Southgate House, Gloucester
 First Floor Offices, 3 Llanthony Business Park, Gloucester
 First Floor, Bisley House, Falcon Close, Quedgeley

Reference	Period	Charge	Costs	Balance outstanding
0600367973	01.04.2011 – 19.06.2011	£799.75	£50.00	£849.75
0600371300	01.07.2011 – 26.05.2015	£99,647.51	£215.00	£99,862.51
0600373135	20.09.2011 – 29.04.2014	£19,747.33	£215.00	£19,962.33
0600373146	20.09.2011 – 29.04.2014	£18,251.34	£215.00	£18,466.34

0600373157	20.09.2011 – 29.04.2014	£12,566.50	£215.00	£12,781.50
0600400122	01.04.2013 – 22.05.2013	£5,233.91	£58.00	£5,291.91
0600400100	01.04.2013 – 22.05.2013	£6,844.34	£58.00	£6,902.34
0600384121	01.12.2012 – 16.04.2015	£21,091.80	£220.00	£21,311.80
0600378629	01.04.2012 – 29.04.2012	£2,274.32	£52.00	£2,326.32
Total				£187,754.80

Africa Relief Trust was formerly a registered charity. Extensive attempts have been made by enforcement officers to locate individuals and company ambassadors named in the charity. They have attended various addresses across the country but have been unsuccessful. Furthermore the Charity Commission have completed an inquiry in the Africa Relief Trust and it is no longer a registered charity – appendix C.

5.0 Alternative Options Considered

5.1 None

6.0 Reasons for Recommendations

6.1 All avenues to collect these monies due have been unsuccessful. Enforcement officers have attempted to engage with all of the three parties named in this report. The limited companies have now been dissolved at Companies House and the 'Charity' has been struck off by the Charities Commission. The debts are old and there is no realistic prospect of recovering these debts. The age of the debt is due to the fact that the City Council have been exploring all avenues for the recovery of the debts, unfortunately this has been unsuccessful as we have now exhausted all lines of enquiry.

7.0 Future Work and Conclusions

7.1 There is little likelihood of the debts being recovered and therefore write off is recommended, however, in the extremely unlikely event that there is an opportunity to recover the debt in the future it is pertinent to note that the debt could be reinstated (written back on)

7.2 All accounts and related paperwork contained in this report have been audited by the Client Team.

8.0 Financial Implications

8.1 The City Council's constitution requires that debt in excess of £100k is approved for write off by Cabinet.

8.2 The City Council have not asked for any amounts in excess of £100K to be written off in the last five years. These amounts are recommended to be written off given that all lines of enquiry to recover these debts have been exhausted. To put the

amount in perspective the request is less than 1% of this year's annual amount billed to business rate customers

- 8.3 The Council have a bad debt provision for these debts and these debts have been 100% provided for within the provision. There are no further financial implications to the Council as a result of these write offs.

9.0 Legal Implications

- 9.1 The Council is entitled to write off debts as and when it considers it appropriate. If a company goes into liquidation/bankrupt the Council ranks with other creditors to try and recover any money owed.

10.0 Risk & Opportunity Management Implications

- 10.1 The debts recommended for write-off within this report can be charged to a specific provision established for this purpose. There is, therefore, minimal financial risk to the authority.

11.0 People Impact Assessment (PIA):

- 11.1 None

12.0 Other Corporate Implications

Community Safety

- 12.1 Not applicable.

Sustainability

- 12.2 Not applicable

Staffing & Trade Union

- 12.3 Not applicable

Background Documents: None

APPENDIX A

Companies House

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Search for companies or officers

FRONTBANK DEVELOPMENTS LTD

Company number **05898448**

Registered office address

Unit 5 Knoll Street Industrial Park, Knoll Street, Salford, M7 2BL

Company status

Dissolved

Dissolved on

4 December 2012

Company type

Private limited Company

Incorporated on

7 August 2006

Accounts

Last accounts made up to **31 August 2010**

Annual return

Last annual return made up to **8 August 2010**

Nature of business (SIC)

- 7032 - Manage real estate, fee or contract

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DATA This is a third service - you can check the status of a company and see who its directors are

Search for companies by officers

FRONTBANK DEVELOPMENTS LTD

Company number: 02525448

Registered office address

Unit 1, Mill Street/Industrial Park, Kings Street, Solihull, CV56 4JL

Company status

Private

Created on

12 October 2011

Company type

Private limited company

Incorporated in

England

Accounts

Last accounts made up to 31 August 2010

Annual return

Last annual return made up to 8 August 2010

Nature of business (SIC)

7032 - Management activities of companies

Please see the notes on this page

Companies House

APPENDIX B

BETA This is a trial service — your [feedback \(https://www.research.net/r/chbeta\)](https://www.research.net/r/chbeta) will help us to improve it.

Search for companies or officers

FLEXIWAY STORES LTD

Company number **09425772**

Registered office address

Woodham House, 55 Broadway, Peterborough, United Kingdom, PE1 1SH

Company status

Dissolved

Dissolved on

19 July 2016

Company type

Private limited Company

Incorporated on

6 February 2015

Nature of business (SIC)

To be provided on next annual return.

[Is there anything wrong with this page?](#)

APPENDIX B

Companies House

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Search for companies or officers

FLEXIWAY STORES LTD

Company number 08425775

Registered office address

Woodside House, 25 Roxbury Road, London, London, E15 2JF

Company status

Active

Discontinued

15/03/2015

Company type

Private limited company

Incorporation date

12 February 2015

Nature of business (SIC)

To be provided at next annual return

[What SIC code should I use?](#)



CHARITY COMMISSION
FOR ENGLAND AND WALES

A statement of the results of an inquiry into Africa Relief Trust
(former registered charity number 1077946)

Published on 22 March 2017

The charity

At a time when the charity was registered on the register of charities for England and Wales on 1 October 2012, it was removed from the register on 30 September 2017 when it dissolved.

Inquiry Report Africa Relief Trust (ART)

Former Registered Charity Number 1077946

Issues under investigation

The Charity Commission (the Commission) conducted a regulatory compliance case (the investigation) into the charity which was opened on 23 October 2017.

The case was opened following receipt of information from a local authority that the charity had entered into a loan agreement to occupy a local authority property.

At around the time in 2011 the Commission issued an alert to charities explaining the potential risks for charities involved in entering into such agreements with landlords to occupy commercial property where the property will be empty, including the fact that these charities may not have fully researched what local authorities might consider to be business rates avoidance by landlords that could potentially result in charities losing the businesses, assets and personal funds to full business rates.

The charity's income and expenditure

Financial year	Income	Expenditure
2017 to 2018	£1052	£150
2016 to 2017	£106	£90
2015 to 2016	£111	£11
2014 to 2015	£124	£16
2013 to 2014	£132	£151
2012 to 2013	£212	£170
2011 to 2012	£181	£209



A statement of the results of an inquiry into Africa Relief Trust (former registered charity number 1077946).

Published on 22 March 2017.

The charity

Africa Relief Trust ('the charity') was registered on the register of charities for England and Wales on 26 October 1999. It was removed from the register on 30 September 2015 when it dissolved. The charity was an unincorporated body and governed by a declaration of trust dated 1 December 1998 ('the governing document').

The charity's objects were to relieve poverty, to advance education and training for employment and to relieve sickness and preserve and protect health by the provision of health care services. The charity reported that it provided villages in Uganda with boreholes to prevent illness and death from water-borne diseases when water sources dried up.

Issues under investigation

Before opening the statutory inquiry ('the inquiry') under section 46 of the Charities Act 2011 ('the act') the Charity Commission ('the Commission') conducted a regulatory compliance case ('the investigation') into the charity, which was opened on 27 October 2011.

The case was opened following receipt of information from a local authority that the, apparently dormant, charity had entered into a tenancy agreement to occupy a large commercial property.

At around this time in 2011 the Commission issued an **alert to charities** explaining the potential risks for the charities involved in entering into arrangements with landlords to occupy commercial property where in practice the property will be empty, including the risk that these charities may find themselves involved in what local authorities might consider to be business rates avoidance by landlords that could potentially result in charities losing the discretionary discount and becoming liable to full business rates.

The charity's income and expenditure

Financial year	Income	Expenditure
2007 to 2008	£1087	£820
2008 to 2009	£100	£90
2009 to 2010	Nil	Nil
2010 to 2011	£1154	£1150
2011 to 2012	£4232	£4231
2012 to 2013	£52115	£51700
2013 to 2014	£23916	£23900

Background

Under the Local Government Finance Act 1988, charities are entitled to 80% mandatory business rates relief, provided the property is used 'wholly or mainly' for charitable purposes. Local authorities have a discretion to increase this to 100% relief.

If a commercial property is empty the landlord has to pay the business rates. Therefore if a previously empty property is used wholly or mainly for charitable purposes the landlord will not be liable for the business rates. If a charity is offered the tenancy and can claim rate relief, it can occupy the premises at very low or no cost. However it is not sufficient for the charity to have entered into an agreement to occupy the premises, it must actually use them wholly or mainly for charitable purposes in order to be able to claim business rate relief.

There are significant risks for charities in terms of financial liability as well as not complying with charity law duties if they do not follow proper and reasonable decision making processes before entering into these kind of tenancy agreements, and if they are not physically occupying the premises. Charities may find themselves involved in what local authorities might consider to be business rates avoidance by landlords and potentially result in the charities themselves losing the discretionary discount and becoming liable to full business rates.

Before entering into these kind of arrangements and tenancy agreements to occupy empty properties, charity trustees need to:

- be assured that the tenancy agreement is for the exclusive benefit of the charity, will further the charity's purposes and is in its best interests
- ensure the property is genuinely required and is fit for purpose
- consider the potential liability of the charity to pay outstanding rates if the local authority disputes occupation and refuses discretionary rates relief
- very carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company
- where appropriate, take suitable professional advice, including legal advice, before entering into a tenancy agreement

During the investigation into this charity the Commission learned that the charity's application for business rates relief had been rejected and a liability order for over £70,000 had been granted by the magistrates' court.

Information gathered during the investigation suggested the chair of trustees had been contacted by a person who was aware the charity was dormant and offered to help reactivate it by way of an 'empty property scheme' ('the scheme') which he could operate on behalf of the charity through a limited company ('the company').

The company's website reported that it was established in 2010 and offered a UK wide service on behalf of the owners of shops, offices and industrial warehouse properties to reduce the burden of empty property rates. The website advertised 'save up to 100% on Empty Property Rates'. The evidence obtained by the investigation suggested that the scheme worked by the company identifying charities which could occupy empty commercial premises, a tenancy at will was entered into between the charity and the commercial landlord which typically charged the charity a peppercorn rent in exchange for an agreement to vacate the premises with 24 hours' notice. The property could therefore still be marketed for sale or to let.

The Commission established that the chair of trustees authorised the scheme and the charity entered into the lease agreement, as a result of which meant it attracted the liability order when business rate relief was not granted by the council.

In addition, the Commission established that the charity had entered into further lease agreements and as a result, on 12 July 2013, due to the significant risk to the charity's funds, potential for significant damage to public trust and confidence in charity and potential for serious or deliberate abuse or wrongdoing by trustees, the Commission opened a statutory inquiry under s46 Charities Act 2016. This sought to establish:

- whether the trustees were discharging their legal duties and responsibilities as charity trustees
- the risk of potential significant financial loss to the charity
- whether the charity was being used for the benefit of commercial companies

Findings

Whether the trustees were discharging their legal duties and responsibilities as charity trustees

The inquiry established that Clause 10(a) of the governing document stated that 3 trustees were required to form a quorum. In addition Clause 12(d) stated the number of trustees should not be less than 3 and in the event of the number falling below 3, the remaining trustees could only act for the purpose of appointing additional trustees.

The inquiry found that when the chair of trustees authorised the scheme he did not have the power to do so because when he made the decision only 2 trustees were in place.

The inquiry was told that the person who proposed the scheme to the charity subsequently became a trustee ('the new trustee'). The new trustee then managed all of the charity's involvement in the scheme. The inquiry found no evidence that the chair of trustees had any previous involvement in the scheme or commercial company. He confirmed to the inquiry, in interview, that nearly 3 years later he still did not understand how the scheme worked.

The new trustee told the inquiry that he was aware the trustees could be held personally liable for any business rates debts so he had conducted a risk assessment on the scheme. This included taking advice from lawyers and other companies over the telephone. He was unable to provide the inquiry with any evidence of this as he did not believe he obtained any advice in writing. The inquiry found it was imprudent not to take advice in writing on such an important issue of financial liability.

The inquiry did not find evidence that the trustee(s) involved at the time had taken steps to ensure that the scheme and the agreement entered into was for the exclusive benefit of the charity, would further its purposes and was in its best interests. It was not clear they had satisfied themselves that the property was genuinely required for its use and the trustees did not properly consider the potential liability of the charity to pay rates if rates relief was refused.

The inquiry found that the trustees' decisions to enter into the scheme and continue with it were not properly made and was not satisfied that the trustees had discharged their duty to act with reasonable care and skill, particularly as the chair confirmed that he did not truly understand how the scheme worked. In delegating all responsibility to the new trustee for such an important decision involving potentially significant financial liability, the other trustees had not discharged their duty of care to the charity and other trustee duties.

The risk of potential significant financial loss to the charity

The inquiry established that the charity reported in its accounts for the 2012 to 2013 financial year that, after some years of dormancy due to lack of financial resources, there had been donations from the company and other supporters so ART had continued its work in Uganda. The accounts showed income for that year was £52,115 and expenditure was £51,700.

The trustees told the inquiry that the charity received small donations from the company between late 2011 and February 2012, however from October 2012 it received a total donation of about £60,000 from the company and an 'anonymous source'.

The inquiry found that, although the numerous lease arrangements the charity entered into were for a peppercorn rent, they caused significant financial risk to the charity. It was not clear that the charity had properly considered its potential liability to pay outstanding rates if the local authority disputed occupation and refused discretionary rates relief, as they subsequently did. The inquiry discovered that numerous local authorities were pursuing the charity for unpaid business rates, totalling in excess of £800,000. This sum eclipsed the donations the company had made.

The inquiry was provided with a copy of a letter from the company dated 14 February 2011 in which it confirmed that it would pay, as a donation:

- a) 'Any business rate liability payable on property where Africa Relief Trust is a tenant and the property was introduced to Africa Relief Trust (ART) by the company.'
- b) 'All Africa Relief Trusts (ART) legal expenses in defence of any rate liability claim by local authorities that Africa Relief Trust (ART) believe challenges the statutory rights of a registered charities entitlement to property rate relief granted under The local Government Finance Act 1988 or The Rating (Empty Properties) Act 2007.'

However the inquiry was told by the chair of trustees that he did not know whether the letter was legally binding. The charity's legal representative told the inquiry that the company would pay any business rates that were properly owed by the charity, however he suggested it had never been determined by a court whether the charity was or was not entitled to business rates relief.

The inquiry's view was that when the risk increased due to the liability orders being granted, prudent trustees would have taken independent professional advice or awaited a court ruling to determine if their interpretation of the law was correct before committing to any further potential liability. However, the inquiry established that the charity continued to take on leases and challenged liability orders only on technical grounds, for example, on the basis that they were not received or were improperly served.

The inquiry found that this was evidence of the trustees not discharging their fiduciary duties, as ensuring that the company's offer to pay the charity's costs was legally enforceable or taking independent legal advice would have significantly mitigated the risk to the charity's funds and its financial position.

When liability orders were granted by the Magistrates Court, this exposed the charity to liability for full business rates.

On 23 September 2015 the trustees told the inquiry they had closed the charity and confirmed there were no longer any tenancy agreements in its name.

Whether the charity was being used for the benefit of commercial companies

The inquiry found evidence which strongly indicated that the company and landlords involved would financially benefit from the charity taking the leases. The inquiry established that the company was offering a service on behalf of the owners of commercial properties to reduce the burden of empty property business rates through the provision of charity tenants. Landlords benefitted financially from the arrangements because they were no longer liable to pay full business rates.

The charity should not have agreed to enter into the scheme in return for or even in light of a promise in which charitable donations would be made by the company to the charity. The possible link between the donations and the charity taking on the risk questions whether the purpose of entering into the scheme was actually for the benefit of the landlord or company and any benefit offered to the charity was incidental. If the donations were intended to minimise the risk to the charity, they failed to do so as they were not adequate to cover the financial risk.

The inquiry was also concerned that the person who proposed the empty property scheme to the charity and became a trustee of the charity also became a shareholder in the company.

The inquiry found that permitting the charity to become involved in the scheme and then failing to take effective action when liability orders were made was mismanagement in the administration of the charity.

Conclusions

The Commission concluded that:

- the trustees mismanaged the charity because they did not undertake appropriate due diligence when the scheme was implemented
- the charity had not shown that taking part in the scheme or entering into the tenancy agreements were for the exclusive benefit of the charity, and would further the charity's purposes
- the trustees [both in 2011 and 2013] failed to properly consider and manage the risks including the liability of the charity to pay outstanding rates if the local authority disputed and refused rates relief
- the trustees did not carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company or landlords
- it was not satisfied that the charity had adequately protected itself and taken adequate professional advice at the time before entering into the arrangements
- subsequent decisions, made by the new trustee were conflicted due to his position with the company and, were based on an unproven interpretation of the law

The Commission concluded that the entering into the scheme was not in the best interest of the charity and continuing to take on additional leases before the legal position was firmly established was a further breach of the trustees' duty of care to the charity.

Although prior to entering into the scheme the charity had little income, the liability arising from the scheme was the main contributing factor to the closure of the charity and has prevented it from providing any future support to its beneficiaries.

In view of these serious mismanagement issues the Commission is considering the fitness of individuals involved in this case to be trustees and the use of its powers under section 10 of the Charities (Protection and Social Investment) Act 2016 to disqualify the individuals from holding future trustee appointments.

Regulatory action taken

The inquiry issued an order under section 52 of the act, which required the charity's bank to provide copies of its bank statements.

The inquiry issued a direction under section 47 of the act, which required the trustees to provide details of properties occupied by the charity.

The trustees were required to confirm that from 20 September 2013 they would not enter into any further lease agreements or renew any existing agreements without the prior written consent of the Commission.

The inquiry issued a direction under section 47 of the act, which required the charity to meet in person with the inquiry to give evidence about matters including the administration, governance and management of the charity and to establish whether the trustees knowingly entered into the arrangements for the purpose of non-payment of business rates.

The inquiry issued a direction under section 47 of the act, which required the new trustee to provide information outstanding from the requirement in the earlier direction.

The inquiry issued an order under section 52 of the act, which required the charity's bank to provide additional copies of bank statements.

The inquiry issued an order under section 52 of the act, which required the charity's bank to provide further copies of bank statements and to confirm if the charity's account was still open.

The inquiry issued a direction under section 47 of the act, which required the trustees to provide a copy of the minutes from the trustee meeting where the decision was made to close the charity along with a copy of the charity's final accounts, details of any ongoing tenancy agreements and confirmation that it no longer conducted any activities.

The inquiry issued an order under section 52 of the act, which required the charity's bank to provide copies of final bank statements and to confirm whether the account was still open.

Two alerts, one in 2011 and one in 2013, were issued to warn other charities of the risks attached to entering into business rates relief arrangements.

Issues for the wider sector

The Commission is not responsible for enforcing compliance with business rates obligations or for recovering outstanding business rates debts. However there are significant risks for charities and trustees that are approached by retailers or their intermediaries or landlords of hard to let property to enter into tenancy agreements that would relieve the landlords of the requirement to pay full business rates. If the charity is not making sufficient and proper use of the premises for charitable purposes which would attract the business rate relief, then it may be liable for the full business rate liability.

Trustees must exercise their duty of care and taking proper decisions, and not allow the good name of charity to be abused for the benefit of commercial companies. Charities are held in high esteem by the general public, and trustees must ensure they do not enter into agreements that could jeopardise that public trust.

Before entering into any tenancy agreements to occupy empty properties, charity trustees must:

- be assured that the tenancy agreement is for the exclusive benefit of the charity, will further the charity's purposes and is in its best interests
- ensure the property is genuinely required and is fit for purpose
- consider the potential liability of the charity to pay outstanding rates if the local authority disputes use of the premises and refuses rates relief
- very carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company
- where appropriate, take suitable professional advice, including legal advice, before entering into a tenancy agreement

If landlords are perceived to disproportionately benefit from entering into arrangements with charities, this creates a perception that the real purpose is to benefit commercial companies and has the potential to impact on public trust and confidence in the charity concerned and more widely.

Trustees should ensure they maintain a position of accountability and transparency through the implementation of proper governance and regularly review policies and procedures to ensure they are fit for purpose.

The Commission recognises that, on occasions it is possible for the activities of a charity to drift from being exclusively charitable and for the public benefit. However trustees should ensure they implement safeguards such as risk assessments and regular reviews of the activities undertaken against the objects of the charity to ensure activities are compatible with those objects and do not expose the charity to unmanaged risks.

Further information about charitable purposes and public benefit can be found in the Commission's guidance **Charitable purposes and public benefit**, which is available on GOV.UK.

Guidance on trustee responsibilities can be found on **GOV.UK**.

The Commission published an article in its **July 2016 newsletter** highlighting the issues surrounding charities and business rate relief which may be of interest to trustees, available on GOV.UK.