



# PUBLIC TOILETS

TOWN COUNCIL MEETING

REPORT 69/16

10 OCTOBER 2016

The purpose of this Report is to update Members on the latest information about both the documentation for the freehold transfer of the Eastern Esplanade, Marlborough Road and Ventnor Park Toilets and the Condition Surveys on them.

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**No.   DETAIL**

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**1)   BACKGROUND**

- a) The Town Council took on responsibility for the management of the Eastern Esplanade, Marlborough Road and Ventnor Park Toilets from 1 April this year under Tenancies at Will as a transition stage while agreement was reached on their freehold Transfer.
  - b) At its meeting of 30 August the Public Buildings Working Group decided as part of its due diligence to commission Condition Surveys of each of them from Gully Howard.
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**2)   FREEHOLD TRANSFER**

- a) The draft documentation for the freehold transfer of the Eastern Esplanade and Ventnor Park toilets was received from the Isle of Wight Council on 22 July with a note that the Marlborough Road document required further work before submission.
  - b) The Town Council meeting of 8 August adopted the proposal from its Public Buildings Working Group to refer the two transfers to its solicitor, Glanvilles, for advice.
  - c) The two major issues identified to Glanvilles by the Public Buildings Working Group were the call-back clause in all the Isle of Wight Council's documentation for Town and Parish Councils taking on the transfer of toilets and the Eastern Esplanade toilets' proximity to the wall behind them.
  - d) Although both those issues have now been resolved, Glanvilles are proposing several other amendments.
  - e) An email from the Isle of Wight Council's solicitor Heather Legood of 16 September – attached to this Report – reiterated the approach previously expressed by Portfolio Holder Paul Fuller that Town and Parish Councils are expected to accept common documentation and failure to do so might result in the withdrawal of the transfer offer.
  - f) The email was considered at the Public Buildings Working Group meeting of 21 September and it was agreed to ask Glanvilles advice as to whether the other amendments still need to be progressed.
  - g) Rajinder Sangha's response to that question is set out in his email of 4 October that is also attached to this Report.
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**3)   CONDITION SURVEYS**

- a) The Condition Surveys on all three toilets were received on 19 September, circulated to the members of the Public Buildings Working Group and considered that their meeting of 21 September.
  - b) Councillor James Toogood advised that overall there was little of concern as much of the work could be done by our Maintenance Manager with none of the identified repair work involving major expenditure.
  - c) It was agreed to establish a maintenance schedule for all the toilets based on the Surveys.
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**4)   RECOMMENDATION**

The Town Council is recommended to ask its solicitor to continue to progress the other proposed amendments to the transfer documentation and to agree the response to the Condition Surveys as set out in section 3 of Report 69/16.

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## Ventnor Town Clerk

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**From:** Legood, Heather <Heather.Legood@IOW.gov.uk>  
**Sent:** 16 September 2016 15:53  
**To:** Ventnor Town Council  
**Subject:** Ventnor toilets  
**Attachments:** Ventnor Eastern Esplanade TP1 NEW.doc; Ventnor Eastern Esplanade side letter.docx; Ventnor\_EasternEsplanade\_Toilets.pdf; Ventnor Park TP1 NEW.doc; Ventnor Park side letter.docx; Ventnor\_ParkAvenue\_Toilets.pdf; Official Copy (Register) - IW68360.pdf; Official Copy (Title Plan) - IW68360.pdf; Official Copy (Register) - IW69626.pdf; Official Copy (Title Plan) - IW69626.pdf

Hi David,

Following feedback as you probably know the Isle of Wight Council has made some amendments to the transfer.

I now enclose amended transfers, plans and associated side letter in this email for your consideration together with the official copies of the register and plan.

It is the Council's intention that all the transfers to all the Parish/ Town Councils are identical in regard to the terms and conditions.

If you propose to refer the transfers to your solicitor for consideration, please can you make sure they know this and do not make little tweaks to the existing wording.

If any transfers are missing this is because further work is required before we can send them to you.

If you are happy with the attached documents, please print them and have them signed and witnessed but please do not date them.

Please return the signed transfers to me at the address below.

Upon receipt the Isle of Wight Council will seal another copy of the transfer, date both copies and return the sealed transfers to you.

At this point, the Isle of Wight Council will arrange for the £1,000 grant to be transferred to your account in respect of each toilet block.

If you have any queries, please let me know.

Kind regards,

Heather

Heather Legood | Legal Officer - Litigation Team (Property) | Legal Services | Isle of Wight Council | County Hall | Newport | Isle of Wight PO30 1UD  
Tel: (01983) 821000 | Email: [heather.legood@iow.gov.uk](mailto:heather.legood@iow.gov.uk) | Web: [www.iwight.com](http://www.iwight.com)

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## Ventnor Town Clerk

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**From:** Rajinder Sangha <Rajinder.Sangha@glanvilles.co.uk>  
**Sent:** 04 October 2016 08:36  
**To:** 'Ventnor Town Clerk'  
**Subject:** Transfer of Toilets  
**Attachments:** 20161004082542348.pdf

Dear David

I write further to our telephone conversation of yesterday when we discussed the Council's "take it or leave it" approach to the conveyancing of the toilets. You asked me whether VTC should proceed on the basis of the IWC's draft Transfer Deed as originally drawn.

I attach a copy of my amendments to the Transfer in connection with the toilets at Ventnor Park. The majority of my amendments are, I believe, un-contentious. For example, there are some typographical errors but in the main I have sought to soften the obligations on VTC - a breach of covenant should be a material one and not just any breach should the IWC seek to exercise the option to buy back.

Whilst the toilets no doubt abut a public footpath/highway I also think a formal right of way should be granted given the IWC owns the adjoining land.

Therefore, I do believe we ought to press the IWC's acceptance of my amendments to the Transfer Deed. The IWC asserts all the Transfers should be in a similar form in the interest of "fairness". I don't accept this. Clearly, as your legal advisers we proceed on the basis of what's in the best interests of VTC!

Whilst I have not applied for local and environmental searches I will apply for a drainage/water search for the obvious reasons!

I have also asked the IWC to respond to some basic form of due diligence by way of enquiries. Heather Legood has confirmed that her colleague, Richard Berry is dealing with these. Its important to have full disclosure on any adverse matters relating to the toilets.

I hope this explanation helps establish where we currently are with the transfers however, if you have any questions then please don't hesitate to contact me.

Regards

Rajinder

Rajinder Sangha  
Partner