

**South Lakeland District Council
Lake Administration Committee**

Friday, 21 January 2022

**Local Government Reorganisation (LGR) Update –
Lake Windermere**

Portfolio: Customer and Locality Services Portfolio Holder
Report from: Director of Customer and Commercial Services
Report Author: Simon Rowley – Director of Customer and Commercial Services
Wards: Ambleside & Grasmere; Bowness & Levens; Windermere;
Forward Plan: Not applicable

Links to Council Plan Priorities: Delivering a balanced community, encouraging a sustainable environment and inclusive economy , we will grow our green economy by making the best use of our parks , open spaces and lakes.

Please note that should the discussion on this item include requests for legal advice or clarification of legal points then the item may need to move into Part II of the Agenda in accordance with Sections 100A (4) and 100I of the Local Government Act 1972, for reasons described in Schedule 12A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 as follows:-

Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

1.0 Expected Outcome and Measures of Success

1.1 To provide an update on Local Government Reorganisation in relation to Lake Windermere.

2.0 Recommendation

2.1 It is recommended that the Lake Administration Committee note the current position in the update report.

3.0 Background and Proposals

3.1 The property, the lakebed (Windermere) , was purchased by Windermere Urban District Council in 1939, funded by the gift of an Alderman. Through Local Government Reorganisation (LGR) in 1974, the property was transferred to South Lakeland District Council.

- 3.2 It is understood that Windermere Parish Council and Lakes Parish Council (also established by the 1974 LGR and covering the footprint of the former UDC) disputed the transfer of the property to SLDC, rather than to the Parish Councils. To settle this dispute, SLDC agreed to the establishment of a Lake Administration Sub Committee to administer the property. The committee, now the Lake Administration Committee, comprises councillors of the Lakes Parish Council, Windermere Town Council and South Lakeland District Council..
- 3.3 The Cumbria Act, 1983 gave powers to SLDC for the licensing of boatmen / hire craft on the lake and powers with regard to managing a section of lake shore known as Bellman Landings. Our understanding is that the Cumbria Act did not make any prescription with regard to the lakebed.
- 3.4 With 2023 LGR now proceeding, which will see SLDC abolished on the 31st March 2023 and its assets and responsibilities taken into a new unitary Council, Westmorland and Furness , which will cover the footprints of the Eden, Barrow and South Lakeland districts. Clarification has been sought from officials in the DLUHC about how the property and its administration will be handled in the LGR process.
- 3.5 Initial feedback received from officials at the Department for Levelling Up Housing and Communities (“DLUHC”) has indicated that the matters pertaining to the lake will not be included in the Structural Changes Order, but rather in a further Order addressing other matters (supplementary to the Structural Changes Order). Further clarifications with the Government department are outstanding, in relation to the timing and extent of this further Order. The Council awaits receipt of the further Order.
- 3.6 Whilst the details regarding the further Order are awaited from officials at DLUHC, external legal advice is being sought by the Council including how the Council-owned asset of the lakebed may be treated in the process of reorganisation of local government in Cumbria.
- 3.7 Following receipt of the external legal advice and the clarifications being sought from DLUHC regarding the further Order a further report will be presented to the Committee .

4.0 Consultation

- 4.1 As detailed above further clarifications are being sought from the DLUHC on the proposed LGR Order that is suggested will include details regarding the administration of Lake Windermere. Additionally external legal advice is also being sought as above.

5.0 Alternative Options

- 5.1 There are currently no alternative options identifiable.

6.0 Implications

Financial, Resources and Procurement

- 6.1 Since 1974 The Council has owned the lakebed (Windermere). The management of the property generates substantial revenues for the Council from encroachments for moorings, jetties and buildings which are placed on the lakebed. The holders of encroachments are a mix of private householders and commercial enterprises and occupy on a either a license or commercial lease.

Human Resources

- 6.2 There are no direct staffing implications in relation to this report .

Legal

- 6.3 With LGR progressing clarification is required regarding the treatment of the lakebed of Windermere and its future management arrangements following vesting date, when SLDC will cease to exist.
- 6.4 As part of the Structural Changes Order (the necessary secondary legislation to implement LGR), South Lakeland District Council asked for clarification from DLUHC officials as to how matters relating to Lake Windermere would be addressed. The Monitoring Officer outlined the present legal arrangements to DLUHC officials and requested clarification as to how the Lake would be addressed and whether there would be specific reference to the Lake in the Structural Changes Order. The reply from DLUHC officials was that the query had been referred to policy and legal officials and that their 'initial view' was that this matter should be dealt with in a further Order, rather than the Structural Changes Order. DLUHC officials advised that the functions would be transferred to the new Westmorland and Furness unitary authority by the general provision for the transfer of functions in the Structural Changes Order, however, their initial view was that it would be appropriate to make the area-specific provisions, including the Lake, in a further single Statutory Instrument (i.e. Order). The Council awaits receipt of the further Order.
- 6.5 Due to the bespoke agreement and constitution of the Lake Administration Committee which was agreed in 1975, the Council is seeking advice as to the impact of LGR upon these arrangements and any additional or supplemental orders required.

The management of the lakebed of Windermere is governed by the constitution of Lake Administration Committee and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which states that Windermere is not to be the responsibility of an executive of SLDC. Given the above, the treatment of the ownership of the lakebed requires particular and unique consideration within the Local Government Reorganisation process.

Health and Sustainability Impact Assessment

- 6.6 Have you completed a Health and Sustainability Impact Assessment? No
- 6.7 If you have not completed an Impact Assessment, please explain your reasons: The Report is for information only and is not seeking to implement changes that would require a health and sustainability assessment to be completed.

Equality and Diversity

- 6.8 Have you completed an Equality Impact Analysis? No
- 6.9 If you have not completed an Impact Analysis, please explain your reasons:
The Report is for information only and is not seeking to implement changes that would require an Equality and Diversity assessment to be completed.

Risk Management	Consequence	Controls required
The administration of matters pertaining to lake Windermere are not secured as part of the LGR process	No agreed mechanism to make decisions on Lake matters would result in mismanagement, confusion and potential challenge	As part of the LGR programme, to work with DLUHC to seek to ensure that Lake matters are appropriately addressed in the further Order.

Contact Officers

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Background Documents Available

None

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	05/01/22	05/01/2022
Monitoring Officer	05/01/22	06/01/2022
CMT	05/01/22	06/01/2022

Circulated to	Date sent
Lead Specialist	30/12/21
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A