

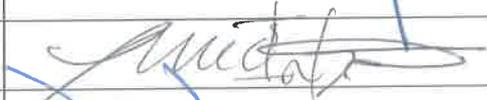
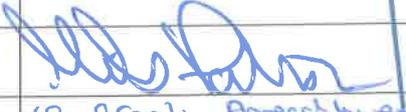
**HYNDBURN BOROUGH COUNCIL**

**APPROVAL FOR URGENT CABINET DECISION**

**(Executive Procedure Rule B16)**

Summary and Approvals

1. **Title of Report**  
Issue of lease to Trustees of Hyndburn Green Spaces Forum for Milnshaw Park Play Area
2. **Report Author: Andrew J Hayhurst**
3. **Purpose of Report: To seek approval to amend the Cabinet decision (recommendation 2.1 of Cabinet report attached) to grant a lease for 10 years to the Trustees of Hyndburn Green Spaces Forum of part of Milnshaw Park prior to the Trustees of Hyndburn Green Spaces Forum applying for funding from BIFFA Awards Scheme**
4. **Decision requested: To grant a lease to the Trustees of Hyndburn Green Spaces Forum of part of Milnshaw Park to enable a funding application to be taken forward for consideration by BIFFA.  
Tomake provision for Hyndburn Borough Council to bring the lease granted to an end in the event that funding is not secured through The BIFFA Award Scheme**
5. **Reason for Urgency: A funding application has been made by the Trustees of Hyndburn Green Spaces Forum to the BIFFA Awards Scheme and all supporting documentation must be received by BIFFA by the 1<sup>st</sup> of September 2016. BIFFA have confirmed that they require a lease to be in place between Hyndburn Borough Council and the Trustees of Hyndburn Green Spaces Forum for period of at least 10 years before the funding application made can be considered.**
6. **Approvals of Members and Officers**

| <b>Designation</b>                                 | <b>Signature to give approval</b>                                                    |
|----------------------------------------------------|--------------------------------------------------------------------------------------|
| <b><u>Officers</u></b>                             |                                                                                      |
| Chief Executive *                                  |  |
| Executive Director (Legal and Democratic Services) |                                                                                      |
| Deputy Chief Executive                             |  |
| Chief Officer/Head of Service                      |  |
| <b><u>Elected Members</u></b>                      |                                                                                      |
| Leader                                             |  |
| Deputy Leader                                      | (Paul Cox) - Agreed by email 25/8/2016 - attached.                                   |
| Portfolio Holder                                   | (Kross) - Agreed by email 25/8/2016 - attached.                                      |
| Mayor (to agree to exempt from call-in)            | Tim O'Kare                                                                           |

*\* or Deputy Chief Executive in his absence, or if Chief Executive is the decision-taker*

7. **Date of Decision (when finally approved):** 25TH AUGUST 2016

|                                                                            |                |                                            |  |
|----------------------------------------------------------------------------|----------------|--------------------------------------------|--|
| <b>REPORT TO:</b>                                                          |                | Cabinet                                    |  |
| <b>DATE:</b>                                                               |                | 22 August 2016                             |  |
| <b>PORTFOLIO:</b>                                                          |                | Cllr Ken Moss - Education, Leisure & Arts  |  |
| <b>REPORT AUTHOR:</b>                                                      |                | Andrew Hayhurst                            |  |
| <b>TITLE OF REPORT:</b>                                                    |                | Issue of lease for Milnshaw Park Play Area |  |
| <b>EXEMPT REPORT<br/>(Local Government<br/>Act 1972, Schedule<br/>12A)</b> | <b>Options</b> | Not applicable                             |  |
| <b>KEY DECISION:</b>                                                       | <b>Options</b> | If yes, date of publication:               |  |

## 1. Purpose of Report

- 1.1.1 To seek approval to amend the decision taken by Cabinet in respect of Milnshaw Park Play Area

## 2. Recommendations

- 2.1 That Cabinet amends the decision made on June 8<sup>th</sup> 2016 to reflect the requirement that a 10 year lease must be in place with the Trustees of Hyndburn Green Spaces Forum prior to submission of the completed funding application to BIFFA.

The recommendation at 2.1 of the attached Report dated June 8<sup>th</sup> 2016 be amended to read:

2.1 That Cabinet agrees to lease an area of Milnshaw Park (shown edged black on attached plan) to the Trustees of Hyndburn Green Spaces Forum for the purposes of installing a new play area for local children subject to :-

- (i) The inclusion of a break clause in the lease to enable the Council to bring the lease to an end should grant funding from BIFFA not be secured by the Trustees of Hyndburn Green Spaces Forum.
- (ii) No objections being received to the proposed disposal of public open space

## 3. Reasons for Recommendations and Background

- 3.1 A copy of the Cabinet Report of June 8<sup>th</sup> 2016 is attached. The position remains as outlined in the attached report except that the lease for a minimum of 10 years with the Trustees of Hyndburn Green Spaces Forum must be in place prior to submission of the Grant Application by them to BIFFA by September 1<sup>st</sup> 2016.

Previous advice from BIFFA was that a signed Draft Lease would suffice for purposes of considering the Funding Application, recent communication from BIFFA would indicate that this is no longer the case.

4. Alternative Options considered and Reasons for Rejection

- 4.1 Decline the offer of a lease option: this would result in the withdrawal of the BIFFA application and would require re design of the proposed facility within existing budget available through Area Council and Section 106 funding, this would provide limited play value within one of the borough's major facilities.

5. Consultations

- 5.1 Local Residents, Friends of Milnshaw Park, Accrington Academy, Local schools

6. Implications

|                                                                                                                                                                                                |                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Financial implications (including any future financial commitments for the Council)</b>                                                                                                     | Capital expenditure to be match funded through Section 106 for Hambledon Mill and area council. The site is currently on playground inspection route and would not incur any additional revenue funding. |
| <b>Legal and human rights implications</b>                                                                                                                                                     | The Trustees of Hyndburn Green Spaces Forum will have the benefit of a lease of part of Milnshaw Park without the Grant Application having been determined for an unknown period of time                 |
| <b>Assessment of risk</b>                                                                                                                                                                      | Failure to obtain the inward investment would necessitate the construction of a play area which would not meet the needs of local children or the Fields In Trust guidelines                             |
| <b>Equality and diversity implications</b><br><i>A <u>Customer First Analysis</u> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i> | See attached 7.5                                                                                                                                                                                         |

7. Local Government (Access to Information) Act 1985:  
List of Background Papers

- 7.1 Area of proposed lease  
7.2 Title plan  
7.3 Register of Title  
7.4 Cabinet report 8<sup>th</sup> June 2016  
7.5 Customer First Analysis



**These are the notes referred to on the following official copy**

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

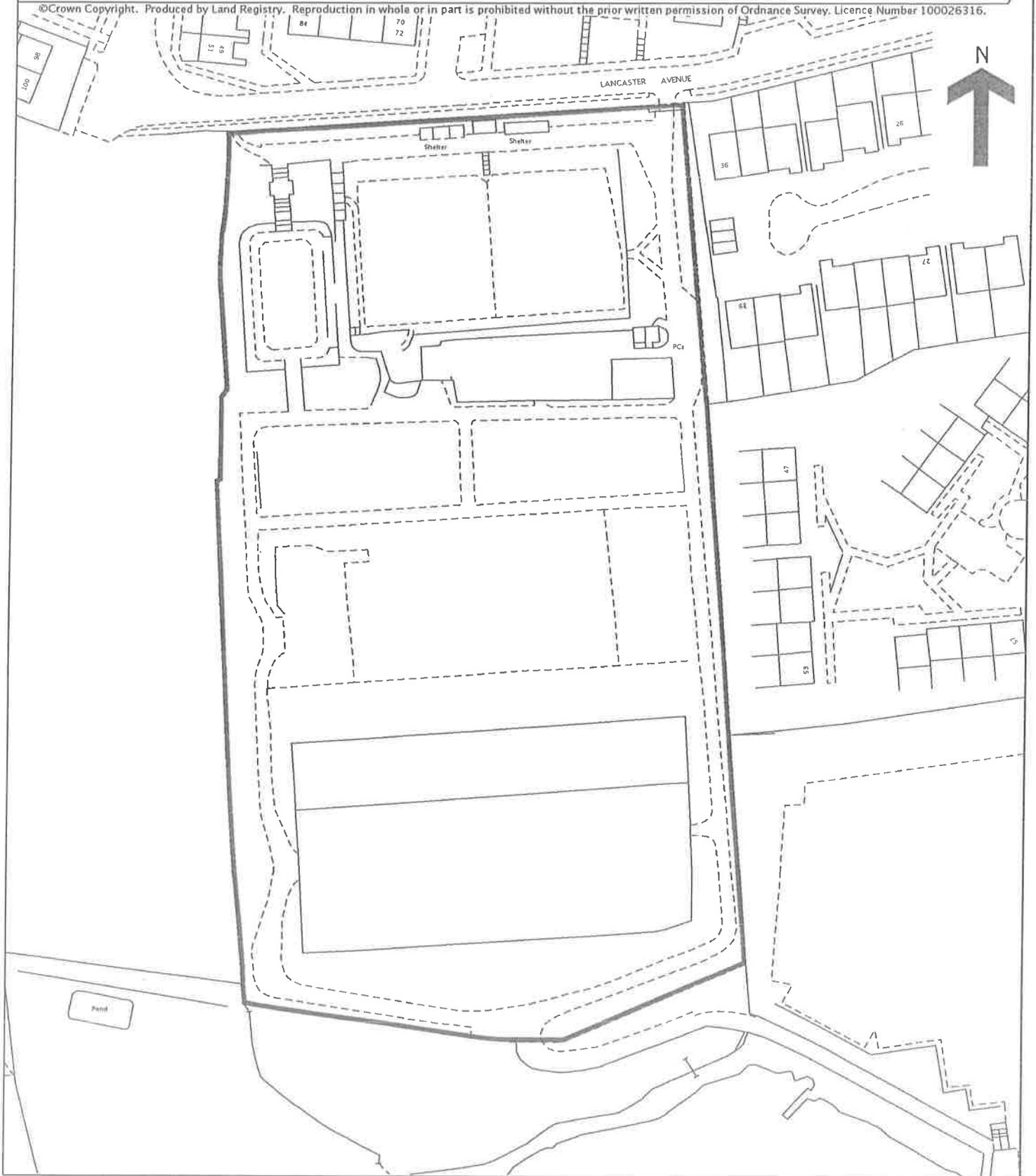
This official copy is issued on 17 June 2016 shows the state of this title plan on 17 June 2016 at 16:05:02. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the Land Registry, Fylde Office .

# Land Registry Official copy of title plan

Title number **LAN81040**  
Ordnance Survey map reference **SD7529SW**  
Scale **1:1250**  
Administrative area **Lancashire : Hyndburn**



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The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



Official copy  
of register of  
title

Title number LAN81040

Edition date 05.01.2009

- This official copy shows the entries on the register of title on 17 JUN 2016 at 16:05:02.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 17 Jun 2016.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Fylde Office.

## A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

LANCASHIRE : HYNDBURN

- 1 (05.01.2009) The Leasehold land shown edged with red on the plan of the above title filed at the Registry and being Milnshaw Park Lancaster Avenue, Accrington.
- 2 (05.01.2009) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:  
 Date : 12 April 1880  
 Term : 999 years from 12 April 1880  
 Parties : (1) Jonathan Peel  
 (2) Thomas Hindle and Williamson Lee  
 (3) The Mayor Aldermen and Burgesses of the Borough of Accrington
- 3 (05.01.2009) The land has the benefit of the rights granted by a Agreement dated 29 June 1896 made between (1) The Mayor Aldermen and Burgesses of the Borough of Accrington and (2) The Honourable Seymour John Fortescue .

*NOTE: Copy filed.*

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title good leasehold

- 1 (05.01.2009) PROPRIETOR: HYNDBURN BOROUGH COUNCIL of Scaitcliffe House, Ormerod Street, Accrington, Lancashire BB5 0PF.

### End of register

|                                                                            |           |                                                   |  |
|----------------------------------------------------------------------------|-----------|---------------------------------------------------|--|
| <b>REPORT TO:</b>                                                          |           | Cabinet                                           |  |
| <b>DATE:</b>                                                               |           | 08 June 2016                                      |  |
| <b>PORTFOLIO:</b>                                                          |           | Cllr Ken Moss - Education, Leisure & Arts         |  |
| <b>REPORT AUTHOR:</b>                                                      |           | Craig Haraben (Acting Head of Community Services) |  |
| <b>TITLE OF REPORT:</b>                                                    |           | Milnshaw Park Play Area                           |  |
| <b>EXEMPT REPORT<br/>(Local Government<br/>Act 1972, Schedule<br/>12A)</b> | <b>No</b> | Not applicable                                    |  |
| <b>KEY DECISION:</b>                                                       |           |                                                   |  |
|                                                                            | <b>No</b> | If yes, date of publication:                      |  |

**1. Purpose of Report**

- 1.1 To seek Cabinet approval to lease an area of Milnshaw Park, Lancaster Avenue in Accrington to the trustees of Hyndburn Green Spaces Forum (HGSF) for the purpose of installing a new play area for local children.

**2. Recommendations**

- 2.1 That Cabinet agrees to lease an area of Milnshaw Park (shown edged black on the attached plan) to the trustees of Hyndburn Green Spaces Forum for the purpose of installing a new play area for local children subject to:-
- (i) Biffa Grant Funding being Awarded to HGSF
  - (ii) No objections being received to the proposed disposal of public open space
- 2.2 That Cabinet requests a further report be presented to it to consider whether to proceed with the proposed lease if objections are received in connection with the proposed disposal of public open space
- 2.3 That Cabinet delegates authority, subject to paragraph 2.1 above, to the Acting Head of Community Services, following consultation with the portfolio holder to agree the detailed terms of the lease.

**3. Reasons for Recommendations and Background**

- 3.1 The play equipment at Milnshaw Park is over twenty years old. There is only one piece of useable equipment left as the rest has been removed due to being beyond economical repair.

- 3.2 There has been a desire by local ward Councillors, local community and the Parks & Cemetery Service to refurbish this play area and provide play equipment of a modern day standard for local children and young people.
- 3.3 There is now an opportunity to undertake a play area refurbishment in Milnshaw Park because a number of streams of funding have become available that could be used to co-fund the project.
- 3.4 Funding has been secured in part through Section 106 funding from a housing development in the area, and in addition Church & Milnshaw Area Council have agreed to put some of their delegated funds towards the project. The remainder of the project funding is due to come from Biffa Award, the Landfill Tax funding element of their business. The estimated cost of the play area is £115,000 and the combined total of the different funding streams is £115,000, so the project is financially viable.
- 3.5 HGSF has submitted an application to Biffa Award for £50,000 and the application has been successful at Stage 1 and is now through to Stage 2 in the process.
- 3.6 A condition of the Biffa Award funding is for the applicant (should it not be the landowner) to have at least a 10 year lease of the area of land in question. In this case there is a need to lease the area of land for the new play equipment to the HGSF, in order to meet the Biffa Award funding requirements. Although detailed lease terms have yet to be agreed, it is proposed that the Council grant HGSF a 10 year lease of the land shown edged red on the attached plan at a peppercorn rent for use as a children's play area. The intention is that the Council will continue to maintain, repair and insure the play area under the terms of the lease.
- 3.7 Section 123 of the Local Government Act 1972 gives the Council power to dispose of its land which includes the granting of leases. As the proposed lease is for a term of over 7 years, section 123 requires for the disposal to be for market value, except where the Local Government Act 1972 General Disposal Consent (England) 2003 applies. The General Disposal Consent permits the Council to grant a lease at an undervalue where this promotes the social, economic or environmental wellbeing of the Borough or its residents. It is not yet possible to determine whether this will be a lease at market value, but, if it isn't, officers consider that the disposal can be justified on "wellbeing grounds". In this case, the installation of a new play area will bring social benefits for children, young people and their families from the surrounding area and improve environmental well-being by refurbishing a currently run down part of the park.
- 3.8 The proposed lease comprises land that is currently public open space. Section 123 Local Government Act requires the Council to advertise its intention to dispose of public space and to consider any representations received before making a final decision. Public notice has been given, but the final date for receipt of comments and objections has not yet passed.
- 3.9 Once constructed the play area will have free and open public access in exactly the same way as any other park play area, the lease would place no restriction on public use.

#### 4. Alternative Options considered and Reasons for Rejection

- 4.1 Do not lease the land to HGSF. This is not recommended because the external funding body contributing the refurbishment of the play area in Milnshaw Park would withdraw funding and therefore prevent the project from happening.

#### 5. Consultations

- 5.1 Hyndburn Green Spaces Forum, local residents, local councillors, Corporate Property, Legal Services and Parks & Cemetery service have been consulted in relation to this project.
- 5.2 The Council has given public notice of its intention to dispose of public open space pursuant to section 123 Local Government Act 1972. The closing date to get back to the Council with any comments or objections is 10 June 2016. All comments will be considered once the closing date has been reached and if any objections are received, a further report will be presented to Cabinet to enable a final decision to be taken on the disposal.

#### 6. Implications

|                                                                                            |                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Financial implications (including any future financial commitments for the Council)</b> | A new play area will be maintained by the Council but will have reduced maintenance costs compared with the current old play equipment. Biffa are prepared to allocate £50,000 to this project with Church & Milnshaw Area Council prepared to match fund to a value of £18,155, alongside a contribution from Hambledon Mill S106 of £46,875 |
| <b>Legal and human rights implications</b>                                                 | The new play area will be constructed to meet the requirements set out in Fields in Trust guidelines and EU standards for play area construction.<br><br>Legal implications regarding the lease are set out in Section 3 of this report.                                                                                                      |
| <b>Assessment of risk</b>                                                                  | The play area has been designed using modern design principles. Failure to meet all grant conditions could result in the withdrawal of grant funding from Biffa.                                                                                                                                                                              |
| <b>Equality and diversity implications</b>                                                 | A Customer First Analysis is attached to this report                                                                                                                                                                                                                                                                                          |

7. **Local Government (Access to Information) Act 1985:**  
**List of Background Papers**

7.1 A copy of the expression of interest funding application sent to Biffa Award can be obtained by contacting the Council.

8. **Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



## Hyndburn Borough Council

### Customer First Analysis

#### What is it for?

Our corporate values include putting the customer first, providing opportunities for bright futures and narrowing inequality across the Borough.

From 1 April 2011, a new legal duty applies to all public authorities. It covers these protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- gender;
- sexual orientation; and, for some aspects, marriage and civil partnerships.

The duty means that – as previously - we should analyse the effect of existing and new policies and practices on equality. It does not specify how we should do this. However, legal cases on the meaning of the previous general equality duties make it clear that we must carry out the analysis **before making the relevant policy decision**, and include consideration as to whether we can reduce any detrimental impact.

The framework overleaf – our Customer First Analysis - is suggested when making a written record of the analysis. This replaces Equality Impact Assessments.

The Analysis should be **proportionate** to the policy decision being taken. In some cases the written record will be a quick set of bullet points or notes under each heading, to deal with any questions which are relevant (or briefly explain why if they aren't). Others will need to be much more detailed. A meaningful Analysis will help the Council make the best decision or formulate a policy which best meets our customers' needs.

Please return completed Customer First Analyses to Human Resources. I can guide you through the process if this would be helpful.

If you have any suggestions for improving this process, please let me know.

Kirsten Burnett  
Head of HR

UNCLASSIFIED

**Customer First Analysis**

**1. Purpose**

- What are you trying to achieve with the policy / service / function?  
To install a new play area in Milnshaw Park
- Who defines and manages it?  
The land for the new play area will be leased to HGSG but maintained by Hyndburn BC
- Who do you intend to benefit from it and how?  
Children young people and their wider families in the local area
- What could prevent people from getting the most out of the policy / service / function?  
Not securing the grant funding for this project
- How will you get your customers involved in the analysis and how will you tell people about it?  
Five local schools were consulted via questionnaire and local residents were consulted via park user survey

**2. Evidence**

- How will you know if the policy delivers its intended outcome / benefits?  
A new play area will have been constructed and is being used by local families
- How satisfied are your customers and how do you know?  
We will need to ask them once the play area is constructed
- What existing data do you have on the people that use the service and the wider population?  
We have data via parks user survey
- What other information would it be useful to have? How could you get this? N/A
- Are you breaking down data by equality groups where relevant (such as by gender, age, disability, ethnicity, sexual orientation, marital status, religion and belief, pregnancy and maternity)? The parks user survey does provide this information
- Are you using partners, stakeholders, and councillors to get information and feedback? Yes  
local schools, councillors and residents

**3. Impact**

- Are some people benefiting more – or less - than others? If so, why might this be?  
This playground is available for all members of the community

**4. Actions**

- If the evidence suggests that the policy / service / function benefits a particular group – or disadvantages another - is there a justifiable reason for this and if so, what is it? A lease agreement is with HGSG which has an open membership policy
- Is it discriminatory in any way? No
- Is there a possible impact in relationships or perceptions between different parts of the community? No the local community are members of HGSG
- What measures can you put in place to reduce disadvantages? N/A
- Do you need to consult further? N/A
- Have you identified any potential improvements to customer service?  
The playground will be new and a much better facility than the existing one
- Who should you tell about the outcomes of this analysis? N/A
- Have you built the actions into your Business Plan with a clear timescale?  
Yes the project has been built into the department work schedule
- When will this assessment need to be repeated? N/A

UNCLASSIFIED

**Name:** Craig Haraben

**Signed:** 

**Service Area:** Parks and Cemeteries

**Dated:** 20 May 2016

## Monica Bell

---

**From:** Ken Moss  
**Sent:** 25 August 2016 14:17  
**To:** Monica Bell; Paul Cox  
**Subject:** Re: Emergency Powers Form - Play Area, Milnshaw Park

Hi Monica,

My apologies. I've been on the mower all day. It's all approved.

Best wishes

Ken

Sent from my iPad

On 25 Aug 2016, at 09:10, Monica Bell <[Monica.Bell@hyndburnbc.gov.uk](mailto:Monica.Bell@hyndburnbc.gov.uk)> wrote:

Hi Ken,

Can you please look at the attached urgent Cabinet decision relating to "Issue of Lease to Trustees of Hyndburn Green Spaces Forum for Milnshaw Park Play Area" and let me know if you support and approve it. A reply this morning would be appreciated.

Thanks

Monica

<Urgent Cabinet Decision Form - Milnshaw Park.doc>

<Urgent Cabinet Decision Report - Milnshaw Park.docm>

<Urgent Cabinet Decision Title Plan - Milnshaw Park Appendix 2.pdf>

<Urgent Cabinet Decision June 2016 CFA - Milnshaw Park Appendix 5.doc>

<Urgent Cabinet Decision June 2016 Report - Milnshaw Park Appendix 4.docm>

<Urgent Cabinet Decision Plan - Milnshaw Park Appendix 1.jpg>

<Urgent Cabinet Decision Register - Milnshaw Park Appendix 3.pdf>

## Monica Bell

---

**From:** Paul Cox  
**Sent:** 25 August 2016 14:52  
**To:** Monica Bell  
**Subject:** Re: Urgent Cabinet Decision - Milnshaw Park Play Area

Monica

I agree

Thanks

Paul Cox

Milnshaw Ward  
01254726379  
07547532279

On 25 Aug 2016, at 13:24, Monica Bell <[Monica.Bell@hyndburnbc.gov.uk](mailto:Monica.Bell@hyndburnbc.gov.uk)> wrote:

Hi Paul,

Please see attached documents relating to an urgent cabinet decision regarding a Play Area at Milnshaw Park.

Can you please let me know by email if you approve the decision.

Thanks

Monica

<Urgent Cabinet Decision Form - Milnshaw Park.doc>

<Urgent Cabinet Decision Report - Milnshaw Park.docm>

<Urgent Cabinet Decision Plan - Milnshaw Park Appendix 1.jpg>

<Urgent Cabinet Decision Title Plan - Milnshaw Park Appendix 2.pdf>

<Urgent Cabinet Decision Register - Milnshaw Park Appendix 3.pdf>

<Urgent Cabinet Decision June 2016 Report - Milnshaw Park Appendix 4.docm>

<Urgent Cabinet Decision June 2016 CFA - Milnshaw Park Appendix 5.doc>