

**South Lakeland District Council
Lake Administration Committee**

Friday, 22 April 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: The effective management of council owned assets to deliver against all priorities.

Working across boundaries – N/A

Delivering a balanced community – N/A

A fairer South Lakeland – N/A

Addressing the climate emergency – N/A

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:-

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

1.0 Expected Outcome and Measures of Success

1.1 To provide an update on Local Government Reorganisation in relation to the bed of 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 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 as set out in the agreement dated 21 April 1975. Windermere Parish Council resolved to forego their right to register a dispute over the transfer. The committee, now the Lake Administration Committee, comprises councillors of the Lakes Parish Council, Windermere and Bowness Town Council and South Lakeland District Council.
- 3.3 The Cumbria Act, 1982 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. The Cumbria Act did not make any prescription with regard to the lakebed.
- 3.4 The 2023 LGR is 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 lakebed and its administration will be handled in the LGR process. At the last meeting of the Lake Administration Committee officers were requested to impress the urgency of holding a meeting with DLUHC.
- 3.5 In accordance with the Local Government (Structural Changes) (Transfer of Functions, Properties, Rights and Liabilities) Regulations 2008, the established Government position is that all assets of the authority will pass to the successor authority on vesting day. This process occurs as a matter of law. Clearly, the Council intends to follow the established Government position.
- 3.6 Following the previous Lake Administration Meeting on 22 January 2022 and as requested by the members of the Committee a meeting with central Government was arranged to discuss the treatment of the asset within the context of LGR. The Government official was briefed regarding the history of the ownership of the lakebed and the circumstances which led to the Lake Administration Committee being established in 1974 and the transfer of the lakebed to the Council.
- 3.7 In addition, this Council advised central Government that it had been made aware of interested parties' requests for the transfer of the lakebed from this Council. This Council has not been supplied with copies of that correspondence to central Government and we are therefore in the dark as to the exact proposals presented. Since the last Lake Administration Committee meeting we, the Council, are also aware of the interest and media coverage in this regard. Although we have not been involved in these requests and proposals as land owner, the Council's position continues to be, that the involvement of the co-optee members of the Lakes Parish and Windermere and Bowness Town Councils in the administration and management of the lakebed will continue post LGR. This is reflective of the legal position in Regulation 4 and Regulation 7 of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008. As a result of these provision, the Committee will automatically survive the change to the successor Council. The agreement of 21 April 1975 between the Councils continues in existence and remains valid. References to SLDC will, following reorganisation, constitute a reference to the successor council.
- 3.8 In addition to the above, paragraph 5 of the 1975 agreement states that the *agreement shall remain in full force and effect until such time as agreement to the contrary is reached between the parties hereto ...*

- 3.9 As a consequence of direct statutory reference to the administration of the lakebed not being an executive function of this Council (Local Authorities, (Functions and Responsibilities) Regulations 2000), a Consequential Order may be required to reaffirm the position in the functions of the successor authority.
- 3.10 A Consequential Order expressly deals with pertinent local matters which have unique treatment – such as the lakebed providing additional certainty in such circumstances.
- 3.11 Whilst the details regarding the Consequential Order are awaited from officials at DLUHC, this Council has requested that specific reference is made to the lakebed transferring to the successor authority. This Council has requested that there is an express provision for the continued management and administration of the lakebed by the Lake Administration Committee to ensure that Windermere and Bowness Town Council and Lakes Parish Council have continued involvement mirroring the requirements of the 1975 agreement

4.0 Consultation

- 4.1 As detailed above further clarifications are being sought from the DLUHC on the proposed Consequential Order and this Council has requested to be involved in reviewing the provisions relating to the lakebed.

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 either a license or commercial lease.

Human Resources

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

Legal

- 6.3 Clarification has been obtained regarding the treatment of the lakebed of Windermere and its future management arrangements following vesting date, when SLDC will cease to exist. Treatment is to be similar to all other assets of SLDC in that it will transfer together with the existing management and administration arrangements and involvement of this committee to the successor authority.
- 6.4 As recommended by this Committee at the previous meeting, Officers held a meeting with central Government Officials to discuss the treatment of the lakebed and the continuing management and involvement of the Lake Administration Committee. Officers have requested continuing involvement in the proposed terms of the Consequential Order in so far as the terms relate to the lakebed to secure the continued involvement of Lake Administration Committee.

Health and Sustainability Impact Assessment

- 6.5 Have you completed a Health and Sustainability Impact Assessment? No
- 6.6 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

- 6.7 Have you completed an Equality Impact Analysis? No
- 6.8 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 may not be secured expressly 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 a consequential Order.

Contact Officers

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Background Documents Available

None

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	10/04/2022	11/04/2022
Monitoring Officer	Report Author	11/04/2022
CMT	10/04/2022	11/04/2022

Circulated to	Date sent
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	11/04/2022
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A