

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**PORTFOLIO HOLDER DELEGATED DECISION**

**By**

**COUNTY COUNCILLOR PHYL DAVIES**

**(PORTFOLIO HOLDER FOR HIGHWAYS, RECYCLING & ASSETS)**

**APRIL 2018**

**REPORT AUTHOR: Senior Manager Highways Technical Services**

**SUBJECT: Public Conveniences – Ending Grants for Service**

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**REPORT FOR: Decision**

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**1. Summary**

- 1.1 The Council on the 9 Sept 2014 resolved to adopt the strategy for the future management and maintenance of Public Conveniences and to enter into discussions with Town and Community Councils to operate them, and if no agreement has been reached by 31<sup>st</sup> Dec 2014 a further report be prepared for cabinet.
- 1.2 On 3<sup>rd</sup> March 2015 the Council resolved to finalise agreements for transfer by April 2015 but continue to seek potential operators where no transfer had been agreed. The Council confirmed the payment of grants for a minimum term of 3 years, extendable to 5 years on approval of a business case by the Portfolio Holder. The Council also delegated decisions to the Portfolio Holder for advance payments of grants and the freehold transfer less than £75K.
- 1.3 This report gives an update on the progress of transfers and makes cabinet aware that the minimum term for the grant payments from Powys to operators will shortly be coming to an end.
- 1.4 The Public Health Act 2017 enacted 3 July 2017 places a duty on the Local Authority to prepare and publish a 'Local Toilet Strategy' within one year. The duty to prepare a local toilets strategy will not in itself require local authorities directly to provide and maintain public toilets.
- 1.5 The Welsh Government wholly own and operate 4no. toilet facilities, but also support specific toilets directly, and Powys also receives a grant of £25K for specific toilets located on the trunk road.

## 2. Proposal

2.1 The schedule of toilets is included in Appendix A which outlines the current provision and ownership of toilets. Below is a summary of some of the information:

- Number of Toilets Transferred – 56No. Toilets have been transferred; 5No. to Community Groups, 2no. to Private Businesses, and the remaining to Town & Community Councils.
- Public conveniences closed – 5no. have been closed; Cemmaes, Kensington (Brecon), Town Hall (Llandrindod Wells); Llyn Clywedog closed but awaiting transfer to Severn Trent and Llansantffraidd ym mechain closed but still in discussions with Community Council.
- Toilets retained by Powys CC – 2no. at Transport Interchanges Brecon & Ystradgynlais.
- Type of Transfers – 29no. licensed, 11no. leased; 5no. Community Asset Transfer (CAT) agreed, 4no. CAT in process, 7no. already owned by Town & community council.
- Expiry of minimum grant term – 38no. expire in March 2018, 12no. expire in March 2019, 5No. expire in March 2020.
- The majority of licences/leases are full repair agreements, with notice period of not less than 3 months (in writing) to terminate the licence. Appendix B shows a typical heads of terms for lease. A typical licence agreement can be seen at Appendix C.
- It is expected that operators make services available for reasonable time periods.
- There is no constraint on operators for charging for services or receiving donations.

2.2 The Council has supported the operator's transition for a minimum of 3 years, enabling them to find alternative funding streams for maintenance and running costs. The grant commitments 2015 to 2018 have been £195,795 per annum. As the minimum term of grant provision terminates, grant payments will reduce and cumulative savings below have been included in future budget forecasts :

2018-19: £101,250  
2019-20: £160,500  
2020-21: £185,750

\*Savings based exclude any costs associated with those facilities already declared surplus that have failed to be sold, or any future costs related to closures.

2.3 Some operators may have no alternative source of raising revenue funding and in these cases there is a risk that more facilities may close. The HTR service will not have a budget to operate these toilets and it is

therefore expected that these toilets will have to close and be declared surplus.

## 2.4 Outstanding Issues

Much of the difficulty around completing transfers has been the poor condition of the facilities following under-investment in previous years. Where groups were keen to invest in the building to bring it up to a reasonable standard, their guaranteed funding could be extended from 3 to 5 years and some of these groups elected to have the fifth years funding accelerated and paid with the first year's grant payment to help fund these alterations.

**Treflan, LLANSANFFRAID-YM-MECHAIN:** After long discussions Llansantffraid Community Council decided they did not want to take on the operation of the toilets. They were therefore closed and put for sale. An Expression of Interest for a CAT was received by a local business who wanted to purchase the property. The Community Council then decided they would take the Freehold of the property. Currently in discussions regarding the CAT with the Community Council.

**Y Dremfa Deg, Llyn Clywedog, LLANIDLOES:** PCC to relinquish their lease on the toilet facility at Llyn Clewedog Dam. Currently waiting for Severn Trent Water to complete transfer of toilets. Toilets are currently closed.

- 2.5 To continue passing on the £25K financial support received from the Welsh Government to specifically identified facilities for as long as Welsh Government continue to provide the contribution.
- 2.6 There is potential for a large number of the facilities to transfer via a CAT to the current operator. As it stands at the moment, the majority of these have received their final guaranteed grant payment.
- 2.7 The Council currently own a toilet stock and are in the process of transferring responsibilities for operating and ownership to future operators. The Council has supported the incumbent operator's transition for a minimum of 3 years, enabling them scope to find alternative funding streams for future maintenance and running costs. The Council therefore rely solely on the 3rd sector to maintain and run toilet facilities within Powys. Toilets handed back by operators will be declared surplus to requirements.

## 2.8 Local Toilet Strategy

On the 10<sup>th</sup> January 2018 Welsh Government launched a consultation on the statutory guidance for The Provision of Toilets in Wales: Local Toilets Strategy; which closes on the 4<sup>th</sup> April 2018. Following this the statutory

guidance will be published and Local authorities will be required to have regard to the guidance produced.

The Act provides that the Local Toilet Strategy must include an assessment of the community's needs for toilets and how it proposes to meet these needs.

The duty to prepare a local toilets strategy will not in itself require local authorities directly to provide and maintain public toilets. New approaches such as empowering communities and social enterprises to take on responsibilities for managing facilities are noted as good practice, and therefore the Council considers that the current arrangements and work carried out to transfer the operation of public conveniences to third party operators does fit within the requirements of the Public Health Act.

### **3. Options Considered / Available**

- 3.1 **Option 1** – to approve the proposal to continue to transfer the operation of toilets, retain the Portfolio Holder's discretion for freehold transfer (limit £75K) and stop the transition funding, only passing on the received Welsh Government grant to a few specified facilities (for as long as it is being received).
- 3.2 **Option 2** – Extend transition funding for the operation of toilets. This would continue to place a budget pressure on the service.
- 3.3 **Option 3** – Take back operation of toilets in-house. It is considered that in-house costs would place a significant budget pressure on the service.

### **4. Preferred Choice and Reasons**

- 4.1 Option 1 is the preferred option as it formalises and follows through on previous commitments.

### **5. Impact Assessment**

- 5.1 Is an impact assessment required?            Yes
- 5.2 If yes is it attached?                            Yes

### **6. Corporate Improvement Plan**

- 6.1 The policy assists in supporting the priority 'Developing the Economy' by ensuring public conveniences are available in the right places.

### **7. Local Member(s)**

- 7.1 The strategy applies with equal force across the whole County.

**8. Other Front Line Services**

Does the recommendation impact on other services run by the Council or on behalf of the Council? No

If so please provide their comments

**9. Communications**

Have Communications seen a copy of this report? Yes

The Communications Manager has stated 'The report is of public interest and requires news release and use of appropriate social media to publicise the decision'.

**10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

10.1 The Highways and Enforcement Solicitor has reviewed the proposal *and, subject to proper process, has no comment to make.*

10.2 The Finance Manager Place and Resources notes the contents of the report. The saving of £101k in 2018-19 forms part of a saving shown in the services finance resource model which is being relied upon to fund pressures which the service face in 2018-19. If this saving is not made the service pressures will increase by the £101k.

**11. Scrutiny**

Has this report been scrutinised? No, it has not been selected by the scrutiny committee for review

**12. Statutory Officers**

The Head of Financial Services (acting Section 151 Officer) notes the comments made by the Finance Business Partner.

The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report".

### 13. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If the Portfolio Holder has an interest he should declare it, complete the relevant notification form and refer the matter to the cabinet for decision.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>1. Not to extend grant payments to operators beyond the minimum timeframes agreed previously and set out in Appendix A to the report.</b>	<b>Aligns with previous commitment</b>
<b>2. The Portfolio Holder to retain delegated authority to approve transfer of toilets with value less than £75K.</b>	<b>Aligns with previous commitment</b>
<b>3. To progress requirements of the Public Health Act and following confirmation of the statutory guidance undertake such requirements, consultation and produce a Toilet Strategy to be presented to Cabinet.</b>	<b>Legislative requirement to produce a Toilet Strategy.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Yes</b>	<b>Within Budget:</b>	<b>Yes</b>

<b>Relevant Local Member(s):</b>	<b>All Members</b>
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<b>Person(s) To Implement Decision:</b>	<b>Alastair Knox</b>
<b>Date By When Decision To Be Implemented:</b>	<b>Immediately upon approval</b>

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**Background Papers used to prepare Report:**