

# CHILTERN DISTRICT COUNCIL

King George V House, King George V Road, Amersham,  
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## Services Overview Committee

**Tuesday, 14th June, 2016 at 6.30 pm**

**Large & Small Committee Room, King George V House, King George V Road,  
Amersham**

### A G E N D A

- 1 Evacuation Procedures
- 2 Minutes (*Pages 5 - 10*)  
To sign the Minutes of the meeting held on 15 March 2016.
- 3 Apologies for Absence
- 4 Declarations of Interest
- 5 28 Day Notice (*Pages 11 - 12*)  
*Appendix 1 (Pages 13 - 16)*  
*Appendix 2 (Pages 17 - 20)*
- 6 Annual Performance Report 2015-16 (*Pages 21 - 24*)  
*Appendix A (Pages 25 - 26)*  
*Appendix B (Pages 27 - 30)*  
*Appendix C (Pages 31 - 34)*
- 7 Private Sector Housing Strategy (*Pages 35 - 38*)  
*Appendix 1 (Pages 39 - 48)*  
*Appendix 2 (Pages 49 - 106)*

*Appendix 3 (Pages 107 - 110)*

*Appendix 4 (Pages 111 - 146)*

8 Food and Health and Safety Business Plans *(Pages 147 - 150)*

*Appendix 1 (Pages 151 - 178)*

*Appendix 2 (Pages 179 - 208)*

*Appendix 3 (Pages 209 - 232)*

9 Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

10 Private reports (if any)

**Note:** All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

**Membership: Services Overview Committee**

Councillors: J A Burton (Chairman)  
L M Smith  
D J Bray  
E A Culverhouse  
M Flys  
A S Hardie  
C J Jackson  
P M Jones  
S A Patel  
C J Rouse  
J J Rush  
M W Titterington  
N I Varley (Vice-Chairman)  
E A Walsh

**Date of next meeting – Wednesday, 13 July 2016**

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**CHILTERN DISTRICT COUNCIL**

**MINUTES** of the Meeting of the  
**SERVICES OVERVIEW COMMITTEE**  
held on **15 MARCH 2016**

**PRESENT:** Councillor L M Smith - Vice Chairman

Councillors: D J Bray  
A S Hardie  
C J Jackson  
P M Jones  
S A Patel  
C J Rouse  
J J Rush  
N I Varley  
E A Walsh

**APOLOGIES FOR ABSENCE** were received from Councillors J A Burton, M Flys and M W Titterington

**ALSO IN ATTENDANCE:** Councillors I A Darby, G K Harris, J E MacBean and C J Wertheim

**51 MINUTES**

The Minutes of the meeting held on 19 January 2016 were agreed as a correct record and were signed by the Vice-Chairman.

**52 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**53 PRESENTATION FROM THAMES WATER**

The Committee received a presentation from Huw Thomas (Thames Water) and Gareth Evans (eight<sub>2</sub>O) on the Chalfont St Peter and Chesham drainage strategies. Following the presentation Members asked a number of questions, and during which the following key points were made:

Thames Water worked closely with the planning authority and reviewed applications for proposed developments. Developers were requested to put in place drainage strategies where Thames Water considered this appropriate, and the specific requirements would vary according to each development.

Concerns were raised in relation to surface water flooding that occurred in Chalfont St Giles in 2014 which impacted local businesses particularly badly. Although Thames Water worked closely with partner authorities responsible for surface water flooding Thames Water only had direct control over flooding from sewage.

A number of concerns specific to Chesham were raised. These included regular surface water flooding; pollution in the River Chess from sewage, over abstraction, and concerns regarding flooding in the Town Centre as a result of

sudden heavy rainfall. In response to a question it was advised that maps of the Thames Water pipe network and assets were publicly available from Thames Water's head office in Reading, and both the County and District Councils had access to this. Privately owned drains were not included on this. The mapping system was constantly updated to reflect the latest information. Thames Water confirmed that they were happy to attend meetings of the Chesham Action Group.

The majority of the district received tap water from Affinity rather than Thames Water. The pipe networks were separate, but both organisations worked together. There were plans to build a new reservoir in Abingdon and Affinity were part of the discussions on this.

The Chalfont St Peter and Chesham Drainage Strategies could be found using the search facility on the Thames Water website: [www.thameswater.co.uk](http://www.thameswater.co.uk)

The conclusions from the Chesham and Chalfont St Peter drainage strategies would be available around November 2017. Updates on the current documents were available on the Thames Water website.

In response to a question it was noted that connections to the London super sewer were currently being determined.

Members raised concerns that Thames Water's figures on housing growth were too low. Thames Water reviewed growth forecasts and worked closely with planning authorities although it was acknowledged that there was room for further improvement.

The process Thames Water used for reviewing proposed developments was outlined. In summary, developers signed off work themselves, but local planning authorities were responsible for checking with the developer that works had been completed and for monitoring compliance with planning conditions. It was confirmed that surface water and foul sewage pipelines should not be connected. Surface water systems were also designed to cope with significant one off flooding.

Members were encouraged to report any sewage flooding or water supply issues to Thames Water so that any problems could be logged and investigated.

**RESOLVED –**

**That the presentation be noted.**

#### **54 BUCKS STRATEGIC FLOOD MANAGEMENT COMMITTEE UPDATE**

The Committee received a report providing an update on the activities of the Bucks Strategic Flood Management Committee. During the discussion the following key points were made:

That flooding in the Chalfont St Peter area also had a major effect on people. It was noted that Section 19 flood investigations had resulted in a number of actions to mitigate the effect of floods.

That the Government's food insurance cost scheme be promoted.

In response to a point regarding the measurement of water runoff it was noted that Chiltern had been part of a national case study and the results of which were included as a background paper to the report.

The Environment Agency (EA) study on the Misbourne Valley was still at an early stage, but the EA were looking to set up a working group. This would include the Old Amersham area.

### **RESOLVED –**

**That the report be noted.**

## **55 AIR QUALITY MANAGEMENT UPDATE**

The Committee received a report on air quality management in the district and Members discussed how air quality could be improved to meet EU and UK standards. During the discussion the following key points were made:

Pollution from vehicles in the Wapseys Wood area was raised. In response to concerns regarding leachate in the borehole it was noted that, since measures had been put in place, the pollution had reduced.

Pollution from vehicle emissions, such as benzene, was raised as a concern. It was noted that benzene was one of seven chemicals measured when assessing air quality and nowhere in the district had levels that came close to guideline thresholds. The increased use of electric vehicles was identified as one method of reducing air pollution from road traffic. Charging points were available at Council car parks.

### **RESOLVED –**

**That the report be noted.**

## **56 BUCKINGHAMSHIRE ENERGY STRATEGY**

The Committee considered the Buckinghamshire Energy Strategy and were asked to recommend its adoption to the Cabinet. During the discussion it was noted that the policy had been written prior to changes being made to Government policy in relation to renewable energy.

Several Members, whilst welcoming the general direction that the policy was working towards, expressed concerns regarding the adoption of a strategy that lacked sufficient detail on how it would be achieved, failed to satisfactorily set out its aims and objectives, and was no longer up-to-date.

Other Members agreed that the document required changes and needed to be updated, but felt that it would be better to seek changes to the document

once it had been adopted. There was a general agreement that a strategy was required and it was noted that other Councils had agreed its adoption. Some Members remained concerned about recommending the adoption of a strategy that was currently considered inadequate.

On balance it was agreed to recommend that the strategy be adopted, subject to the comments of the Committee being forwarded to the Natural Environment Partnership for Buckinghamshire and Milton Keynes to enable them to make the proposed changes. It was also recommended that the changes be made within a period of 12 months.

### **RESOLVED –**

**That on balance the Committee agrees to recommend the adoption of the Buckinghamshire Energy Strategy to the Cabinet, subject to the comments of the Committee being forwarded to the Natural Environment Partnership for Buckinghamshire and Milton Keynes to enable them to make the following changes the strategy within a period of 12 months:**

- 1. That further detail be included on how the strategy would be achieved;**
- 2. That the strategy be updated to take account of changes to the Government's policy on renewable energy; and,**
- 3. That the aims and objectives of the strategy be made more robust.**

*Note: Councillor P Jones left the meeting at 7.30 pm.*

## **57 UPDATE ON HOUSING WORKSHOP**

A housing workshop event involving Chiltern and South Bucks District Council Members was held recently to provide information on housing issues and to enable Members to discuss and identify ideas, issues and options to take forward a shared Housing Strategy. The report provided information from the workshop and the Committee were asked to discuss the findings and the implications for affordable housing in the district.

At the Council meeting held on 24 February 2016 it was announced that a Member working group would be set up to explore options and make recommendations on delivering affordable housing in the district. This would be done by identifying capital and resources, such as land. The draft terms of reference for the group were tabled at the meeting for Members comments. During the discussion it was suggested that the quorum be increased to 3 Members or half of the total Members appointed. It was not intended this this would be joint group, and the terms of reference would be amended to remove the reference to South Bucks District Council.

### **RESOLVED –**

**That the report be noted.**



**58 QUARTER 3 PERFORMANCE REPORT 2015/16**

The Committee received a report outlining the performance of Council services against performance indicators and service objectives during September to October 2015. It was noted that a separate report reviewing the performance indicators for 2016/17 would be considered by the Cabinet on 5 April 2016. At the invitation of the Chairman, the Leader of the Cabinet advised that a number of performance indicators that had failed to meet targets related to housing and that the Cabinet were responding to this.

**RESOLVED –**

**That the report be noted.**

**The meeting ended at 7.56 pm**



<b>SUBJECT:</b>	<i>28 Day Notice</i>
<b>REPORT OF:</b>	<i>Cabinet Portfolio Holder for Support Services (Deputy Leader)</i>
<b>RESPONSIBLE OFFICER</b>	<i>Head of Legal &amp; Democratic Services</i>
<b>REPORT AUTHOR</b>	<i>Joe Crowley, 01494 732011: jcrowley@chiltern.gov.uk</i>
<b>WARD/S AFFECTED</b>	<i>All wards</i>

## 1. Purpose of Report

### 1.2 28 Day Notice

Members are requested to look at the following 28 Day Notices to identify potential topics for review:

- Cabinet: 28 June 2016 (Appendix 1)
- CDC & WDC Joint Waste Collection Committee: 09 June 2016 (Appendix 2)

## RECOMMENDATION

To review the work programme and to identify potential topics for review from the 28 Day Notice.

<b>Background Papers:</b>	None.
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## 28-DAY NOTICE – FORWARD PLAN

**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

This is a Notice of an intention to make a Key Decision on behalf of the Local authority (Regulation 9) and an intention to meet in private to consider those items marked as 'Private Reports' (Regulation 5).

A further Notice (the 'Agenda') will be published no less than 5 working-days before the date of the Cabinet meeting and will be available at [www.chiltern.gov.uk/democracy](http://www.chiltern.gov.uk/democracy)

<b>Leader (Councillor Isobel Darby)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>

<b>Support Services - Deputy Leader (Councillor Mike Stannard)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>

<b>Sustainable Development (Councillor Peter Martin)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>

<b>Environment (Councillor – Mike Smith)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>
Yes	<b>Dissolution of the Joint Waste Committee for Bucks:</b> To agree the JWC recommendation to dissolve the JWC, waiver the 12 month notice period and consider any residual matters including how remaining funds would be dealt with.		Cabinet <b>28 June 16</b>	No	Chris Marchant Email: cmarchant@chiltern.gov.uk
Yes	<b>Leasing Further Space to Chiltern Clinical Commissioning Group:</b> To report on negotiations with CCG and seek approval for a new lease.		Cabinet <b>28 June 16</b>	Yes (Paragraph 3)	Andy Crow Email: acrow@chiltern.gov.uk
Yes	<b>Energy Strategy:</b> To consider adoption of the Buckinghamshire Energy Strategy	Services 14 March	Cabinet <b>28 June 16</b>	No	Ben Coakley Email: bcoakley@chiltern.gov.uk
Yes	<b>Chesham 10p Tariff Bands:</b> review of 10p tariff band.		Cabinet <b>28 June 16</b>	No	Julie Rushton Email: jrushton@chiltern.gov.uk
Yes	<b>Chiltern Council Car Parks:</b> Review of charging days – discussion paper.		Cabinet <b>28 June 16</b>	Yes	Julie Rushton Email: jrushton@chiltern.gov.uk

<b>Customer Services (Councillor – Fred Wilson)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>

<b>Community, Health &amp; Housing (Councillor Graham Harris)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Lead Officer <sup>5</sup>
Yes	<b>Indoor Sports and Leisure Facilities Strategy:</b> To consider the options in relation to the leisure needs strategy	Services 14 June	Cabinet <b>28 June 16</b>	No	Martin Holt  Email: mholt@chiltern.gov.uk
Yes	<b>Private Sector Housing Strategy:</b> To consider a joint Private Sector Housing Strategy and Housing Financial Assistance Policy	Services 14 June	Cabinet <b>28 June 16</b>	No	Martin Holt  Email: mholt@chiltern.gov.uk
Yes	<b>Temporary Accommodation Procurement Statement:</b> To identify the options available to the Council in the provision of temporary accommodation	Services 14 June	Cabinet <b>28 June 16</b>	No	Martin Holt  Email: mholt@chiltern.gov.uk
Yes	<b>Regulators Code for shared services:</b> To consider the shared service regulators enforcement code		Cabinet <b>28 June 16</b>	No	Martin Holt  Email: mholt@chiltern.gov.uk
Yes	<b>Shared Service Food and Health and Safety Business Plans:</b> To consider a shared service food and health & safety business plans	Services 14 June	Cabinet <b>28 June 16</b>	No	Martin Holt  Email: mholt@chiltern.gov.uk

- 1 The Council's Constitution defines a 'Key' Decision as any decision taken in relation to a function that is the responsibility of the Cabinet and which is likely to:-
  - result in expenditure (or the making of savings) over £30,000 and / or
  - have a significant impact on the community in two (or more) district wards.
 and
  - relates to the development and approval of the Budget; or
  - relates to the development, approval and review of the Policy Framework, or
  - is otherwise outside the Budget and Policy Framework.
 As a matter of good practice, this Notice also includes other items – in addition to Key Decisions – that are to be considered by the Cabinet. This additional information is provided to inform local residents of all matters being considered.
- 2 Each item considered will have a report; appendices will be included (as appropriate). Regulation 9(1g) allows that other documents relevant to the item may be submitted to the decision-maker. Subject to prohibition or restriction on their disclosure, this information will be published on the Council website – [www.chiltern.gov.uk/democracy](http://www.chiltern.gov.uk/democracy) – usually 5 working-days before the date of the meeting. Paper copies may be requested (charges will apply) using the contact details below.
- 3 In order to support the work of the Cabinet and to enhance decision-making, reports are often presented to other meetings for comment before going to the Cabinet. As such, this Notice also includes information on which meeting (if any) will also consider the report, and on what date.
- 4 The public can be excluded for an item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972. The relevant paragraph numbers and descriptions are as follows:

Paragraph 1	Information relating to any individual
Paragraph 2	Information which is likely to reveal the identity of an individual
Paragraph 3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
Paragraph 4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
Paragraph 5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
Paragraph 6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
Paragraph 7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

Part II of Schedule 12A of the Local Government Act 1972 requires that information falling into paragraphs 1-7 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Nothing in the Regulations authorises or requires a local authority to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information.

Should you wish to make any representations in relation to any of the items being considered in private, you can do so – in writing – using the contact details below. Any representations received, together with any response from the Council, will be published on the Notice (the 'Agenda') issued no less than 5 working-days before the meeting. This will be available on the Council website – [www.chiltern.gov.uk/democracy](http://www.chiltern.gov.uk/democracy)

Contact: Democratic Services, Chiltern District Council, King George V House, King George V Road, Amersham, HP6 5AW; email: [chiefexecs@chiltern.gov.uk](mailto:chiefexecs@chiltern.gov.uk); tel: 01494 732143

- 5 The lead officer is usually the report author, and their contact details are provided in this column. The officer's email address is a standard format: first initial followed by their surname e.g. Bob Smith = [bsmith@chiltern.gov.uk](mailto:bsmith@chiltern.gov.uk)



## 28-DAY NOTICE – FORWARD PLAN

### Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

This is a Notice of an intention to make a Key Decision on behalf of the Local authority (Regulation 9) and an intention to meet in private to consider those items marked as 'Private Reports' (Regulation 5).

A further Notice (the 'Agenda') will be published no less than 5 working-days before the date of the Cabinet meeting and will be available at [Chiltern District Council](#) & [Wycombe District Council](#)

### CHILTERN & WYCOMBE JOINT WASTE COLLECTION COMMITTEE (JWCC)

<b>Meeting: 09 June 2016 (CDC)</b>					
Key Decision (Y/N) <sup>1</sup>	Report Title & Summary <sup>2</sup>	Consultation <sup>3</sup>	Decision Maker & Date	Private Report (Y/N) and Reason Private <sup>4</sup>	Contact Officer and Telephone Number (01494)
No	<b>Waste Service Highlight Report:</b> Update on the Joint Waste Service		<b>JWCC 2 June 16</b>	No	Sally Gordon sgordon@chiltern.gov.uk
No	<b>Joint Waste Contract Update:</b> To receive an update on the joint waste contract		<b>JWCC 2 June 16</b>	Yes (Para. 1, 3 & 4)	Sue Markham sue.markham@southbucks.gov.uk
No	<b>Outcome of Audit Report:</b> to receive an update on the audit		<b>JWCC 2 June 16</b>	No	Sally Gordon sgordon@chiltern.gov.uk
No	<b>Review of Collection Calendar Options:</b> to consider a report on collection calendar options		<b>JWCC 2 June 16</b>	No	Sally Gordon sgordon@chiltern.gov.uk

- 1 The Chiltern & Wycombe Joint Waste Collection Committee comprises of one Executive Member and one Non-Executive Member from each of the following constituent authorities:

**Chiltern District Council:** M Smith (Cabinet Member); C Jones

**Wycombe District Council:** Mrs J Teesdale (Cabinet Member); W Mallen

A Key Decision is defined as:

- Decisions likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the Decision relates; or
- To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council

Each of the constituent local authorities provides the following definition of a Key Decision, as detailed in the Constitution.

#### **Chiltern District Council**

A 'Key' Decision is any decision taken in relation to a function that is the responsibility of the Cabinet and which is likely to:

- result in expenditure (or the making of savings) over £30,000 and / or
  - have a significant impact on the community in two (or more) district wards.
- and
- relates to the development and approval of the Budget; or
  - relates to the development, approval and review of the Policy Framework, or
  - is otherwise outside the Budget and Policy Framework.

#### **Wycombe District Council**

A Key Decision is defined as:

(i) The decision is not in accordance with any one or more of the following:

- (a) the overall Strategic Budget
- (b) the Revenue Budget
- (c) the Capital Programme
- (d) the Housing Revenue Account
- (e) Borrowing Limits set by the Council

(ii) The decision is in conflict with or a departure from a policy, plan or strategy approved by the Council or any person or body of the Council authorised to set a policy, plan or strategy on the Council's behalf

(iii) It raises new issues of policy

(iv) It increases budgetary commitments

(v) It proposes expenditure or savings in excess of £250,000, save in respect of land acquisitions or disposals (see (vi)(b) below)

(vi) It requires any of the following:

- (a) Staff for which there is no budgetary provision
- (b) The acquisition or disposal of land or any interest therein in excess of a value of £1,000,000
- (c) The entering into of a contract with an estimated value in excess of £100,000
- (d) Requires a virement in excess of the limit set by the Cabinet
- (e) The making, approval or publication of any draft or final scheme which requires approval from a Minister of the Crown
- (f) Initiation of legislation
- (g) Is of such significance to all or a part of the area, that the person to whom the decision is delegated, considers that it should be treated as a key decision

NB: Excluded from paragraphs (v) and (vi)(c) above are contracts for and expenditure on, repairs, maintenance and improvement works within budget provision and approved policy where the contract or expenditure has either been properly and specifically approved by or on behalf of the Cabinet or by an officer acting under delegated powers, save where Contract Standing Orders require the Cabinet itself to authorise acceptance of a tender and such acceptance has not previously been authorised or delegated by the Cabinet.

- 2 Each item considered will have a report; appendices will be included (as appropriate). Regulation 9(1g) allows that other documents relevant to the item may be submitted to the decision-maker. Subject to

prohibition or restriction on their disclosure, this information will be published on the Council website – [Chiltern District Council](#) & [Wycombe District Council](#) – usually 5 working-days before the date of the meeting. Paper copies may be requested (charges will apply) using the contact details below.

- 3 To support the work of the CDC & WDC Joint Waste Collection Committee and to enhance decision-making, reports may be presented to other Committees for consultation. As such, this Notice will detail this information. Further information on each of the Councils' Committees can be found at: [Chiltern District Council](#) & [Wycombe District Council](#)
- 4 The public can be excluded for an item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972. The relevant paragraph numbers and descriptions are as follows:

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Paragraph 5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
Paragraph 6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
Paragraph 7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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Contact: Democratic Services, Chiltern District Council, King George V House, King George V Road, Amersham, HP6 5AW; email: [chiefexecs@chiltern.gov.uk](mailto:chiefexecs@chiltern.gov.uk); tel: 01494 732143

Committee Services, Wycombe District Council, Queen Victoria Road, High Wycombe, HP11 1BB; email: [committeeservices@wycombe.gov.uk](mailto:committeeservices@wycombe.gov.uk); tel: 01494 421214



<b>SUBJECT:</b>	<i>Chiltern District Council Performance Report Annual Report 2015-16</i>
<b>REPORT OF:</b>	<i>Leader of the Council – Councillor Isobel Darby</i>
<b>RESPONSIBLE OFFICER</b>	<i>Acting Chief Executive – Bob Smith</i>
<b>REPORT AUTHOR</b>	<i>Rachel Prance (01494 732903) Sarah Woods (01494 586 800)</i>
<b>WARD/S AFFECTED</b>	<i>Report applies to whole district</i>

## 1. Purpose of Report

The purpose of this report is to outline the performance of Council services against performance indicators and service objectives during the year 2015-16.

### RECOMMENDATION

Cabinet is asked to note the performance reports and review the Annual Report which is different to previous years as it is now in an info-graphic format.

## 2. Executive Summary

Overview of performance indicators (PIs) against targets across the Council:

Portfolio	No of PIs	PI on target ✓	PI slightly below target □	PI off target ✗	Unkn own / Data only
Leader	3	1	0	1	1
Community, health & housing	14	5	0	5	4
Sustainable development	10	6	3	0	1
Environment	6	4	1	0	1
Support services	7	3	3	0	1
Customer services	5	4	0	0	1
Total PIs	<b>45</b>	<b>23</b>	<b>7</b>	<b>6</b>	<b>9</b>

## 3. Reasons for Recommendations

3.1 This reports factual annual performance against pre-agreed targets. Management Team, Cabinet and Resources Overview & Services Overview Committees receive regular updates detailing our progress towards service plan objectives, performance targets and strategic risks, in line with our Performance and Improvement Framework. This year the Annual Report is in a different format. Previously, the Annual Report was a 40+ page document, but was reduced last year. This year it has been reduced

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further to a two sided info-graphic designed to highlight the main achievements for the year and main achievements for the year ahead.

3.2 The Annual Report and two detailed performance tables accompany this report:

- **Appendix A – Annual Report CDC 2015-16**
- **Appendix B – Priority performance indicators 2015-16**
- **Appendix C – Quarterly corporate performance indicators 2015-16.**

#### **4. Key points to note this quarter:**

4.1 Of the six off-target PIs, one is a priority PI. Please refer to the appendices for full details.

4.2 Of the nine unknown PIs, three are provided for information only, five are not reported this quarter and two relate to new PIs for this year which are awaiting targets to be set, or the method of calculation has not yet been finalised.

4.3 **Community, health & housing**: the five PIs which failed to meet targets relate to housing, please refer to the appendices to view the reasons for this. Three are linked to the national increase in demand for temporary accommodation, which a government briefing paper states<sup>1</sup> is 11% nationally year on year at March 2015, with a further 3% increase by June 2015, the biggest single area impacted being London.

4.4 **Leader's**: the PI which failed to meet target related to voluntary leavers as a percentage of the workforce. A report is being prepared for Personnel Committee, analysing this information. New performance indicators for 2016 will split out long term and short term sickness. These have been effective from 1 April 2016.

#### **5. Consultation**

Not applicable.

#### **6. Options**

Not applicable.

#### **7. Corporate Implications**

7.1 Financial - Performance Management assists in identifying value for money.

7.2 Legal – None specific to this report.

7.3 Crime and Disorder, Environmental Issues, ICT, Partnership, Procurement, Social Inclusion, Sustainability – reports on aspects of performance in these areas.

#### **8. Links to Council Policy Objectives**

Performance management helps to ensure that performance targets set through the service planning process are met and any dips in performance are identified and resolved in a timely manner. This report links to all three of the Council's objectives, listed below:

Objective 1 - Efficient and effective customer focused services

Objective 2 - Safe, healthy and cohesive communities

Objective 3 - Conserve the environment and promote sustainability

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<sup>1</sup> (<http://researchbriefings.files.parliament.uk/documents/SN02110/SN02110.pdf>)

**9. Next Step**

Once approved, this report and appendices will be published on the website.

<b>Background Papers:</b>	N/A
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This document aims to highlight our major achievements and performance between April 2015 and March 2016

To find out more about what we are aiming to achieve, see our joint business plan with South Bucks District Council at [www.chiltern.gov.uk/Aims-and-Objectives](http://www.chiltern.gov.uk/Aims-and-Objectives)

To find out more about our financial performance, see our financial accounts at [www.chiltern.gov.uk/statementofaccounts](http://www.chiltern.gov.uk/statementofaccounts)

**Performance against targets**

We set ourselves 45 key targets to achieve. The full table and results can be viewed at [www.chiltern.gov.uk/performancereports](http://www.chiltern.gov.uk/performancereports)

**Key achievements during 2015 - 2016**



Chiltern and South Bucks District Councils have combined their senior management; agreed 16 shared service teams, saving around £7.5m since 2012



Supported 341 households to secure housing through Bucks Home Choice, prevented 57 from becoming homeless and assisted 236 households with homelessness applications of which 128 were accommodated



Working with our partners and community, secured additional tunnelling and other mitigation to protect the Area of Outstanding Natural Beauty from the impact of HS2



Started to prepare a joint Chiltern and South Bucks local plan



Collected over 99.36% council tax



Worked in partnership with Thames Valley Police to reduce crime and disorder



Invested £650k at Chiltern Pools and Chesham Leisure Centre



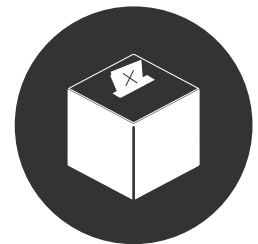
Supported 144 people to obtain disability adaptations and accessed over £800k funding



Delivered superfast wireless in Chesham and superfast broadband to 3,293 homes in Chiltern District



100% of major planning applications, 83% of minor planning applications and 93% of other applications processed in time



Successfully ran the combined parliamentary, district and parish elections in May 2015



Consistently achieved a next day service for responding to local land charges searches



Over 50,000 tonnes of waste was reused, recycled or composted in Chiltern and Wycombe



Introduced new improved recycling collection for flats



Achieved the bronze Investors In People accreditation



Draft the joint Chiltern and South Bucks local plan



Continue to make savings in order to deal with on-going reductions in Government funding



Continue to financially support the rollout of superfast broadband



Ensure our open spaces and leisure facilities are suitable for the needs of our residents now and in the future



Empower communities to deliver services



Deliver a Housing Strategy to help people in need to secure appropriate housing



Continue to petition for a long tunnel and further mitigation to prevent damage by HS2



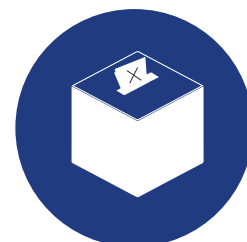
Increase off street car parking spaces in our main centres



Roll out customer web access for parking fines



Investigate alternative uses of council owned land and buildings to better serve residents



Manage the EU referendum

Appendix B - Priority PIs 2015-16 Annual - CDC

Code	Title	2014/15 Actual	2014/15 Target	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	2015/16 Actual	Target 2015/16	Traffic Light	Latest Note
<b>Leader's</b>																			
CdHR1	Working days lost due to sickness absence	9.4	7.6	8.62	8.1	9.2	8.61	8.45	8.46	8.64	8.45	8.16	8.16	8.29	7.95	7.95	11	<input checked="" type="checkbox"/>	69.62 for March + 1405.42 = 1475.04(info taken from Workforce)/185.45(average FTE figure) = 7.95/12*12=7.95 From 1 April 2016, long term and short term sickness absence will be split out.
<b>Community, Health and Housing</b>																			
CdCmSf1	Percentage reduction in burglaries from dwellings year on year for Chiltern (monthly)	30.30%	data only	n/a	15.80%	10%	3%	-4.30%	-2.10%	4.10%	9.50%	2.00%	-10.20%	-10.90%	-19.20%	-19.20%	data only	n/a	Chiltern has seen an increase in burglaries of 19.2 percent over a rolling year. 211 offences compared to 177 the previous rolling year.
CdHS1	Number of applicants with/expecting children who have been in B & B accommodation for longer than 6 weeks (snapshot figure at end of month)	1	0	2	2	2	2	3	3	4	3	2	1	1	0	0	0	<input checked="" type="checkbox"/>	
Page 27 CdHS8	Number of households living in temporary accommodation (snapshot at the end of the month)	25	22	31	28	33	33	32	37	34	31	28	29	32	31	31	21	<input checked="" type="checkbox"/>	This reflects the national trend with significant demand for temporary accommodation arising from an upturn in applications and limited opportunities to move on existing TA occupiers, due to a low number of vacancies arising in social housing stock. Officers are continuing to work to reduce numbers in TA through use of direct lettings and focus on prevention measures where possible. Demand for temporary accommodation remains high but we have maintained a broadly consistent overall number and avoided sharp increases by being proactive in moving households on to secure accommodation wherever possible.
<b>Sustainable Development</b>																			

Code	Title	2014/15 Actual	2014/15 Target	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	2015/16 Actual	Target 2015/16	Traffic Light	Latest Note
CdSD2	Special measures: speed of processing major applications, for assessment in Oct/Nov 2016 (cumulative)	86.84%	41.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	95.24%	95.24%	95.24%	95.45%	95.65%	95.65%	51.00%	☑	<p>Review period is 1st July 2014 - 30th June 2016. If performance falls below 51% at the end of the monitoring period, the Council will be placed into special measures.</p> <p>One Major application was determined in March 2016. As an extension of the time period to make a decision was agreed with the applicant (EOT), it was determined 'in time'.</p> <p>The total number of Major applications determined so far during the 2-year assessment period increases to 23. Of these 22 have been determined either within the statutory 13 week period or an EOT.</p>
CdSD5	Special measures: quality of major applications, for assessment in Oct/Nov 2016 (cumulative)	8.00%	19.00%	8.00%	7.40%	7.10%	6.90%	6.90%	6.90%	6.67%	6.25%	6.25%	9.38%	9.38%	9.38%	9.38%	19.00%	☑	<p>Of the 32 Major applications determined in the assessment period, 12 have been appealed and the number overturned (allowed) by the Planning Inspectorate remains at 3. Cumulative performance remains at 9.38% and continues to be better than the 'special measures' target of 'less than 20%' [3/32*100].</p> <p>Looking forward, no new appeals relating to Major planning applications were lodged during March. It means that an appeal on 1 Major application was awaiting a decision from the Planning Inspectorate at the end of the month (Woodrow Farm Amersham CH/2014/1427/FA).</p>
CdSD10	Processing of planning applications: minor applications processed within 8 weeks (cumulative)	80.99%	70.00%	84.21%	80.39%	79.71%	83.84%	82.61%	82.22%	80.92%	81.76%	81.67%	81.95%	81.90%	81.92%	81.92%	70.00%	☑	For the year to date, 213 out of 260 applications were processed on time.
CdSD11	Processing of planning applications: other applications processed within 8 weeks (cumulative)	94.33%	90.00%	93.39%	89.66%	91.74%	93.33%	92.16%	91.93%	92.07%	91.74%	91.71%	91.96%	92.02%	92.15%	92.15%	92.00%	☑	For the year to date, 1,186 out of 1,288 were processed on time.

Environment

Appendix B

Code	Title	2014/15 Actual	2014/15 Target	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	2015/16 Actual	Target 2015/16	Traffic Light	Latest Note
CdWR3	Percentage of household waste sent for reuse, recycling and composting (cumulative)	50.32%	56.00%			54.70%			51.60%			52.29%			52.53%	52.53%	57.00%		Jointly reported for Chiltern and Wycombe as per the joint contract. Provisional figure, subject to verification. Work is being undertaken to improve this percentage. The result is below set target. This is partly because collection crews have received refresher training on what materials are acceptable in the blue bins and were given tags to put on bins containing incorrect material. This has led to a larger number of bins being rejected due to containing the wrong items. Although this has partly reduced the volume of recycling material collected, it is a positive move towards improving the quality of recycling collected and providing further education to residents. More significantly, the packaging industry continues to produce lighter packaging which reduces the weight of recycling collected and the latest reported national recycling rate, at 44.8% (2014/15), has dropped slightly from the previous year.
<b>Customer Services</b>																			
CdRB1	Speed of processing - new HB/CTB claims (by period monthly)	16.39	18	17.08	16.46	15.58	17.51	17.47	16.56	13.9	20.24	15.19	12.06	15.7	15.29	16.08	18		
CdRB2	Speed of processing - changes of circumstances for HB/CTB claims (by period monthly)	3.09	5	5.48	4.1	4.74	4.68	4.91	4.42	4.55	4.99	4.74	4.95	4.65	4.41	4.72	5		
CdRB3	% of Council Tax collected (cumulative)	99.30%	99.00%	5.35%	15.23%	24.88%	34.47%	44.04%	53.77%	63.38%	78.81%	82.69%	92.28%	98.70%	99.36%	99.36%	99% (57.75%)		
CdRB4	Percentage of Non-domestic Rates Collected (cumulative)	98.60%	98.00%	9.87%	19.67%	28.73%	37.66%	46.20%	55.60%	63.50%	72.49%	81.34%	89.93%	95.77%	98.30%	98.30%	98% (57.17%)		

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**Appendix C - CDC Quarterly Corporate Performance Indicator Report - Annual 2015-16**

Note: Excludes Priority Performance Indicators - see Appendix B

KEY <input checked="" type="checkbox"/> This PI is below target <input type="checkbox"/> This PI is slightly below target <input checked="" type="checkbox"/> This PI is on target																					
PI code	Name	2014/15 Value	Annual target 2014/15	Apr-15 value	May-15 value	Jun-15 value	Jul-15 value	Aug-15 value	Sep-15 value	Oct-15 value	Nov-15 value	Dec-15 value	Jan-16 value	Feb-16 value	Mar-16 value	2015/16 value	Annual target 2015/16	Traffic light (latest actual)	Responsible officer	Latest notes	
<b>Leader's portfolio</b>																					
CdCP1 (C)	Number of unique visitors to the main website (by period)	288,504	data only	26,463	33,573	25,476	25,313	23,007	28,084	27,049	24,898	23,610	31,943	28,033	33,497	330,946	data only	n/a	Rachel Prance	330,946 for year	
CdHR2 (C)	Voluntary leavers as a % of workforce (extrapolated for the year)	new PI	new PI			21.90%			22.00%			20.20%			18.62%	18.62%	8%	<input checked="" type="checkbox"/>	Judy Benson	8 leavers during quarter 4 plus 33 for Q1,Q2 & Q3 = 41/ average headcount of 220.17(%) = 18.62. In March there was 1 retirement.	
<b>Community, health and housing</b>																					
CdCL1 (C)	Customer satisfaction rating at the Chiltern leisure facilities	new PI	new PI	annual PI											59.00%	59.00%	t.b.a.	n/a	Martin Holt	Survey results are pre spend of £600k on improving the facilities at Chiltern Pools and Chesham.	
CdCL2 (C)	Total participation in physical activities delivered through the GLL community engagement plan (by period)	new PI	new PI			775			1,496			2,528			1,469	6,268	6,000 (1,500)	<input checked="" type="checkbox"/>	Martin Holt	Activity tends to be higher in school holidays. 6,268 for year.	
CdCL3 (C)	Total number of users at all leisure centres (by period)	874,748	840,000			228,569			222,228			228,037			236,548	915,382	875,000 (218750)	<input checked="" type="checkbox"/>	Martin Holt	915,382 for year.	
CdCrSf2 (C)	Percentage reduction in violent offences against a person, rolling year on year	data only	data only			-14.7%			-36.90%			-46.1%			-53.90%	-53.90%	data only	n/a	Martin Holt	Chiltern has seen a 53.9 percent increase in offences from 460 to 708 offences when comparing rolling years.	
CdHS2 (C)	Number of affordable homes delivered by (i) new build (ii) vacancies generated by local authority scheme (iii) acquisition of existing properties for social housing (cumulative)	42	33			4			13			18			22	22	33 (16.50)	<input checked="" type="checkbox"/>	Martin Holt	Total comprises (i) 22 (4 x rented flats at The Chequers, Chesham and 14 x rented/4 shared ownership properties at former college site off Lycrome Road, Chesham), (ii) 0 and (iii) 0	
CdHS3i (C)	Average Length of stay in B & B temporary accommodation for all households (snapshot at end of quarter)	3.3	5			16			9.2			2.5			12	12	5	<input checked="" type="checkbox"/>	Martin Holt	Total of 8 placements ended during the quarter with combined stay of 685 days (Average figure increased by one placement totalling 365 days - extended stay due to eligibility issues and review). An increase in the demand for temporary accommodation, reflecting national trends, and a low turnover of social housing tenancies has resulted in households having to be accommodated in bed and breakfast accommodation for longer periods until they can be moved on to alternative housing.	
CdHS4 (C)	Number of private sector dwellings vacant for more than 6 months and returned to occupation following local authority intervention	26	40	annual PI											28	28	40	<input checked="" type="checkbox"/>	Martin Holt	Figure of 28 refers to those empty properties returned to use following significant contact between Council and owner	
CdHS9 (C)	Bucks Home Choice – rolling year on year change in number of applicants (%)	new PI	data only			34%			29%			13.70%			13%	13%	data only	n/a	Martin Holt	Total number of live applications increased from 505 to 570 from 1/4/15 to 31/3/16.	

KEY  This PI is below target  This PI is slightly below target  This PI is on target																					
PI code	Name	2014/15 Value	Annual target 2014/15	Apr-15 value	May-15 value	Jun-15 value	Jul-15 value	Aug-15 value	Sep-15 value	Oct-15 value	Nov-15 value	Dec-15 value	Jan-16 value	Feb-16 value	Mar-16 value	2015/16 value	Annual target 2015/16	Traffic light (latest actual)	Responsible officer	Latest notes	
CdEH2 (C)	Percentage of food premises (risk rating A to C) that are broadly compliant (snapshot quarterly)	92.28%	89%			96.00%			96.00%			96.00%			96.00%	96.00%	91%		Martin Holt		
JtLI3 (C)	Percentage of customers satisfied with the licensing service received (annual)	67%	89%	annual PI												61.80%	61.80%	89%		Martin Holt	Reported annually. The response rate was disappointingly low with just 35 responses which means the figures are not particularly meaningful. The survey has been reviewed and is now easier to complete to encourage more responses. A link to the survey can be found on email signatures and will be added to the website.
JtLI5 (C)	Percentages of licences received and issued/renewed within statutory or policy deadlines (cumulative)	98%	95%			83.20%			97.70%			98.10%			98.40%	98.40%	97%		Martin Holt	8 out of 508 completed outside of stat deadlines.	
<b>Sustainable development</b>																					
JiBC1 (C)	Applications checked within 10 working days (cumulative)	83.64%	82%	79.00%	86.30%	83.05%	84.20%	88.20%	88.30%	89.12%	90.44%	91.08%	91.59%	92.28%	92.70%	92.70%	85%		Peter Beckford		
JtB14 (C)	Customer satisfaction with the building control service (cumulative)	95.16%	93%	94.00%	94.44%	91.23%	91.90%	92.00%	92.70%	94.25%	93.85%	93.33%	92.60%	93.12%	92.70%	92.70%	94%		Peter Beckford	Demanding target. Performance only slightly off target.	
CdPP1 (C)	Net additional homes provided	189	133	annual PI													133	?	Peter Beckford	Reported annually. This figure is currently unavailable and will be reported around June.	
CdSD7 (C)	Percentage of planning applicants who are satisfied or very satisfied with the planning service (cumulative)	new PI	new PI			76.92%			77.89%			73.91%			77.00%	77.00%	80%		Peter Beckford	New performance indicator in 2015/16. Target had to be set without any data from 2014/15. The response rate to the survey is disappointingly low. Of around 2,000 sent, only 187 were returned across the year.	



KEY		This PI is below target	This PI is slightly below target	This PI is on target																
PI code	Name	2014/15 Value	Annual target 2014/15	Apr-15 value	May-15 value	Jun-15 value	Jul-15 value	Aug-15 value	Sep-15 value	Oct-15 value	Nov-15 value	Dec-15 value	Jan-16 value	Feb-16 value	Mar-16 value	2015/16 value	Annual target 2015/16	Traffic light (latest actual)	Responsible officer	Latest notes
CdSD8 (C)	Planning appeals allowed (cumulative)	39.00%	35%			43.33%			37.50%			40.32%			39.76%	39.76%	35%		Peter Beckford	<p>During the fourth quarter of 2015/16 (January to March 2016), a total of 25 appeals were determined by the Planning Inspectorate.</p> <p>1 appeal allowed in the quarter related to a 'Major' application refused planning permission by the Council [new sports facilities at Amersham &amp; Wycombe College]. This is important for future 'special measures' quality of decisions assessment by the Government.</p> <p>Performance during the quarter means that cumulative performance during 2015/16 improved slightly to 39.76% but is still below target [33 appeals allowed out of the total of 83 appeals determined and monitored for this indicator].</p>
CdSU12 (C)	Percentage of new enforcement cases where an initial site visit for an urgent priority case is undertaken within the timescale set out in the Enforcement Policy (cumulative)	100.00%	30%			100.00%			100.00%			100.00%			100.00%	100.00%	30%		Peter Beckford	This will move to a monthly calculation from 1 April and a new PI has been set up to record high priority cases.
<b>Environment</b>																				
CdSE1 (C)	Cumulative CO2 reduction from local authority operations from base year of 2008/09	22.00%	7.80%	annual PI											22.00%	22.00%	9.10%		Martin Holt	Reported annually. Cumulative Figure against baseline
CdSE2 (C)	Planning to adapt to climate change (5 levels of performance 0=low 5= high)	3	4	annual PI											3	3	4		Martin Holt	Reported annually.
JtPF1 (C)	Percentage of faults fixed within SLA period (for implementation when new joint contract starts towards end of 2015)	new PI	new PI			n/a			n/a			n/a			n/a	n/a	t.b.a.	n/a	Chris Marchant	New PI for when the new plant maintenance contract is implemented.
CdWR1 (C)	Waste customer satisfaction survey	new PI	new PI	6 monthly					87.80%	6 monthly					85.60%	86.70%	86%		Chris Marchant	
CdWR2 (C)	Residual household waste kg per household (including used for energy from waste)	396.47	445.00	annual PI											418.54	418.54	445.00		Chris Marchant	Reported annually.
<b>Support services</b>																				

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Appendix C

KEY <input checked="" type="checkbox"/> This PI is below target <input type="checkbox"/> This PI is slightly below target <input checked="" type="checkbox"/> This PI is on target																				
PI code	Name	2014/15 Value	Annual target 2014/15	Apr-15 value	May-15 value	Jun-15 value	Jul-15 value	Aug-15 value	Sep-15 value	Oct-15 value	Nov-15 value	Dec-15 value	Jan-16 value	Feb-16 value	Mar-16 value	2015/16 value	Annual target 2015/16	Traffic light (latest actual)	Responsible officer	Latest notes
JtLD1 (C)	Client satisfaction with the shared service. Percentage satisfied or very satisfied.	100.00%	96%	6 monthly					90.00%	6 monthly					91.00%	90.50%	94%	<input type="checkbox"/>	Joanna Swift	Work pressures caused delay dealing with a specific case, causing satisfaction to dip. The delays in question related to requests for advice on 2 CLEUD applications at South Bucks and a TPO at CDC. They were caused by high workloads within the Planning Team at the time when a full time member of staff was on sick leave. Action was taken to deal with this by putting all new UU's and s106 Agreements out to external solicitors. Since introduction of the legal case management and time recording system in March this year the manager can monitor workload and turn round times more effectively.
CdBS1 (C)	Availability of ICT systems to staff from 8am to 6pm (by period)	99.00%	99%			99.90%			99.90%			99.80%			99.85%	99.86%	99.50%	<input checked="" type="checkbox"/>	Sim Dixon	
CdBS2 (C)	Percentage of calls to ICT helpdesk resolved within agreed timescales (by period)	85.00%	95%			87.50%			84.50%			82.00%			82.00%	84.00%	95%	<input type="checkbox"/>	Sim Dixon	Infrastructure staff dealing with project work continues to impact the resolution of calls in agreed turnaround times.
CdBS3 (C)	Percentage of responses to FOI requests sent within 20 working days (by month)	new PI	new PI	57.00%	82.00%	100.00%	100.00%	100.00%	100.00%	94.00%	90.00%	85.00%	65.00%	56.00%			90%	?	Sim Dixon	Due to deadlines for processing, this will always be reported one month in arrears. Reporting of the statistics for responses to FOI requests was impacted by two issues: 1. Technical problems following the migration of the Corporate Information Manager to the single network 2. Some areas of CDC have a legacy culture of not answering FOIs unless the requester chases up for a response. It is thought this is primarily due to this PI not previously being monitored at a senior level.
CdF1 (C)	Percentage of small businesses paid within 15 days (by period)	new PI	new PI			80.90%			82.60%			79.90%			84.50%	82.00%	90%	<input type="checkbox"/>	Rodney Fincham	129 out of 151 small business invoices paid within 15 days. Note a number of the unpaid invoices will have been disputed.
CdLD2 (C)	The percentage response to the annual canvass	96.00%	94%	annual PI											94.00%	94.00%	94%	<input checked="" type="checkbox"/>	Joanna Swift	Reported annually.
CdLD3 (C)	Percentage of standard searches carried out within five working days (by period)	100.00%	100%			100.00%			100.00%			100.00%			100.00%	100.00%	100%	<input checked="" type="checkbox"/>	Joanna Swift	304 qualifying searches received - 304 carried out within 5 working days.
<b>Customer services</b>																				
CdCS1 (C)	New measure for complaints - t.b.a.	new PI	new PI				n/a				n/a				n/a	n/a	t.b.a.	n/a	Nicola Ellis	New PI for when the joint customer services team is implemented.

<b>SUBJECT:</b>	<i>Private Sector Housing Strategy and Financial Assistance Policy</i>
<b>REPORT OF:</b>	<i>Healthy Communities Portfolio – Cllr Graham Harris</i>
<b>RESPONSIBLE OFFICER</b>	<i>Martin Holt, Head of Healthy Communities</i>
<b>REPORT AUTHOR</b>	<i>Louise Quinn, Senior Housing Standards Officer</i> <a href="mailto:lquinn@chiltern.gov.uk">lquinn@chiltern.gov.uk</a> 01494 732209
<b>WARD/S AFFECTED</b>	<i>All</i>

### 1. Purpose of Report

To seek approval to publish and implement a joint Private Sector Housing Strategy and associated policies in respect of financial assistance, Houses in Multiple Occupation and housing enforcement across Chiltern District Council and South Bucks District Council, and to seek comments on a draft joint strategy and associated policies.

#### RECOMMENDATIONS:

1. That Cabinet authorise the Head of Healthy Communities to prepare a Joint Private Sector Housing Strategy and associated policies.
2. That Members consider the draft joint strategy and policy documents in Appendix X and provide comments, as appropriate.
3. That Cabinet authorise the Head of Healthy Communities to publish and implement a final joint strategy and associated policies in consultation with the Portfolio Holder.
4. That a House Condition Survey is not carried out at the current time, but that the need for a survey is reviewed annually by the Head of Healthy Communities in consultation with the Portfolio Holder.

### 2. Reasons for Recommendations

- 2.1 The current private sector housing strategy is due to be reviewed and updated next year, however, there are a number of amendments which are required now in order to ensure that the financial assistance policy provides sufficient flexibility to assist those most in need.
- 2.2 The housing service is now a shared service across Chiltern and South Bucks districts. A joint strategy and policy will assist the shared service in offering a consistent approach to improving housing standards across both districts and provide greater operational efficiencies.
- 2.3 A House Condition Survey is not considered to be cost effective at the current time as officers' current understanding of local housing conditions is sufficient to be able to plan and develop appropriate interventions, within the level of resources available.

### 3. Content of Report

- 3.1 The Council has a statutory duty to regularly review housing conditions in its area and to take action to tackle serious health hazards in housing. The current Private Sector Housing Strategy sets out the council's approach to improving housing conditions in the private sector and details its policies on:
- giving financial assistance in the form of grants and loans under the Housing Grants, construction and Regeneration Act 1996 and the Regulatory Reform (Housing Assistance) Order 2002
  - undertaking enforcement activity
  - licensing Houses in Multiple Occupation
- 3.2 The current strategy and associated policies were last amended in 2013 at which time some major revisions were made to the financial assistance policy to ensure it was appropriately targeted. At that time, the need for a further House Condition Survey was considered and it was decided that the costs of a survey outweighed the likely benefits, but it was agreed that this should be reviewed in two years.
- 3.3 Since then, the housing service has become a shared service with South Bucks District Council. The shared service has been operating now for two years under separate private sector housing strategies for each district. However, the objectives of the service are common across both authorities and both districts share broadly the same issues and challenges in improving housing standards. The opportunity is therefore now sought to prepare a joint strategy and associated policies to ensure a common approach across the two areas and consistency in the products and services on offer to residents in both districts.
- 3.4 In preparing a joint strategy, consideration should be given to the need for a further House Condition Survey. The arguments considered in 2013 are still relevant today:
- 3.5 Private sector housing staff do not have the capacity or the necessary statistical expertise to undertake a survey in house, therefore the options are to:
- a) Undertake a procurement exercise to appoint consultants to carry out a house condition survey (estimated cost £35,000 plus staff time)
  - b) Not to undertake a survey at the current time and rely on nationally and locally available data to inform the direction of the strategy
- 3.6 Previous surveys (the last undertaken in 2007) have indicated that house conditions in the Chiltern District are generally better than the national average, although the general trends are mirrored. Therefore, data from the English Housing Survey can be used reliably to give an indication of the types of issues which are likely to exist in the local housing stock. Neither survey can provide sufficient detail to give information about the number, location and condition of HMOs in the district.
- 3.7 More recent analysis of national and locally available data carried out for the Home Energy Conservation Act report has provided a useful up-to-date insight into the energy efficiency of the stock.
- 3.8 Moreover, based on the current understanding of national and local trends in house conditions and given the existing constraints on expenditure, it is unlikely that a

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detailed house condition survey would prompt a significant policy change or revision of the key objectives of the Private Sector Housing Strategy, therefore the benefits of a new survey would be limited.

- 3.9A draft strategy and related policies have therefore been prepared based on current information about national and local conditions. It has also reflected comments and ideas discussed at the joint member workshop held on 3 February 2016. The draft joint strategy is contained in **Appendix X.1**.
- 3.10 Amendments are also recommended to the Financial Assistance policy to ~~achieve consistency with South Bucks District Council policies and~~ provide more flexibility to assist disabled people requiring adaptations. The draft joint financial assistance policy is set out in **Appendix X.2**. The main changes are highlighted in Appendix X.3
- 3.11 No major changes are proposed to the current House in Multiple Occupation policy or the Enforcement Policy, although some changes are suggested to the HMO licence fees to ensure full cost recovery and reflect current costs. The draft joint HMO policy and draft joint Enforcement Policy are contained in Appendix X.4.

#### 4. Consultation

- 4.1 On 19 November 2015, the Communities Health and Housing Policy Advisory Group received a presentation on the current Financial Assistance policy for comment and discussion. Subsequently, two of the key local housing standards issues (Disabled Facilities Grants and standards in the private rented sector) were discussed at the joint Member workshop held on 3 February 2016. Comments and ideas from both of these consultation events have been reflected in the draft joint strategy.

#### 5. Options

- 5.1 The Council could continue to operate its own separate strategy and policy. However, operationally, the approach to tackling housing standards is the same across both authorities and there are benefits in being able to offer the same products and services as part of a shared service.
- 5.2 The Council could procure a House Condition Survey before finalising a joint strategy and policy for private sector housing interventions. However, the likely cost of undertaking a survey (including officer time) is disproportionate to the level of resources available for tackling conditions and the benefits are considered to be limited.
- 5.3 The Council could decide to end its programme of discretionary grants and loans however enforcement action would still be necessary to tackle category 1 hazards which would have implications for revenue budgets through funding works in default, appeals against enforcement action to the Residential Property Tribunal and prosecution of landlords etc for failure to comply with enforcement action.

#### 6. Corporate Implications

- 
- 6.1 Finance: The proposed joint strategy and associated policies can be implemented within existing staff structures and capital budgets. A full house condition survey is likely to cost in the region of £35,000 or £20,000 for a 'desk top' exercise. The revenue implication for ending the financial assistance programme would include the costs of works in default, additional staff costs and legal costs, as well as the opportunity costs of staff not being able to deliver against the wider housing programme.
- 6.2 Legal: The Council has a statutory duty to keep housing conditions under review, to take enforcement action to address serious hazards, to licence large houses in Multiple Occupation and to approve applications for Disabled Facilities Grants. A strategy provides a clear framework for these activities. The Council must publish a policy if it is to provide financial assistance under the Regulatory Reform Housing Assistance Order 2002.
- 6.3 Social Inclusion: The delivery of the private sector housing strategy will enable the Council to support vulnerable households who are most at risk of poor health, accidents and/or homelessness through poor housing conditions.
- 6.4 Sustainability: Delivery of a programme of grants and loans will enable incentives to be offered to householders to install insulation measures and will therefore support targets in relation to domestic carbon dioxide emissions.

## 7 Links to Council Policy Objectives

This links to the 'Working towards safe and healthier local communities' aim of the Joint Business Plan 2014-19.

## 8. Next Step

If agreed, Officers will finalise the joint strategy and policy documents taking Members comments into account. The final version will be agreed by the Head of Healthy Communities in consultation with the Portfolio Holder.

<b>Background Papers:</b>	None except as referred to in this report
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**South Bucks**  
District Council

## Chiltern District Council

## South Bucks District Council

### **D R A F T   Joint Private Sector Housing Strategy 2016 - 2021**

#### **Background**

Poor housing conditions can have a major impact on health and wellbeing. For example:

- Disrepair and deficiencies such as inadequate fire safety measures, uneven floor surfaces, dangerous electrical wiring can lead to accident or injury.
- Cold and damp housing can have a major impact on illnesses such as heart disease, stroke and respiratory conditions and can also increase the risk of falls.
- People are up to 2.8 times more likely to fall if they are living in unsuitable housing which needs adaptation, for example, where ramps, a stairlift or level access bathing facilities are needed (Source: Housing Health and Safety Rating System Operating Guidance).

Local authorities have a statutory duty to:

- Assess and keep housing conditions under review
- Take enforcement action to address the most serious health and safety hazards
- Licence large Houses in Multiple Occupation (HMO)
- Administer and approve Disabled Facilities Grants
- Prepare plans to improve home energy efficiency

They also have powers to:

- provide financial and other assistance to tackle poor house conditions
- deal with empty homes and
- deal with poor management in HMOs.

#### **1.0 Introduction**

Chiltern District Council and South Bucks District Council are two sovereign authorities with separate budgets and separate decision making processes. The two authorities have operated a shared housing service since April 2014. Both districts share broadly the same issues and challenges in improving housing standards. In order to improve efficiency of the service and ensure a consistent approach across the two areas, a joint Private Sector Housing Strategy has been prepared.

The purpose of this document is to set out Chiltern District Council's and South Bucks District Council's broad strategy to improve housing conditions in the private sector and more specifically to outline its policies in respect of giving Housing Assistance under the Regulatory Reform (Housing Assistance) Order 2002, undertaking enforcement activity and licensing of HMOs under the Housing Act 2004.

This document is one of a number of detailed local strategies which delivers the wider strategic housing role of the Councils as set out in the annual Housing Strategy Framework.

This Strategy, as a component of the framework, reflects and helps to deliver the broader strategic aims set down in the Joint Sustainable Community Strategy for Chiltern and South Bucks and the Councils' key objectives, principally by seeking to improve health and wellbeing of residents.

## 2.0 Local Context

### House Conditions

The English Housing Survey (insert link?) has identified that nationally, house conditions and energy efficiency in privately owned homes is improving year on year. However, in 2013,

- 12% dwellings had 'Category 1' hazards (the most serious defects)
- Private rented sector was noted as being more likely to have poor energy efficiency
- 4% dwellings (8% in private rented sector) have a problem with damp
- Overcrowding is more prevalent in the rented sectors than the owner-occupier sector

Previous local House Condition Surveys have shown that house conditions in the Chiltern and South Bucks Districts are generally better than average nationally, although the general trends are mirrored. For example, excess cold and falls are the most common hazards and the private rented sector tends to exhibit the poorest conditions.

Anecdotal evidence of local house conditions from recent housing inspections for grants, loans and housing complaints indicate the most common concerns locally relate to:

- old and defective central heating boilers
- damp and mould from condensation
- dated electrical installations
- lack of fire precautions in houses in multiple occupation

### Demographic/Socio-Economic

The Joint Sustainable Community Strategy for Chiltern and South Bucks 2013 - 2026 (insert link?) provides a summary of the local demographic and socio-economic make up of the districts.

Headline figures include:

- Over 19% of the population are aged over 65 and this is projected to increase to more than 27% by 2026.
- Average earnings are higher than the national average and there are no Lower Super Output Areas in either district which fall within the bottom 30% most deprived areas in the UK.



- Average house prices and rents are high, and in the case of South Bucks rents are the highest outside of greater London.
- Around 10% of the population is likely to be living in fuel poverty.
- The residents of Chiltern and South Bucks are generally in good health, though there are significant inequalities in terms of life expectancy between the least and most deprived areas.

National wealth indicators confirm that the Chiltern and South Bucks District are affluent areas, and the nature of the local housing market means that poorer quality housing is likely to be repaired over time, as those who buy property as an investment will inevitably carry out repairs. However, there are pockets of deprivation and more vulnerable groups, especially older people, families on low incomes or people with disabilities, may require greater levels of assistance in undertaking repairs and adaptations.

Furthermore, high house prices mean that access to affordable housing is a concern for local people, particularly key workers, young people and first time buyers. The private rented sector is the main option to those who cannot afford to buy in the area but do not qualify for social housing.

## **Tenure**

The English Housing Survey has noted a significant growth in the private rented sector from around 10% of housing stock as a whole in 2002 to almost 20% in 2014-15. While owner-occupation has tended to be higher in Chiltern and South Bucks than nationally, the trend for an increase in the private rented sector has also been noted locally.

In particular, there is local evidence to indicate that the number of HMOs in the district is growing. In the 2015-16 financial year, twenty-five new HMOs were identified across Chiltern and South Bucks, the majority of these (20) being in the South Bucks district.

Houses in Multiple Occupation offer the lowest cost housing option and are often used to provide accommodation for staff as part of an employee package for low paid jobs such as carers or catering staff, or an affordable option for people under the age of 35 who are not eligible to receive housing benefit for self contained accommodation.

Both Councils are keen to ensure that this accommodation is retained to meet housing needs, however, the provision of fire precautions to ensure the house is safe for the number of occupants can be expensive and landlords will often choose to revert to single occupancy rather than do the necessary works, following inspection by the Council.

## **3.0 Priorities for Action**

The Joint Sustainable Community Strategy for Chiltern and South Bucks identifies the following housing related outcomes to support the five its five broad themes:

- Support the delivery of more affordable housing of a type that meets the needs of local people entering the housing market, families with specialist needs and an ageing population

- Reduce energy use and carbon emissions across the Districts, including promoting the use of alternative fuels and forms of transport, improving the energy efficiency of buildings and reducing consumption.
- Improve health outcomes for people in the lowest 20% of household incomes, by promoting ill-health prevention and self-care
- Reduce fuel poverty, particularly for the elderly
- Help older people stay in their homes for longer

With these outcomes in mind, Chiltern District Council and South Bucks District Council have identified four key objectives for the shared Private Sector Housing Strategy:

- 1. To ensure the housing stock is free from significant hazards in order to reduce accidents and ill health.**
- 2. To ensure the housing stock is suitable to meet the needs of disabled and older residents.**
- 3. To promote and encourage the provision of good quality private rented accommodation and to maximise the use of existing accommodation, including empty properties.**
- 4. To improve energy efficiency of dwellings in the district, and ensure affordable warmth is available to all residents.**

To achieve the objectives, the Councils will seek to undertake the actions set out in the Action Plan in Appendix 1.

#### **4.0 Monitoring and Review**

The strategy will be reviewed annually to consider the extent to which planned actions have been achieved, whether any amendments are required for the coming year.

Progress in meeting the stated objectives will be assessed with reference to the Action Plan in Appendix 1 and the following Performance Indicators and targets:

<b>Indicator</b>	<b>Annual Target</b>
No. of completed adaptations for disabled people	70
Grant customers rating the grant service as good/excellent	95%
No. of empty properties brought back into use	40
Number of Category 1 hazards addressed	10

Grant applications and housing service requests are also subject to performance monitoring criteria and citizen's charter targets which are monitored and reviewed annually.

Any significant revisions to the strategy and associated policies shall be agreed by the Council and published in advance of any such revisions coming into force. The Council shall utilise feedback from service users to identify needs and expectations for future services.

Future stock condition and housing needs surveys, in addition to ongoing research into the circumstances of local housing markets, demographic trends and socio-economic factors, may be necessary to effectively monitor the outcomes of the policy.

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**Chiltern District Council and South Bucks District Council**

**Joint Private Sector Housing Strategy 2016 – 2021: Action Plan 2016-17**

<b>Actions</b>	<b>Related Priorities</b>	<b>Progress/Update</b>
<p><b>Provide advice and information to landlords and tenants on standards in private rented dwellings and landlord/tenant responsibilities.</b></p> <p>We will provide up to date advice and information about standards in the private rented sector on the councils’ websites, for both landlords and tenants.</p> <p>We will publicise the powers of local authorities to investigate and enforce unsatisfactory conditions in private rented housing on the websites and through partner agencies such as CAB.</p> <p>The Council will endeavour to hold a joint Landlord Forum at least once year to provide advice and information to private landlords and letting agents on legal requirements and good practice.</p> <p>We will circulate information to private landlords and letting agents where there are changes in the law or new good practice guidance.</p> <p>Investigate the development of a landlord training package and associated certification process.</p> <p>Investigate the development of a local scoring system for Houses in Multiple Occupation (similar to food hygiene approach) and consider how this may be publicised.</p> <p>Investigate the feasibility of setting up a ‘trip advisor’ type scheme for tenants to feedback on conditions in the private rented sector.</p>	<p>1, 3 and 4</p>	

<p><b>Provide financial assistance to priority groups, in the form of grants and loans for essential repairs, adaptations and energy efficiency improvements.</b></p> <p>The full policy for giving financial assistance is contained in the Housing Financial Assistance Policy. Grants and loans will only be approved where financial resources permit.</p> <p>Investigate introduction of ‘preferred contractors’ list or bulk contractors to reduce costs.</p> <p>Explore alternative sources of funding such as charities and Credit Unions and advice services which can assist residents in making applications for funding.</p>	1, 2, 3 and 4	
<p><b>Use its enforcement and licensing powers where appropriate to ensure that minimum standards are met.</b></p> <p>The Councils have adopted a Housing Enforcement Policy and a House in Multiple Occupation Policy. Inspections and enforcement decisions will be taken in accordance with these policies.</p> <p>We will also abide by the government’s concordat of Good Enforcement.</p> <p>We will consider actions necessary to identify unlicensed HMO accommodation and ‘beds in sheds’ and how these may best be tackled.</p>	1 and 3	
<p><b>We will investigate options and actions to increase the supply of accommodation, particularly affordable private rented accommodation and homes suitable for the needs of people with disabilities.</b></p> <p>We will provide advice and assistance to owner of long term empty homes to help them return them to use. Chiltern District Council has an Empty Homes Strategy which sets out how it aims to work with owners of empty dwellings to bring them back into use. This approach will be considered in South Bucks,</p>	1 and 3	

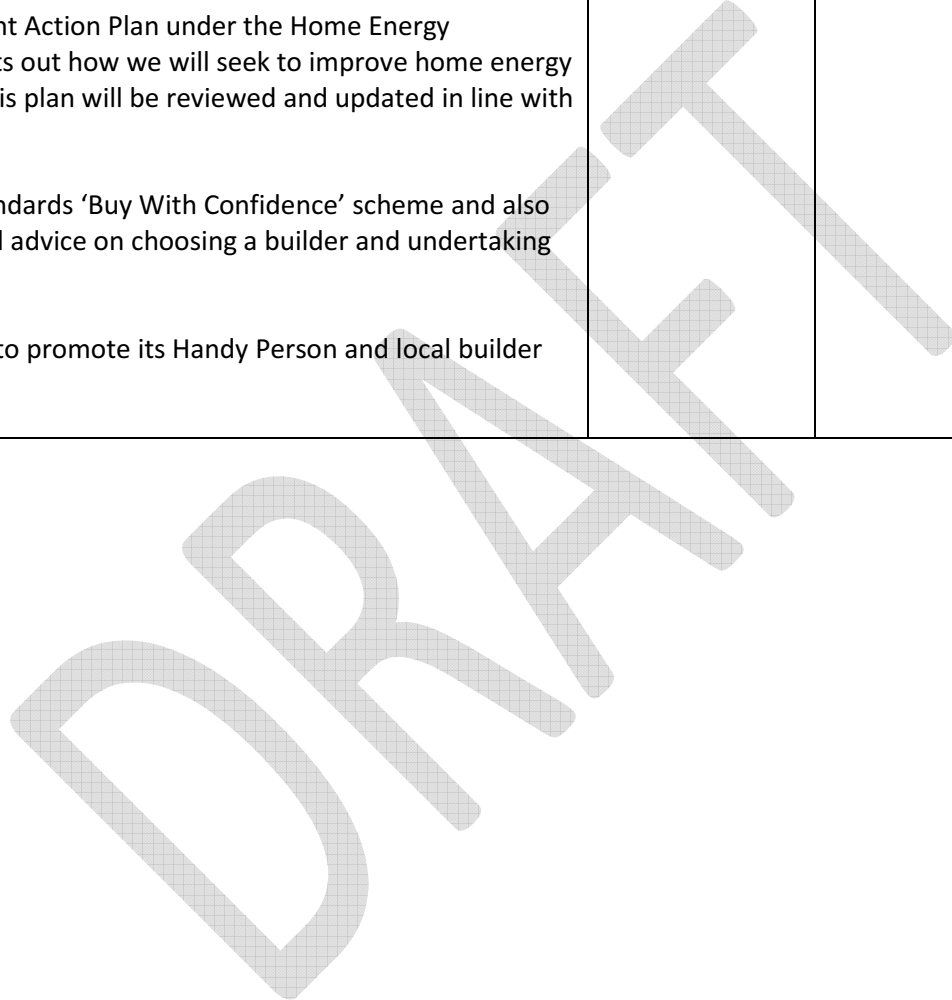
<p>subject to available resources.</p> <p>We will offer a Flexible Home Improvement Loan for owners of empty homes in both the Chiltern and South Bucks Districts.</p> <p>We will investigate whether local Registered Providers are interested in developing and managing good quality HMO accommodation.</p> <p>We will investigate opportunities for ensuring conversions and developments of residential property meet the needs of people with disabilities.</p>		
<p><b>Support services and schemes which seek to tackle fuel poverty</b></p> <p>We will continue to be members of the Bucks Affordable Warmth Network, which operates a free telephone helpline for residents, provides outreach events and training to front line workers.</p> <p>We will publicise the Affordable Warmth Helpline.</p> <p>We will publicise and support schemes which offer grants for energy efficiency improvements and other assistance for people at risk of fuel poverty.</p> <p>We will contribute to the preparation and implementation of a Bucks wide Affordable Warmth Action Plan.</p> <p>We will seek to work with Age UK to develop a pilot scheme to improve the energy efficiency of mobile homes.</p> <p>We will consider offering an 'Energy Efficiency Grant' to provide financial assistance to target groups, in conjunction with wider projects and where resources permit.</p>	1, 2 and 4	

**Provide advice and information to all residents on home maintenance and home energy efficiency.**

The Councils have prepared a joint Action Plan under the Home Energy Conservation Act 1996, which sets out how we will seek to improve home energy efficiency across the districts. This plan will be reviewed and updated in line with statutory requirements.

We will promote the Trading Standards 'Buy With Confidence' scheme and also update the websites with general advice on choosing a builder and undertaking home maintenance tasks.

We will work with Age UK Bucks to promote its Handy Person and local builder schemes.





**Chiltern District Council  
South Bucks District Council**

**Housing Financial Assistance Policy**

**Adopted: DATE**

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## 1.0 Introduction

### 1.1 Purpose and Scope

Chiltern District Council and South Bucks District Council are two sovereign authorities with separate budgets and separate decision making processes. The two authorities have operated a shared housing service since April 2014 and have implemented a joint Private Sector Housing Strategy.

This document sets out Chiltern District Council and South Bucks District Council policy in offering financial assistance in the form of grants and loans for repairs, adaptation and improvement of houses under Article 3 of the Regulatory Reform (Housing Assistance) Order 2003. It also outlines the councils' policy in respect of approving Disabled Facilities Grants under the Housing Grants, Construction and Regeneration Act 1996.

The Councils may at any time amend their policy for giving of financial assistance, by withdrawing, amending or creating new assistance packages. They will publicise any amendments to this policy, as appropriate.

Words or phrases have their ordinary meanings but the definitions of those in ***bold italics*** are clarified for the purposes of this policy in Appendix 1. References to 'the Council' means Chiltern District Council or South Bucks District Council, depending on which administrative area the property is located.

### 1.2 Service Standards

Chiltern and South Bucks Housing is committed to providing a fair responsive and cost effective service. The service that you receive will be monitored against a number of challenging performance standards, which are set out in Appendix 2.

### 1.3 Enquiries, Comments or Complaints

Enquiries about Housing Financial Assistance should initially be made to the Housing Team based at King George V House, King George V Road, Amersham, Bucks HP6 5AW, Telephone 01494 732013. Enquiry forms are available to download at [www.chiltern.gov.uk](http://www.chiltern.gov.uk) or [www.southbucks.gov.uk](http://www.southbucks.gov.uk).

Comment or complaints about this policy must be set out in writing and sent to the Head of Healthy Communities at the above address or emailed to [housing@chiltern.gov.uk](mailto:housing@chiltern.gov.uk) or [housing@southbucks.gov.uk](mailto:housing@southbucks.gov.uk).

Each Council has a formal complaints procedure, should you need to make a formal complaint in relation to this policy. A copy of the procedure can be obtained from the above address. Alternatively, information about the complaints procedure can be found on the Councils' websites at [www.chiltern.gov.uk](http://www.chiltern.gov.uk) or [www.southbucks.gov.uk](http://www.southbucks.gov.uk).

## 2.0 General Eligibility Conditions

Assistance will not normally be given where works have commenced before the Council give their approval in writing.

Applications for assistance will not normally be approved for works which fall outside the policy below. However, exceptional cases will be considered on appeal on an individual basis in accordance with section 12 below.

Except in the case of mandatory Disabled Facilities Grants, assistance will not be approved where the applicant is in arrears with Council Tax payments and the Council Tax department has commenced proceedings for recovery of arrears.

Except in the case of House in Multiple Occupation Grants and Empty Property loans, the applicant must occupy (or intend to occupy) the property as their only or main residence to qualify for assistance.

The Council may use credit check and on-line investigator systems to check whether or not an applicant for any grant or loan (detailed below) has other bank accounts or outgoings that they have not declared to us.

The amount of funding available to pay for grants and loans is strictly limited and assistance can only be approved where financial resources permit. A waiting list may therefore be operated from time to time and approval of assistance will be in accordance with the priority system outlined in Appendix 3.

### **3.0 Disabled Facilities Grant ( DFG)**

#### **3.1 Purpose of Grant**

This is a mandatory grant available to provide essential adaptations to the homes of disabled people to ensure they have reasonable access into and around their home and to essential facilities within it. DFGs are administered under the detailed provisions of the Housing Grants, Construction and Regeneration Act 1996. This section gives an overview.

#### **3.2 Eligibility Criteria**

A person is eligible to apply for a DFG in the following circumstances

- The applicant is an owner, a tenant or a landlord.
- The applicant intends for the disabled person to live in the property as his/her only or main residence for a period of five years (or such shorter period as health and other relevant circumstances permit).

Additionally, the general eligibility conditions in Section 2 apply.

#### **3.3 Eligible Works**

The need for adaptation is determined by an Occupational Therapist from Bucks County Council Social Services. The Council will only act on recommendations made by the Occupational Therapist, where the work is

- mandatory under s23 of the Housing Grants, Construction and Regeneration Act 1996, and
- confirmed by the Occupational Therapist as being necessary and appropriate to the disabled person's needs, and
- considered reasonable and practicable.

Grant is also available for certain fees and charges incurred in connection with the application, as set out in Section 12 below.

#### **3.4 Amount of Grant**

Except where the disabled person is a child or young person as defined in the Act, the Council must carry out a test of the financial resources of the disabled person to assess how much they have to pay towards the work. Where the applicant is an owner or a tenant, the test of resources set out in the Housing Renewal Grants Regulations 1996 will be applied. Where a landlord applies for a Disabled Facilities Grant for works for their tenant, their contribution will be assessed based on the Rent Service's assessment of the increase in rental value arising from the proposed works, using the formula below:

A landlord's assessed contribution will be calculated as the sum which could be raised by a loan over a ten year repayment period at an interest rate of 3% above the bank base rate serviced by the *additional* rent payable as a result of carrying out the proposed works.

The notional increase in rent will be assessed by the Rent Service and the notional loan amount will be calculated using the following formula:

$$\text{Notional Loan (Contribution)} = Z \left[ \frac{(1/(1+x)) (1 - ((1/(1+x))^{10}))}{1 - (1/(1+x))} \right]$$

Where Z = notional increase in rent  
X = bank base rate plus 3%

The amount of grant is equivalent to the reasonable cost of the work (or the maximum grant of £30,000 where the cost of work exceeds this), minus the applicant's contribution.

### 3.5 Application Procedure

Enquirers will be firstly asked to complete an informal test of resources form to assess whether they are likely to qualify financially for assistance. An inspection of the property will then be carried out to determine which works, if any, are eligible for grant. The applicant will be required to submit a written application form and certify their intention for the disabled person to occupy the dwelling as their main residence, in accordance with the above. They must also provide proof of ownership (if the title is not registered with the Land Registry) or their landlord's consent for carrying out the works. At least two estimates for the eligible works are required to be submitted together with details of any fees to enable the Council to decide on the reasonable cost of the work. Where the works are urgently required or of a specialist nature, one quotation will be accepted provided the costs are considered reasonable. Proof of income and/or benefit will also be required.

### 3.6 Conditions

The conditions set out in the Housing Grants, Construction and Regeneration Act 1996 (and as set out in Appendix 4) will apply.

For applications from owner-occupiers, it is a condition of the grant that part of the grant will be repayable to the Council on demand if the property is sold within 10 years of the adaptation works being certified complete.

This repayment condition is limited to that part of the grant above £5,000 and will be subject to a maximum repayment of £10,000.

Consideration of the following will be given in determining the amount of the grant to be repaid.

- a) the extent to which the recipient of the grant would suffer financial hardship were he/she to be required to repay all or any of the grant.
- b) whether the disposal of the premises is to enable the recipient of the grant to take up employment, or to change the location of his employment.
- c) whether the disposal is made for reasons connected with the physical or mental health or well being of the recipient of the grant or of a disabled occupant of the premises; and
- d) whether the disposal is made to enable the recipient of the grant to live with, or near, any person who is disabled or infirm and in need of care, which the recipient of the grant is intending to provide, or who is intending to provide care of which the recipient of the grant is in need by reason of disability or infirmity.

Given the pressures on DFG funding and high property values locally, the presumption will be made that it is reasonable to require repayment in the circumstances described in b), c) and d) above, unless the grant recipient would suffer financial hardship in doing so.

## 4.0 Home Renovation Loan

### 4.1 Purpose of Loan

This is a discretionary loan, which is available to carry out essential repairs to dwellings and/or to address health and safety hazards assessed under the Housing Health and Safety Rating System.

### 4.2 Eligibility Criteria

Assistance will normally only be available where

- The applicant is
  - An **owner-occupier** who intends to occupy the property as their main residence for at least five years.
- and
- The Council has identified essential repairs or assessed a hazard under the Housing Health and Safety Rating System
- and
- Carrying out works to the dwelling is the best course of action, having considered all options available to the applicant.

Additionally, the general eligibility conditions in **Section 2.0** apply.

### 4.3 Eligible Work

Eligible works will include works to reduce or minimise hazards, energy efficiency works and works to put the property in reasonable repair. The works will normally seek to address or minimise any Category 1 hazards. The assistance will also cover certain fees and charges incurred in connection with the application, as outlined in section 12.

### 4.4 Amount of Assistance

The amount of assistance payable is subject to a test of the applicant's resources in accordance with the Housing Renewal Grants Regulations 1996 (and subsequent amendments). Persons claiming and eligible to claim **income related benefit** will automatically qualify for the maximum amount.

The maximum amount which may be paid is £20,000 in any three year period. Where the applicant is eligible for a Flexible Home Improvement Loan (see Section 8.0) for the relevant works, they would be expected to apply for this assistance.

The amount of loan will be calculated as the reasonable cost of the work minus the applicant's assessed contribution under the Test of Resources.

### 4.5 Application Procedure

Enquirers not in receipt of income related benefit will be asked to complete a preliminary enquiry form to assess whether they are likely to qualify for assistance. An inspection of the property will be carried out to determine which works, if any, are eligible for assistance, having regard to all of the issues outlined in section 13 below. If eligible, the applicant will be required to submit an application form, certifying their intention to occupy the dwelling for five years, proof of income/benefit, suitable quotations\* for the eligible works and full details of any fees. Proof of ownership of the property will also be required, if the property is not registered with the Land Registry.

\*Normally, two quotations will be required, but one will be accepted where the costs are considered to be reasonable and the work is urgent (eg boiler breakdown).

#### 4.6 Conditions

The grant will be subject to the conditions detailed in Appendix 5. The Home Renovation Loan will be repayable on disposal (sale or transfer) of the property.

The repayable element is not subject to interest, but a fixed administration fee of 10% will be charged on repayment.

The applicant must undertake to insure the property and take reasonable steps to ensure the property is maintained in reasonable repair.

### 5.0 Safer Homes Grant

#### 5.1 Purpose of Grant

This is a discretionary grant, which is available to address significant health and safety hazards in dwellings (assessed under the Housing Health and Safety Rating System).

#### 5.2 Eligibility Criteria

The grant is available to persons claiming and eligible to claim *income related benefit*.

Assistance will normally only be available where

- The applicant is
  - An **owner-occupier** who intends to occupy the property as their main residence for at least five years.
 and
- The Council has assessed a significant hazard under the Housing Health and Safety Rating System
- and
- Carrying out works to the dwelling is the best course of action, having considered all options available to the applicant.

A 'significant hazard' is one which is substantially greater than an average dwelling of a similar age, but does not necessarily mean a Category 1 hazard.

Additionally, the general eligibility conditions in **Section 2.0** apply.

#### 5.3 Eligible Work

Eligible works will include works to reduce or minimise the hazards. The assistance will also cover certain fees and charges incurred in connection with the application, as outlined in section 12.

#### 5.4 Amount of Assistance

The maximum amount which may be paid is £5,000 in any three year period.

#### 5.5 Application Procedure

An inspection of the property will be carried out to determine which works, if any, are eligible for assistance, having regard to all of the issues outlined in section 13 below. If eligible, the applicant will be required to submit an application form, certifying their intention to occupy the dwelling for five years, proof of income/benefit, suitable quotations\* for the eligible works and full details of any fees. Proof of ownership of the property will also be required, if the property is not registered with the Land Registry.

\*Normally, two quotations will be required, but one will be accepted where the costs are considered to be reasonable and the work is urgent (eg boiler breakdown).

## 5.6 Conditions

The grant will be subject to the conditions detailed in Appendix 5. Any amount of Safer Homes Grant is repayable if the property is disposed of (sale or transfer) within three years of the completion of the work.

The applicant must undertake to insure the property and take reasonable steps to ensure the property is maintained in reasonable repair.

## 6.0 Mobile Home Grant

### 6.1 Purpose of Grant

This is a discretionary grant, which is available for occupants of permanent mobile homes or permanent residential caravans, to carry out repairs and energy efficiency improvements.

### 6.2 Eligibility Criteria

Grant will normally only be available where

- The mobile home is classed as a dwelling for the purposes of Council Tax
- The applicant intends to occupy the property as their only or main residence for at least five years.
- The applicant is the owner or a tenant of the land on which the mobile home is stationed **or** the mobile home is occupied under an agreement to which the Mobile Homes Act 1983 applies or under a gratuitous licence and has been sited for a period of at least three year on land forming the part of the same protected site within the meaning of that Act.
- Carrying out the works is the best course of action, having considered all options available to the applicant.

Additionally, the general eligibility conditions in **Section 2.0** apply.

### 6.3 Eligible Works

Eligible works include works of essential repairs, insulation and/or heating improvements to an individual mobile home/caravan. Grants are not available to maintain, repair or improve site services. The grant will also cover certain fees and charges incurred in connection with the application, as detailed in section 12.

### 6.4 Amount of Grant

The maximum grant which may be paid is £10,000 in any three year period. More than one application may be made for a Mobile Home Grant but no more than £10,000 in total will be paid in any three-year period.

The amount of grant payable is subject to a test of the applicant's resources in accordance with the Housing Renewal Grants Regulations 1996 (and any subsequent amendments). Persons claiming and eligible to claim **income related benefit** will automatically qualify for a full grant.

The amount of assistance will be assessed based on the reasonable costs of carrying out the eligible works less the applicant's contribution, subject to a maximum of £10,000.

### 6.5 Application Procedure

Where an enquirer appears to meet the eligibility criteria set out above, an inspection of the property will be undertaken to determine which works, if any, are eligible for grant, having regard to all of the issues outlined in section 13 below. The applicant will be required to submit an application form and certify their intention to occupy the dwelling as their main residence. Two



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estimates of the eligible works and details of fees will be required to enable the council to decide on the eligible costs. Proof of income and/or benefit will also be required.

## 6.6 Conditions

The grant will be subject to the conditions outlined in Appendix 5 but is not repayable on disposal of the property.

## 7.0 House in Multiple Occupation Grant

### 7.1 Purpose of Grant

This is a discretionary grant, which is available to private and Registered Provider landlords for works to Houses in Multiple Occupation (HMO) for the provision of amenities and fire precautions to make the properties suitable for multiple occupancy.

### 7.2 Eligibility Criteria

A loan will normally only be available where

- The applicant has a duty or power to carry out the proposed works
- The landlord intends to let the dwelling for a period of at least five years as a house in multiple occupation as defined by the Housing Act 2004 (or as self contained flats)
- Carrying out of the work is the best course of action, having considered all the options open to the applicant
- The application is received no later than the commencement date set out in any enforcement notice under s11 or 12 of the Housing Act 2004 or licence condition (See 7.5 below)

Additionally, the general eligibility conditions in **Section 2.0** will apply.

### 7.3 Eligible Works

Eligible works include

- works to provide fire precautions in Houses in Multiple Occupation, in accordance with recommendations supported by the Fire Authority
- Works to provide kitchen, bathroom and washing facilities suitable for the number of occupants, in accordance with national minimum standards (or any agreed local standards)

The grant will also cover certain fees and charges incurred in connection with the application, as outlined in section 12.

### 7.4 Amount of Grant

The grant will be available for 50% of cost of the eligible works, subject to the maximum amount.

The maximum grant which may be paid is £5,000 and will be calculated based on the reasonable cost of the eligible works.

### 7.5 Application Procedure

Where an enquirer appears to meet the eligibility criteria set out above, an inspection of the property will be undertaken to determine which works, if any, are eligible for a grant, having regard to all of the issues outlined in section 13 below. The applicant will be required to submit an application form, certifying their intention to let the property as an HMO for a period of at

least five years. Two estimates of the cost of the eligible works will be required together with full details of any fees to enable the council to decide on the eligible costs.

Where the works are required to address a hazard under the Health and Safety Rating System, the Council may issue an Improvement Notice under s11 or 12 of Housing Act 2004. Where the works are required to meet minimum standards for a licensable HMO, the Council will require that the works are carried out as a condition of the licence. Application for grant assistance can be made at any time up to the proposed date of commencement of the work set out in any Improvement notice or licence condition. Should a full application not be received by this date, the offer of assistance will cease.

## 7.6 Grant Conditions

The grant will be subject to the conditions outlined in Appendix 5.

The grant is repayable with a 10% charge when the property is sold, or if the property is not let or made available for letting as an HMO for a period of five years following completion of the works.

## 8.0 Flexible Home Improvement Loan

### 8.1 Purpose of Loan

There are four types of Flexible Home Improvement Loan products:

#### Over 60s Home Improvement Loan

Available to owner occupiers who are aged 60 and over for works which improve the safety, comfort or security of the home.

#### Empty Property Loan

Available to owners of a residential property which have been empty for 6 months or more, for works to bring the property back into use.

#### Affordable Home Loan

Available to owners of a residential property which have been empty for 6 months or more, for works to bring the property back into use as affordable housing (ie let at affordable rents) let via a Registered Provider..

#### Rented Property Loan

Available to residential landlords, to ensure a property meets all relevant statutory standards

### 8.2 Eligibility Criteria

A loan will normally only be available where

- The applicant is an owner of the property and is not currently bankrupt
- In the case of an over 60s Home Improvement Loan, the applicant and any joint owner is aged 60 or over
- There is sufficient equity in the property (calculated based on criteria set down by Flexible Home Improvement Loans Ltd)
- The Council is satisfied that the loan is suitable for the applicant
- In the case of Affordable Home Loans, the property is acceptable to the Registered Provider who will be letting the property.

Additionally, the general eligibility conditions in **Section 2.0** will apply.

### 8.3 Eligible Works

Eligible works include

- works of repair or replacement to the structure of the dwelling
- energy efficiency and heating improvements, including installation of renewable energy technologies

Loans for over 60s can also include:

- adaptations to enable a disabled person to continue to live in the dwelling
- works to improve the safety and security of the dwelling, including burglar alarms

The loan will also cover certain fees and charges incurred in connection with the application, as outlined in section 12.

#### **8.4 Amount of Loan**

The minimum loan is £1,000. The maximum loan is £20,000. In exceptional cases, loans of up to £30,000 may be agreed where additional funds are needed to address significant hazards under the Housing Health and Safety Rating System or to fund major adaptations for a disabled person.

#### **8.5 Application Procedure**

Where an enquirer appears to meet the eligibility criteria set out above, a visit to the property will be made to discuss the works and the loan application procedure. The applicant will be required to submit an application form, proof of age (if applicable) and proof of any outstanding mortgages. In some cases, a valuation of the property and a credit check may be required and in the case of Rented Property loans, proof that the applicant has sufficient income to fund loan repayments. At least one estimate for the cost of the eligible works will be required together with details of any fees to enable the council to decide on the eligible costs.

#### **8.6 Loan Conditions**

The loan will be subject to the conditions set out in Appendix 6.

### **9.0 Energy Efficiency Incentive Grants**

#### **9.1 Purpose of Grant**

This is a discretionary grant available to targeted householders to fund energy efficiency works or energy efficiency assessments such as an Energy Performance Certificate.

#### **9.2 Eligibility Criteria**

The grant will be made available from time to time to a specific target group as agreed with the Portfolio Holder for Healthy Communities.

#### **9.3 Eligible Work**

The grant is available for specified energy efficiency works or assessments as agreed with the Portfolio Holder for Healthy Communities

#### **9.4 Amount of Grant**

The maximum amount of grant is to be agreed in accordance with the requirements of the project but in any case is to be no more than £2,500 per property.

#### **9.5 Application Procedure**

The grant will be administered by the National Energy Foundation or other appointed partner. Applicants contacting NEF will be offered the grant where they meet the eligibility criteria. They

will be referred to an approved assessor or installer who will claim the grant direct from NEF on completion of the work.

## 9.6 Grant Conditions

The grant cannot be given retrospectively. The grant is not repayable.

## 10.0 Accessible Homes Grant

### 10.1 Purpose of Grant

This is a discretionary grant available to provide essential adaptations to the homes of disabled people to ensure they have reasonable access into and around their home and to essential facilities within it.

It is designed to be a 'fast track' alternative to a mandatory Disabled Facilities Grant (DFG) and is not intended to be used as a 'top up' in addition to a DFG.

### 10.2 Eligibility Criteria

A person is eligible to apply for an Accessible Homes Grant in the following circumstances

- They are aged 18 or over and live in the property as their main residence, and
- They are the owner or the tenant of the property, or have the permission of the owner and any tenant of the property to carry out the work, and
- The work is recommended by an Occupational Therapist

Additionally, the general eligibility conditions in Section 2 apply.

### 10.3 Eligible Works

Eligible works include adaptations which make the home more accessible for the disabled occupant such as a ramped access or a stair lift or a walk in shower. It cannot be paid for equipment such as mobility vehicles, adapted furniture or works which are eligible to be funded by Social Services Minor Adaptations Scheme.

Grant is also available for certain fees and charges incurred in connection with the application, as set out in Section 12 below.

### 10.4 Amount of Grant

The maximum grant which may be paid per application is £10,000.

The amount of grant is subject to a test of the resources of the disabled person to assess how much (if anything) they will have to pay towards the cost of the work. The test of resources set out in the Housing Renewal Grants Regulations 1996 will be applied, with the following amendments:

- Council Tax support will also be treated as a 'passport' benefit to a full grant.
- where the disabled applicant is a child or young person (ie child benefit is payable), the resources of the parents will be assessed.

More than one application can be made for an Accessible Homes Grant but no more than £10,000 will be paid in total in any five year period.

### 10.5 Application Procedure

On receipt of a recommendation from an Occupational Therapist for the proposed work, the applicant will be sent an application form and be asked to provide at least one quotation for the

proposed work. A schedule of the eligible works may be provided by the Council if considered necessary to assist the applicant obtaining quotations.

Evidence of income/benefits and savings will be required and checks will be made of the ownership of the property. The owner's written permission will be required if the applicant is not the owner of the property.

## 10.6 Conditions

The Accessible Homes Grant will not normally be payable in addition to a mandatory Disabled Facilities Grant which is being awarded for the same adaptation.

The conditions set out in the Housing Grants, Construction and Regeneration Act 1996 (and as set out in Appendix 5) will apply. The grant is not repayable.

## 11.0 Discretionary Disabled Facilities Grant

### 11.1 Purpose of Grant

This is a discretionary grant available as a top up to a mandatory Disabled Facilities Grant (DFG) or to assist a disabled person to a move to a more suitable property.

In exceptional circumstances the grant may be paid for works which are outside the scope of a mandatory DFG.

### 11.2 Eligibility Criteria

A person is eligible to apply for a discretionary Disabled Facilities Grant in the following circumstances

- The applicant is the owner or the tenant of the property, or has the permission of the owner and any tenant of the property to carry out the work, and
- The disabled person lives (or intends to live) in the property as their main residence, and
- Adaptations to the premises are recommended by an Occupational Therapist

Additionally, the general eligibility conditions in Section 2 apply.

### 11.3 Eligible Works

The discretionary grant is available for the following costs:

- Top Up to a mandatory DFG: Adaptations which are mandatory under section 23(1) of the Housing Grants, Construction and Regeneration Act but where the costs exceed the maximum grant of £30,000, and the scheme cannot be reasonably scaled back to within the grant limit.
- Relocation Costs: Where the property cannot be easily adapted within the maximum grant limit and a move to an alternative property is a better option, the grant can be paid for:
  - Estate agent fees
  - Conveyancing fees
  - Removal costs
 Eligibility for relocation costs will be decided by a DFG Panel meeting.
- Discretionary work: Works outside the scope of a mandatory DFG, where the work is recommended by a DFG panel and is agreed by the Head of Healthy Communities in consultation with the Portfolio Holder and the Director of Services.

### 11.4 Amount of Grant

The maximum grant which may be paid per application is £15,000.

The amount of grant is subject to a test of the resources of the disabled person to assess how much (if anything) they will have to pay towards the cost of the work. The test of resources set out in the Housing Renewal Grants Regulations 1996 will be applied, with the following amendments:

- Council Tax support will also be treated as a 'passport' benefit to a full grant.
- where the disabled applicant is a child or young person (ie child benefit is payable), the resources of the parents will be assessed.

More than one application for a Discretionary Disabled Facilities Grant can be made, but no more than £15,000 may be paid in any ten year period.

### 11.5 Application Procedure

Where the grant is required as a top up to a mandatory DFG, or for re-instatement, no additional application forms will be required, but the quotations provided with the application should cover the costs of the relevant works.

In the case of applications for relocation costs or discretionary works, the applicant will be sent an application form and be asked to provide at least one quotation for the proposed costs.

Evidence of income/benefits and savings will be required and checks will be made of the ownership of the property. The owner's written permission to any works will be required if the applicant is not the owner of the property.

### 11.6 Conditions

For Top Up grants, the conditions set out in the Housing Grants, Construction and Regeneration Act 1996 (and as set out in Appendix 5) will apply.

Except in the case of relocation, the grant is repayable when the property is sold. Repayment conditions do not apply to tenant's applications.

## 12.0 Fees and Charges

The fees and charges which are eligible for assistance are as follows:

- Fees in connection with provision of Proof of Title
- Specialist contractor's fees in relation to information required in support of an application. This may include Gas Safe or Electrical Contractors report fee, a structural Engineer's fee etc
- The fees of a Home Improvement Agency in connection with assistance provided in submitting a grant application and project managing the works from design to completion.
- The fees of an architect or surveyor for preparing drawings, detailed specification and overseeing the works
- Fees of an Occupational Therapist in connection with an application for a DFG
- Building and planning application fees where appropriate
- Any other fees and charges which the Council determine to be eligible.

The grants officer will determine which of the above fees are eligible in each case. Reasonable amounts will be allowed, in accordance with the current market rates.

### 13.0 Best Course of Action

In considering eligibility for all types of housing assistance, the following questions will be considered to establish a range of options which are open to the enquirer.

- a. Is repair an economic course of action, having regard to the expected life and market value of the dwelling or mobile home?
- b. Is the work essential to safeguard the health and safety of the occupant?
- c. Will the work improve the energy efficiency of the dwelling?
- d. Will the works reduce the risk of crime?
- e. Is the property currently under-occupied?
- f. Is the dwelling suitable for conversion to more than one dwelling or HMO use (with the provision of fire precautions)?
- g. Does the property in its existing condition have a detrimental effect on the neighbouring locality?
- h. Is the site suitable for re-development?
- i. Would moving to a different property be a better solution to repairing/adapting the existing property?
- j. Would the applicant consider moving to another property?
- k. Is the applicant's able to meet the assessed level of contribution?
- l. Would the applicant qualify for a commercial loan or other loan scheme (eg equity release)?
- m. What is the level of equity in the property?
- n. Is the applicant physically and mentally capable of arranging the work and having it carried out?

The available options which may be considered are:

- Commercial loan or mortgage
- Council Grant or Loan
- Move to another property
- Enforcement action eg Improvement Notice or Prohibition Order
- Re-development of site
- Compulsory purchase by CDC
- Demolition or closure
- Deferred action (ie no action taken immediately but reviewed in a specified time period)

The offer of grant or other financial assistance provided by the Council will only be made where this is considered to be the best course of action by the Council.

### 14.0 Appeals about decisions in individual cases

Appeals about how the policy is operated in individual cases, for example, where an enquiry or application for assistance is refused, will be considered by the Housing Manager in the first instance.

Appeals must be set out in writing and sent to the Housing Manager, Chiltern and South Bucks Housing, King George V Road, Amersham, Bucks HP6 5AW. The appeal submission must include the specific grounds on which the appeal is based. Appeals will be considered only on the following grounds:

- that the policy has not been applied correctly in the case in question, for example there has been a mistake, or
- that the case in question is exceptional in some way that justifies an exception to the general policy.

Appeals will not be considered on the grounds that the appellant simply disagrees with the policy. However, any written comments and complaints about the policy will be considered by the Head of Healthy Communities, as described above.

A written response to an appeal will be given. If the Housing Manager believes that the case is exceptional, or at least merits further consideration, it will be referred to the Head of Healthy Communities with a recommendation and options where appropriate. The Head of Healthy Communities, in consultation with the Portfolio Holder and Director of Services may then authorise a grant, other assistance or a waiver of a repayment as an exception to general policy.



## **Housing Financial Assistance Policy Appendix 1: Definitions**

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### **Definitions**

“DFG Panel” means a panel comprising the Council’s Housing Standards Officer, Housing Options Officer, the Community Occupational Therapist, and Social Services Physical Disability Team Leader and Paradigm Housing Group’s Disabled Facilities Officer (where appropriate).

“Dwelling” means a building or part of a building occupied or intended to be occupied as self contained residential accommodation.

“Income related benefit” means income support, income based job-seekers allowance, income based employment support allowance, guaranteed pension credit, council tax support, or housing benefit.

“Mobile Home” means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960.

“Owner-occupier” means a freeholder or a long- leaseholder who lives in the dwelling.

“Private landlord” does not include a registered provider of social housing.

“Private tenant” does not include tenant of a registered provider but does include tenants of other public bodies such as a health authority or police authority.

“Registered Provider” means a not-for-profit housing provider regulated by the Government’s Homes & Communities Agency.

## **Housing Financial Assistance Policy Appendix 2: Customer Charter**

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### **CUSTOMER CHARTER**

Chiltern and South Bucks Housing is committed to providing a fair, responsive and cost effective service. The service that you receive will be monitored against a number of challenging performance standards.

#### **Housing Assistance Enquiry**

*Enquiries will normally be processed and acknowledged within **5 working days**.*

#### **Schedules of Works**

*Schedules will normally be issued within **15 working days** from date of inspection.*

#### **Grant Approvals**

*Grant and loan approvals will normally be processed and issued within **30 working days** of receipt of a full application\*.*

#### **Customer Satisfaction**

*Target: 95% of customers to be satisfied with the level of service provided.*

*All applicants to be aware of the Appeal Procedure and the Council Complaint Procedure and how they can be accessed.*

\* A full application means that the Council has received all information required to enable it to consider an application. This includes a completed application form, builder's estimates, details of any fees, proof of income and/or benefits, proof of title and/or landlord's consent.

**(Note: Subject to review and amendment)**

## Housing Financial Assistance Policy Appendix 3: Prioritisation Schemes

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### Prioritisation Schemes

The following priority schemes will be implemented in order to manage demand for grant/loan funds and to ensure that the most urgent cases are dealt with first.

#### Housing Assistance Grants and Loans

##### Prioritisation Procedures

1. All letters sent out to enquirers to include notification that their application will be placed on a waiting list and approved subject to funding and according to a priority system.
2. Grant applications and enquiries to be processed in accordance with normal procedures. On receipt of a full application, case to be scored against the Priority Assessment sheet and the applicant notified approximate time until approval.
3. At the beginning of each month, scores will be reviewed to add time waiting points, Where funds are available, the grants which have reached the points threshold will be approved.
4. The approval points threshold is subject to review depending upon demand and available funding. The current points threshold is **30 points**.

### Housing Renewal Grants and Loans Priority System

**Ref:**

**Address:**

**Date of initial Enquiry:**

**Brief description of work:**

**Eligible Expense:**

	<b>Points</b>	<b>Points Awarded</b>
<b>House Condition Criteria</b>		
Leaking roof (water penetrating into habitable rooms)	2	
Unsafe electrical wiring	5	
No heating	5	
No hot water	2	
Dangerous structure	5	
Severe dampness (affecting more than one room)	2	
Defective drainage	2	
Fire precautions for HMO	5	
<b>Applicant Criteria</b>		
Disabled or infirm	5	
Over 75	5	
Children under 16	5	
<b>Private Sector Housing Strategy Priority</b>		
Empty property	5	
Private rented property/HMO	5	
Energy efficiency works	3	
	<b>Sub-Total</b>	
<b>Time Waiting</b>		
For each month since initial enquiry	2	
<b>Date of assessment</b>		

## Housing Adaptations

### Prioritisation Procedures

1. On receipt of an enquiry or a new referral from the OT, send initial enquiry letter and informal means test form. The letter to include notification that the enquiry will be placed on a waiting list and dealt with subject to funding and according to a priority system.
2. When both the OT recommendation and informal means test are available, calculate waiting points and add these to the points awarded by the OT, and note the total score against the date of assessment.
3. Waiting time points must be calculated from the date of first request for assistance, whether this is made to the OT service or to the Council. This will ensure the assessment takes into account time spent on OT waiting lists.
4. Results to be entered into the Waiting List Spreadsheet and the score sheet filed in the Waiting list file. Applicants to be notified of the approximate waiting time.
5. At the beginning of each month, review each score to add further time waiting points, and amend the spreadsheet. Proceed to process the enquiries which have **75 points** or more.
6. The threshold score of 75 is subject to review depending upon demand and available funding.
7. When a client has been on the waiting list for 12 months, their enquiry will be processed regardless of the number of points.

### Housing Adaptations Priority System

**Clients Name**

**Address:**

**Date of Initial enquiry:**

	<b>Points available</b>	<b>Points awarded by OT</b>
<b>Needs and Risks Assessment</b>		
None or limited Access to toilet	10/20	
None or limited access in and out of Home	10/20	
None or limited access to other essential room	10/20	
None or limited access to appropriate bathing facilities	10/20	
Prognosis with deterioration and/or fluctuating condition	10/20	
Adult with dependent care or childcare This will be included if the recommendation enables the client to facilitate care to another dependent person or childcare activities, but not just due to the client having child care responsibilities.	10/20	
Child (0-18)	5	
Living alone with minimal or no care	5	
Risk Matrix Including such things as degree to which method of carrying out activity presents a constant safety hazard to clients or carers, degree of aggravation to client's medical condition and consideration of any other potential risks and effects on the clients well being.	0/10/20/40	
Qualitative Weighting Including factors such as family stress levels, pressure on carers, availability of other support and present methods of achieving activity.	0/5/10/15/20	
Total Points Awarded		
<b>Time Waiting</b>		
For each full month waiting	5	
<b>Date of Assessment</b>		

**PRIORITY SYSTEM – Guidance Notes****TOILET:**None (20 points)

- e.g. using a commode as all facilities are upstairs and a lift is required or
- existing toilet not accessible in wheelchair
- unable to transfer on/off due to lack of space
- no-one else to empty commode.

Limited (10 points)

- client can access a toilet but with great or increasing difficulty
  - could rely on commode for short term care if carer could empty.
- 

**ACCESS:**None (20 points)

- no access implies client totally house bound and has no-one to give assistance to get in or out.

Limited (10 points)

- client is able to get out either with a wheelchair or steps but adaptation would assist ease of access and reduce stress
  - if assistance is needed there is someone there to give it.
- 

**ACCESS TO OTHER ESSENTIAL ROOM:**None (20 points)

- no access to kitchen/bedroom/bathroom (*i.e.* wheelchair user or if doors too narrow – need lift to access).

Limited (10 points)

- difficult to access
- 

**LIMITED ACCESS TO APPROPRIATE BATHING FACILITIES:**None (20 points)

- cannot use bath aids even with carers and is having to strip wash
- cannot use bath aids or present bathing facilities and is unable to strip wash without risk
- has no-one to assist.

Limited (10 points)

- can access both but needs supervision/assistance and the procedure is risky.
- 

**PROGNOSIS WITH RAPID DETERIORATING AND/OR FLUCTUATING CONDITION:**

Purely medical conditions with known deterioration, e.g. Dementia, Multiple Sclerosis, Motor Neurone Disease, Chronic Obstructive Airways Disease (COAD) (if not static), Cancer.

Rapid deterioration	20 points
Steady deterioration	10 points

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**ADULT WITH DEPENDENT CARE:**

this includes disabled adult looking after children or disabled adult looking after elderly parent or partner, where adaptation will facilitate caring for dependent

Child aged 0-10	20 points
Adult/child over 10	10 points

**RISK MATRIX**

(To client on medical and physical environment grounds. RA – joint protection.)

**1. Clients medical condition is aggravated by lack of adaptation:**  
*(medical guidance may be required in some cases)*

- skin condition requiring regular bathing
- Diabetes requiring regular foot care/washing
- Asthma/heart condition aggravated by bending to wash
- totally wheelchair dependent unable to access/egress
- medically incontinent and regular toileting/bathing essential
- RA – joint protection

**Grades:**

<u>0</u>	<b>no medical risk</b> , <i>i.e.</i> only uses stairs once daily to go to bed as facilities available both up and down stairs
<u>10</u>	<b>moderate</b> , <i>i.e.</i> spasmodic inconvenience to condition but not daily. ?/Carer helps. Alternatives are available but not appropriate in the long term
<u>20</u>	<b>high</b> . Daily inconvenience/risk re; needs to bath/toilet daily
<u>40</u>	Total breakdown of medical condition and inability to manage/contain this in the home environment, <i>i.e.</i> double incontinence, house bound, therefore fire risk/lack of self care or insight. No alternatives available.

**QUALITATIVE WEIGHING (stress both physical and emotional on others only)**

<u>0</u>	no reported or perceived stress
<u>5</u>	additional points for those living alone who may have <u>small</u> amounts of stress carrying out the activity as there is no-one in the house to call on for assistance
<u>10</u>	moderate. Spasmodic stress on carers as client needs ongoing supervision but not regularly, <i>i.e.</i> daughter helps with bathing or shopping 1x weekly but has family commitments herself
<u>15</u>	high. Daily supervision required for essential ADL. Carers own health in danger of breaking down
<u>20</u>	total breakdown of social condition. carers admitted to hospital or unable or refusing to assist

Also consider if the adaptation or equipment will mean fewer Home Care visits or less need for family to visit or whether it would just make their lives easier.

**General Rule**

No – No safe alternative available

Limited – Alternative available for short term but not appropriate as long term solution.



**Housing Financial Assistance Policy**  
**Appendix 4: Disabled Facilities Grant Conditions**

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**HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996**  
**SECTIONS 44 to 55**

**DISABLED FACILITIES GRANT CONDITIONS**

**General Conditions**

1. It is a condition of the grant that the eligible works are carried out in accordance with any specification the Council decide to impose.
2. It is a condition of grant that the eligible works are carried out within twelve months from the date of approval of the application. This period may, however, be extended by the Council if they think fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made.
3. It is a condition of the grant that the work is carried out by the contractor(s) whose quotation was submitted with the application. Any change to the contractor must be agreed with the Council before works start.

**Repayment Conditions**

4. Where the grant applicant has an owner's interest in the dwelling to be adapted, the repayment condition in 5 will apply and it is a condition of the grant that it is registered as a local land charge.
5. It is a condition of the grant that part of the grant will be repayable to the Council on demand where there is a disposal of the property within 10 years of the adaptation works being certified complete.
6. This repayment condition is limited to that part of the grant above £5,000 and will be subject to a maximum repayment of £10,000.
7. It is a condition of the grant that, during the grant condition period (see Note A), the applicant shall notify the authority of his/her intention to dispose of the dwelling and shall furnish to the authority any information reasonably requested by them in connection with such notification.
8. The Council may decide not to demand repayment or to demand payment of a lesser amount, having regard to the following:
  - i) the extent to which the recipient of the grant would suffer financial hardship were he/she to be required to repay all or any of the grant.
  - ii) whether the disposal of the premises is to enable the recipient of the grant to take up employment, or to change the location of his employment.
  - iii) whether the disposal is made for reasons connected with the physical or mental health or well being of the recipient of the grant or of a disabled

occupant of the premises; and

- iv) whether the disposal is made to enable the recipient of the grant to live with, or near, any person who is disabled or infirm and in need of care, which the recipient of the grant is intending to provide, or who is intending to provide care of which the recipient of the grant is in need by reason of disability or infirmity.

### Notes

- A. The grant condition period is a period of ten years beginning on the date on which the Council certifies the eligible works have been completed to their satisfaction.
- B. "Disposal" means the sale or transfer of the freehold or assignment of the lease, or the grant of a long lease (one of over 21 years, otherwise than at a rack rent).
- C. The above conditions remain in force throughout the grant condition period and are binding on any person who is for time being an owner of the dwelling.
- D. Money repaid or recovered will be recycled into the Council's capital programme for Disabled Facilities Grants and Accessible Homes Grants.
- E. Repayment conditions cannot be imposed on tenants.

**Housing Financial Assistance Policy**  
**Appendix 5: Conditions**

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**Accessible Homes Grant Conditions**

- (i) It is a condition of payment of all housing assistance that the eligible works are carried out within 12 months from the date of approval of the application or the date on which payment can be made, if this is later. The Council may agree an extension to this period if appropriate.
- (ii) It is a condition of payment that the eligible works are carried out in accordance with the Council's Schedule of Works and any other detailed specification issued by the Council with respect to the application.
- (iii) The payment or part payment of housing assistance is conditional upon the eligible works or corresponding part of the works being executed to the satisfaction of the Authority.
- (iv) The payment or part payment of housing assistance is conditional upon the authority being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant or part of the grant is to be paid. For this purpose on invoice, demand or receipt is acceptable if it satisfies the Authority and is **not given by the applicant or a member of his family.**
- (v) It is a condition of payment that the eligible works are carried out by the contractor whose estimate accompanied the application or, where two or more estimates were submitted, by one of those contractors.
- (vi) It is a condition of housing assistance that the applicant takes reasonable steps to pursue any relevant insurance or legal claim applies and to repay the housing assistance, so far as appropriate, out of the proceeds of such a claim.

A claim to which this section applies are:

- a. an insurance claim, or legal claim against another person, in respect of damage to the premises to which housing assistance relates, or
- b. a legal claim for damages in which the cost of the works to premises to which housing assistance relates is part of the claim.

A claim is a relevant claim to the extent that the works to make good the damage mentioned in paragraph (1), or the cost of which is claimed as mentioned in paragraph (2), are works to which housing assistance relates.

**Housing Financial Assistance Policy**  
**Appendix 5: Conditions**

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**Safer Homes Grant Conditions**

**General Conditions**

It is a condition of the grant that:

1. the eligible works are carried out in accordance with any specification the Council decide to impose.
2. the eligible works are carried out within twelve months from the date of approval of the application, or such further period as the Council agree.
3. the work is carried out by the contractor(s) whose quotation was submitted with the application, or where two or more quotations were submitted, one of those contractors. Any change to the contractor must be agreed with the Council before works start.
4. the applicant takes reasonable steps to pursue any relevant insurance or legal claim and to repay the grant, so far as appropriate, out of the proceeds of such a claim.

A claim to which this section applies are:

- An insurance claim or legal claim against another person in respect of damage to the premises to which the grant relates
- A legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim

And the works/costs are the works to which the grant application relates.

5. the applicant arranges and maintains in effect adequate insurance for the property, subject to and with the benefit of the grant works, from the date of approval, throughout a five year period from the certified date (Note A).
6. the applicant takes reasonable steps to ensure that the property is maintained in good repair throughout a period of five years from the certified date (Note A).
7. all conditions become registered as a local land charge. The charge will not be removed until either the conditions expire or until the grant is repaid together with any interest or additional charges that may apply. (Note B)

Payment or part payment of the grant is conditional upon:

8. the eligible works or corresponding part of the works being executed to the satisfaction of the Authority.
9. the authority being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant is to be paid. For this purpose an invoice, demand or receipt is acceptable if it satisfies the authority and is not given by the applicant or a member of his/her family (Note C).

**Occupation Conditions**

10. It is a condition of the grant that the property will be occupied by the applicant or a member of his/her family (note C) for at least five years from the certified date (Note A).

### Disposal Conditions

11. It is a condition of the grant that in the event of a disposal (Note D) of the property at any time from the date of approval, any amount of Safer Homes Grant (or instalment of grant) paid in the preceding three year period which exceeds £5000 is repayable to the Council together with a 10% administration charge.
12. Where the disposal is an exempt disposal (Note E), there will be no requirement to repay the grant but all the grant conditions will continue to apply and are binding on the person or person to whom the exempt disposal is made.
13. It is a condition of the grant that the owner (Note F) shall notify the authority of his/her intention to dispose of the dwelling and shall give the Council any information reasonably requested by them in connection with such notification.

### Enforcement of Grant Conditions

14. Where any grant condition is in force, the Council may require the person responsible (Note F) to provide any information to satisfy the Council that the conditions are being complied with. It is a condition of the grant that this information is provided in the form required and within the time period specified by the Council.
15. In the event of a breach of the conditions 1 to 10 above, the Council may demand repayment from the applicant of a sum equal to the amount of grant paid together with interest (note G).
16. The Council intends to enforce the disposal conditions in 11 in all cases. However, the requirement to repay may be waived where a disposal is made in the following circumstances:
17. it is no longer reasonable for the owner to occupy the property on medical grounds and the disposal is made to enable them to move to more suitable accommodation.
18. the proceeds from disposal after deduction of any relevant amount are less than the amount of grant which an applicant would be liable to repay. Relevant amount means any expenses incurred in connection with the disposal and the amount of any advance secured by a charge on the premises.
19. It is the responsibility of the person responsible for any grant condition to demonstrate to the Council's satisfaction that the condition is being complied with. Failure to do so will be treated as failure to comply with the condition. The Council does not have the burden of having to prove that the condition is not being complied with.

### Notes

- A. 'Certified Date' means the date on which the Council certifies the eligible works have been completed to their satisfaction.
- B. A local land charge is binding on any person who is for the time being an owner of the premises concerned. Where a grant condition is broken, the Council has all the usual powers and remedies in law to enforce the local land charge and secure payment of any amount due.
- C. Any reference to a member of a person's family is taken to mean someone

who is their parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. A relationship by marriage is treated as if it were a relationship by blood. A half-blood relationship is treated as a full blood relationship.

- D. "Disposal" means the sale or transfer of the freehold or assignment of the lease, or the grant of a long lease (one of over 21 years, otherwise than at a rack rent).
- E. An exempt disposal means a disposal which is:
- Of the whole of the dwelling to the owner or one of the joint owners of the dwelling or to a wife or husband or former wife or husband of one of the joint owners; or
  - Made in order to provide an annuity income by a person aged at least 70 and that person is entitled to continue to occupy the premises as their only or main residence.
- F. A reference to 'person responsible' or to 'the owner' is taken to mean any owner or other person who is responsible for the relevant condition(s) either singly or jointly. This includes the original applicant as well as any other person who has subsequently become responsible for any condition as a result of acquiring the property or an interest in it.
- G. Interest will be charged at the prevailing bank base rate plus 2% per annum (not compounded) subject to a minimum rate of 3.5%.
- H. Money repaid or recovered will be recycled into the Council's capital programme for private sector housing renewal.

**Housing Financial Assistance Policy**  
**Appendix 5: Conditions**

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**Mobile Home Grant Conditions**

**General Conditions**

It is a condition of the grant that:

1. the eligible works are carried out in accordance with any specification the Council decide to impose.
2. the eligible works are carried out within twelve months from the date of approval of the application, or such further period as the Council agree.
3. the work is carried out by the contractor(s) whose quotation was submitted with the application, or where two or more quotations were submitted, one of those contractors. Any change to the contractor must be agreed with the Council before works start.
4. the applicant takes reasonable steps to pursue any relevant insurance or legal claim and to repay the grant, so far as appropriate, out of the proceeds of such a claim.
5. A claim to which this section applies are:
  - a. An insurance claim or legal claim against another person in respect of damage to the premises to which the grant relates
  - b. A legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim and the works/costs are the works to which the grant application relates.
6. the owner arranges and maintains in effect adequate insurance for the property, subject to and with the benefit of the grant works, from the date of approval, throughout a five year period from the certified date (Note A).
7. the owner takes reasonable steps to ensure that the property is maintained in good repair throughout a period of five years from the certified date (Note A).

Payment or part payment of the grant is conditional upon:

8. the eligible works or corresponding part of the works being executed to the satisfaction of the Authority.
9. the authority being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant is to be paid. For this purpose an invoice, demand or receipt is acceptable if it satisfies the authority and is not given by the applicant or a member of his/her family (Note B).

**Occupation Conditions**

10. It is a condition of the grant that the property will be occupied as by the applicant or a member of his/her family (note B) as his/her only or main residence for at least five years from the certified date (Note A).

**Enforcement of Grant Conditions**

11. Where any grant condition is in force, the Council may require the person responsible (Note C) to provide any information to satisfy the Council that the conditions are being complied with. It is a condition of the grant that this information is provided in the form required and within the time period specified

by the Council.

12. In the event of a breach of the conditions 1 to 9 above, the Council may demand repayment from the person responsible a sum equal to the amount of grant paid together with interest (note D).
13. It is the responsibility of the person responsible for any grant condition to demonstrate to the Council's satisfaction that the condition is being complied with. Failure to do so will be treated as failure to comply with the condition. The Council does not have the burden of having to prove that the condition is not being complied with.

### Notes

- A. 'Certified Date' means the date on which the Council certifies the eligible works have been completed to their satisfaction.
- B. Any reference to a member of a person's family is taken to mean someone who is their parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. A relationship by marriage is treated as if it were a relationship by blood. A half-blood relationship is treated as a full blood relationship.
- C. A reference to 'person responsible' or to 'the owner' is taken to mean any owner or other person who is responsible for the relevant condition(s) either singly or jointly. This includes the original applicant as well as any other person who has subsequently become responsible for any condition as a result of acquiring the property or an interest in it.
- D. Interest will be charged at the prevailing bank base rate plus 2% per annum (not compounded) subject to a minimum rate of 3.5%.
- E. Money repaid or recovered will be recycled into the Council's capital programme for private sector housing renewal.



**Housing Financial Assistance Policy**  
**Appendix 5: Conditions**

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**House in Multiple Occupation Grant Conditions**

**General Conditions**

It is a condition of the grant that:

1. the eligible works are carried out in accordance with any specification the Council decide to impose.
2. the eligible works are carried out within twelve months from the date of approval of the application, or such further period as the Council agree.
3. the work is carried out by the contractor(s) whose quotation was submitted with the application, or where two or more quotations were submitted, one of those contractors. Any change to the contractor must be agreed with the Council before works start.
4. the applicant takes reasonable steps to pursue any relevant insurance or legal claim and to repay the grant, so far as appropriate, out of the proceeds of such a claim.

A claim to which this section applies are:

- An insurance claim or legal claim against another person in respect of damage to the premises to which the grant relates
- A legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim

And the works/costs are the works to which the grant application relates.

5. the applicant arranges and maintains in effect adequate insurance for the property, subject to and with the benefit of the grant works, from the date of approval, throughout a five year period from the certified date (Note A).
6. the applicant takes reasonable steps to ensure that the property is maintained in good repair throughout a period of five years from the certified date (Note A).
7. all conditions become registered as a local land charge. The charge will not be removed until either the conditions expire or until the grant is repaid together with any interest or additional charges that may apply. (Note B)

Payment or part payment of the grant is conditional upon:

8. the eligible works or corresponding part of the works being executed to the satisfaction of the Authority.
9. the authority being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant is to be paid. For this purpose an invoice, demand or receipt is acceptable if it satisfies the authority and is not given by the applicant or a member of his/her family (Note C).

**Letting Conditions**

10. It is a condition of the grant that the property will be let or be made available for letting as a House in Multiple Occupation for at least five years from the certified date (Note A).

## Disposal Conditions

11. It is a condition of the grant that in the event of a disposal (Note D) of the property within five years from the certified date, the grant is repayable to the Council together with a 10% administration charge.
12. Where the disposal is an exempt disposal (Note E), there will be no requirement to repay the grant but all the grant conditions will continue to apply and are binding on the person or person to whom the exempt disposal is made.
13. It is a condition of the grant that the owner (Note F) shall notify the authority of his/her intention to dispose of the dwelling and shall give the Council any information reasonably requested by them in connection with such notification.

## Enforcement of Grant Conditions

14. Where any grant condition is in force, the Council may require the person responsible (Note F) to provide any information to satisfy the Council that the conditions are being complied with. It is a condition of the grant that this information is provided in the form required and within the time period specified by the Council.
15. In the event of a breach of the conditions 1 to 10 above, the Council may demand repayment from the applicant of a sum equal to the amount of grant paid together with interest (note G).
16. The Council intends to enforce the disposal conditions in 11 in all cases. However, the requirement to repay may be waived where a disposal is made in the following circumstances:
17. the proceeds from disposal after deduction of any relevant amount are less than the amount of grant which an applicant would be liable to repay. Relevant amount means any expenses incurred in connection with the disposal and the amount of any advance secured by a charge on the premises.
18. It is the responsibility of the person responsible for any grant condition to demonstrate to the Council's satisfaction that the condition is being complied with. Failure to do so will be treated as failure to comply with the condition. The Council does not have the burden of having to prove that the condition is not being complied with.

## Notes

- A. 'Certified Date' means the date on which the Council certifies the eligible works have been completed to their satisfaction.
- B. A local land charge is binding on any person who is for the time being an owner of the premises concerned. Where a grant condition is broken, the Council has all the usual powers and remedies in law to enforce the local land charge and secure payment of any amount due.
- C. Any reference to a member of a person's family is taken to mean someone who is their parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. A relationship by marriage is treated as if it were a relationship by blood. A half-blood relationship is treated as a full blood relationship.
- D. "Disposal" means the sale or transfer of the freehold or assignment of the

lease, or the grant of a long lease (one of over 21 years, otherwise than at a rack rent).

- E. An exempt disposal means a disposal which is of the whole of the dwelling to the owner or one of the joint owners of the dwelling or to a wife or husband or former wife or husband of one of the joint owners.
- F. A reference to 'person responsible' or to 'the owner' is taken to mean any owner or other person who is responsible for the relevant condition(s) either singly or jointly. This includes the original applicant as well as any other person who has subsequently become responsible for any condition as a result of acquiring the property or an interest in it.
- G. Interest will be charged at the prevailing bank base rate plus 2% per annum (not compounded) subject to a minimum rate of 3.5%.
- H. Money repaid or recovered will be recycled into the Council's capital programme for private sector housing renewal.

**Housing Financial Assistance Policy****Appendix 6: Flexible Home Improvement Loan Conditions (Loans for over 60s)**

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**Flexible Home Improvement Loans  
(Loans for over 60s)****Mortgage Conditions****1 Interpretation**

In the Mortgage Deed and these Conditions, wherever the context allows:

- 1.1 The 'Borrower' means the person, or persons so described in the Mortgage Deed.
- 1.2 The 'Lender' means [Chiltern District Council] [South Bucks District Council] and its successors and assigns.
- 1.3 The 'Mortgage' refers to any given Mortgage or Charge into which these Conditions are incorporated.
- 1.4 The 'Mortgage Debt' means the aggregate of all the money outstanding for the time being on the security of the Mortgage.
- 1.5 The 'Interest Rate' means the rate set down on page one of the Mortgage Deed, which rate shall be applied wherever the terms Interest of Interest Rate are referred to in this Mortgage Deed.
- 1.6 The 'Loan' means the initial loan made by the Lender to the Borrower, as shown on page one of the Mortgage Deed.
- 1.7 The 'Property' means the property described in the Mortgage and any part, or parts, of it.
- 1.8 Words expressing the masculine include the feminine and words expressing the singular include the plural and vice versa.
- 1.9 Obligations of more than one person are joint and several obligations

**2 Security**

- 2.1 The Mortgage shall be secured by a legal charge on the Property.
- 2.2 The Borrower undertakes that he has a good and marketable title to the property and that the property is not subject to any other charges except those which have already been disclosed to the lender.
- 2.3 The Borrower shall, immediately on demand by the Lender, do and execute any and all further acts, deeds, documents and things as may from time to time be, in the opinion of the Lender, necessary or advisable to perfect the charge and to protect the interests of the Lender under the charge

## **3 Liabilities Secured by the Mortgage**

- 3.1 The Mortgage shall be a continuing security to the Lender for payment of all present and/or future indebtedness of the Borrower to the Lender in respect of:
  - 3.1.1 The loan as stated in the Mortgage Deed.
  - 3.1.2 Any loan, or further advance, made at any time to the Borrower.
  - 3.1.3 Any money, including interest, becoming due to the Lender by the Borrower under these Mortgage Conditions.
- 3.2 In respect of 3.1.3 above, the following amounts will become due to the Lender by the Borrower:
  - 3.2.1 Interest at the rate set down in the Mortgage Deed. The interest rate will be varied in accordance with the Bank of England rate and compounded monthly.
  - 3.2.2 The Mortgage account will be debited with a charge of £15.00 annually to cover the cost of loan administration and statements.

## **4 Obligations of the Borrower**

- 4.1 The Borrower shall:
  - 4.1.1 Perform and observe all relevant obligations contained in these Mortgage Conditions, including carrying out such works or other matters for which the Loan was made to the reasonable satisfaction of the lender.
  - 4.1.2 Keep the Property in good repair and condition and not pull down, remove, or dispose of any of it without the prior written consent of the Lender.
  - 4.1.3 Observe and perform all covenants and conditions affecting the Property or relating to the use and enjoyment of it.
  - 4.1.4 Produce to the Lender, without delay, any order, permission, notice, or document of any kind affecting, or likely to affect, the Property and served on the Borrower by any third party so that the Lender may make copies.
  - 4.1.5 Not do, or cause, or permit to be done, anything which might depreciate, jeopardise, or otherwise prejudice the value to the Lender of the security created by the Mortgage, nor permit any person to become entitled to any proprietary right or interest which might affect the value of the Property.
  - 4.1.6 Keep the Property always in his possession and available for disposal with vacant possession (subject to any lease or tenancy authorised under the terms of these conditions or having priority to the Mortgage) and not alter the use made of the Property without the prior written consent of the Lender.
  - 4.1.7 Perform and observe the provisions of any statutory regulations so far as they relate to the Property. If the Borrower fails to do so the Lender may remedy such failure and the Borrower shall pay to the Lender its expenses of doing so.

4.1.8 Not grant, or agree to grant, any lease, or tenancy of, or confer any enforceable licence to occupy the Property without the written consent of the Lender.

4.2 All of the obligations set out in this section are of a continuing nature and shall be performed and observed throughout the life of this Mortgage.

### **5 Payments of interest and capital**

5.1 No payments of interest and capital are required during the life of this Mortgage.

5.2 Subject to 5.1 the borrower may make:

5.2.1 regular monthly payments of interest and capital by Direct Debit, or

5.2.2 regular monthly payments of interest only by Direct Debit, or

5.2.3 irregular payments of interest and/or capital by Payment Card, or

5.2.4 no payments whatsoever.

5.3 The Borrower make not make more than one payment in any calendar month without the prior written approval of the lender.

5.4 If the Borrower makes regular monthly payments of interest and capital by Direct Debit the lender will apportion the interest and capital in such a way as to repay the Mortgage Debt within a period previously agreed with the Borrower.

5.5 Any irregular payments received from the Borrower will be used to reduce any interest which has accrued and is outstanding. If there is a surplus it will be used to reduce the capital outstanding.

5.6 Any irregular payments received from the Borrower by Payment Card will be subject to a charge of 60 pence, deducted from the payment on receipt.

### **6 Repayment of the outstanding Mortgage Debt**

6.1 The outstanding Mortgage Debt is to be repaid upon the earliest of the following events:

6.1.1 the Property is sold, or

6.1.2 the title to the Property is transferred, or

6.1.3 the Property ceases to be the sole, or principal, property of the Borrower, or

6.1.4 on the death of the Borrower (or last surviving Borrower if the Mortgage is granted to more than one person).

6.2 Where any sum of money becomes due from the Borrower to the Lender under these circumstances it shall be payable without any prior demand and it shall, in any event, bear interest at the rate set down in the Mortgage Deed from the date when it becomes payable.

### **7 Insurance**

- 7.1 The Borrower is not obliged to take out insurance through the Lender as a condition of this loan. However it is a requirement of the mortgage that the Property is insured for an amount to cover the full cost of reinstating the building at all times during the life of the loan. The Lender reserves the right to inspect the buildings insurance policy on giving reasonable notice and to be satisfied with its terms.
- 7.2 If the Borrower does not effect an appropriate buildings insurance policy, and keep the policy in force, the Lender reserves the right to arrange a suitable policy and debit the mortgage account with the premiums.
- 7.3 The Lender may at its discretion apply, or require to be applied, any money received from any insurance claim in, or towards, making good the loss or damage in respect of which the money is paid.

### **8 General**

- 8.1 Section 93 of the 1925 Act (Restrictions on Consolidation of Mortgages) shall not apply to this Mortgage.
- 8.2 The Lender shall be entitled to all costs and expenses incurred by the Lender in relation to the Mortgage and any indebtedness or liabilities secured by it on a basis of full indemnity.
- 8.3 Each of the provisions of the Mortgage and these Conditions is severable and distinct from the others and if, at any time, one or more of such provisions is, or becomes, invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions and of the Mortgage shall not in any way be affected, or impaired.
- 8.4 The powers and rights of the Lender are those powers and rights conferred by law on the Lender as mortgagee.
- 8.5 This agreement shall be governed by and construed in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with, this agreement.
- 8.6 Any notice required, or authorised, to be served by the Lender shall be deemed served if it is served by registered post, or recorded delivery, to the address of the mortgaged Property.
- 8.7 Any notice required to be served by the Borrower shall be deemed served if it is served by registered post, or recorded delivery, to the Lender's address shown on the Mortgage Deed.

**Housing Financial Assistance Policy**

**Appendix 6A: Flexible Home Improvement Loan Conditions (Empty Home Loans)**

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**Flexible Home Improvement Loans**

(Empty Home Loans)

**Mortgage Conditions**

**1 Interpretation**

In the Mortgage Deed and these Conditions, wherever the context allows:

- 1.1 The 'Borrower' means the person, or persons so described in the Mortgage Deed.
- 1.2 The 'Lender' means [Chiltern District Council] [South Bucks District Council] and its successors and assigns.
- 1.3 The 'Mortgage' refers to any given Mortgage or Charge into which these Conditions are incorporated.
- 1.4 The 'Mortgage Debt' means the aggregate of all the money outstanding for the time being on the security of the Mortgage.
- 1.5 The 'Interest Rate' means the rate set down on page one of this Mortgage Deed, which rate shall be applied wherever the terms Interest or Interest Rate are referred to in this Mortgage Deed.
- 1.6 The 'Loan' means the initial loan made by the Lender to the Borrower, as shown on page one of this Mortgage Deed.
- 1.7 The 'Property' means the property described in the Mortgage and any part, or parts, of it.
- 1.8 Words expressing the masculine include the feminine and words expressing the singular include the plural and vice versa.
- 1.9 Obligations of more than one person are joint and several obligations

**2 Security**

- 2.1 The Mortgage shall be secured by a legal charge on the Property.
- 2.2 The Borrower undertakes that he has a good and marketable title to the property and that the property is not subject to any other charges except those which have already been disclosed to the lender.
- 2.3 The Borrower shall, immediately on demand by the Lender, do and execute any and all further acts, deeds, documents and things as may from time to time be, in the opinion of the Lender, necessary or advisable to perfect the charge and to protect the interests of the Lender under the charge



### **3 Liabilities Secured by the Mortgage**

- 3.1 The Mortgage shall be a continuing security to the Lender for payment of all present and/or future indebtedness of the Borrower to the Lender in respect of:
  - 3.1.1 The loan as stated in the Mortgage Deed.
  - 3.1.2 Any loan, or further advance, made at any time to the Borrower.
  - 3.1.3 Any money, including interest, becoming due to the Lender by the Borrower under these Mortgage Conditions.
- 3.2 In respect of 3.1.3 above, the following amounts will become due to the Lender by the Borrower:
  - 3.2.1 Interest at the rate set down in the Mortgage Deed. The interest rate will be varied in accordance with the Bank of England rate and compounded monthly.
  - 3.2.2 The Mortgage account will be debited with a charge of £15.00 annually to cover the cost of loan administration and statements.

### **4 Obligations of the Borrower**

- 4.1 The Borrower shall:
  - 4.1.1 Perform and observe all relevant obligations contained in these Mortgage Conditions, including carrying out such works or other matters for which the Loan was made to the reasonable satisfaction of the lender.
  - 4.1.2 Put and then keep the Property in good repair and condition and not pull down, remove, or dispose of any of it without the prior written consent of the Lender.
  - 4.1.3 Observe and perform all covenants and conditions affecting the Property or relating to the use and enjoyment of it.
  - 4.1.4 Produce to the Lender, without delay, any order, permission, notice, or document of any kind affecting, or likely to affect, the Property and served on the Borrower by any third party so that the Lender may make copies.
  - 4.1.5 Not do, or cause, or permit to be done, anything which might depreciate, jeopardise, or otherwise prejudice the value to the Lender of the security created by the Mortgage, nor permit any person to become entitled to any proprietary right or interest which might affect the value of the Property.
  - 4.1.6 Keep the Property always in his possession and available for disposal with vacant possession (subject to any lease or tenancy authorised under the terms of these conditions or having priority to the Mortgage) and not alter the use made of the Property without the prior written consent of the Lender.
  - 4.1.7 Perform and observe the provisions of any statutory regulations so far as they relate to the Property. If the Borrower fails to do so the Lender may remedy such failure and the Borrower shall pay to the Lender its expenses of doing so.

- 4.1.8 Not grant, or agree to grant, any lease, or tenancy of, or confer any enforceable licence to occupy the Property without the written consent of the Lender.
- 4.2 All of the obligations set out in this section are of a continuing nature and shall be performed and observed throughout the life of this Mortgage.

### **5 Payments of interest and capital**

- 5.1 No payments of interest and capital are required during the life of this Mortgage.
- 5.2 Subject to 5.1 the borrower may make:
  - 5.2.1 regular monthly payments of interest and capital by Direct Debit, or
  - 5.2.2 regular monthly payments of interest only by Direct Debit, or
  - 5.2.3 irregular payments of interest and/or capital by Payment Card, or
  - 5.2.4 no payments whatsoever.
- 5.3 The Borrower make not make more than one payment in any calendar month without the prior written approval of the lender.
- 5.4 If the Borrower makes regular monthly payments of interest and capital by Direct Debit the lender will apportion the interest and capital in such a way as to repay the Mortgage Debt within a period previously agreed with the Borrower.
- 5.5 Any irregular payments received from the Borrower will be used to reduce any interest which has accrued and is outstanding. If there is a surplus it will be used to reduce the capital outstanding.
- 5.6 Any irregular payments received from the Borrower by Payment Card will be subject to a charge of 60 pence, deducted from the payment on receipt.

### **6 Repayment of the outstanding Mortgage Debt**

- 6.1 The outstanding Mortgage Debt is to be repaid upon the earliest of the following events:
  - 6.1.1 five years from the date of this Deed, or
  - 6.1.2 the Property is sold, or
  - 6.1.3 the title to the Property is transferred, or
  - 6.1.4 on the death of the Borrower (or last surviving Borrower if the Mortgage is granted to more than one person).
- 6.2 Where any sum of money becomes due from the Borrower to the Lender under these circumstances it shall be payable without any prior demand and it shall, in any event, bear interest at the rate set down in the Mortgage Deed from the date when it becomes payable.

### **7 Insurance**

- 7.1 The Borrower is not obliged to take out insurance through the Lender as a condition of this loan. However it is a requirement of the mortgage that the Property is insured for an amount to cover the full cost of reinstating the building at all times during the life of the loan. The Lender reserves the right to inspect the buildings insurance policy on giving reasonable notice and to be satisfied with its terms.
- 7.2 If the Borrower does not effect an appropriate buildings insurance policy, and keep the policy in force, the Lender reserves the right to arrange a suitable policy and debit the mortgage account with the premiums.
- 7.3 The Lender may at its discretion apply, or require to be applied, any money received from any insurance claim in, or towards, making good the loss or damage in respect of which the money is paid.

### **8 General**

- 8.1 Section 93 of the 1925 Act (Restrictions on Consolidation of Mortgages) shall not apply to this Mortgage.
- 8.2 The Lender shall be entitled to all costs and expenses incurred by the Lender in relation to the Mortgage and any indebtedness or liabilities secured by it on a basis of full indemnity.
- 8.3 Each of the provisions of the Mortgage and these Conditions is severable and distinct from the others and if, at any time, one or more of such provisions is, or becomes, invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions and of the Mortgage shall not in any way be affected, or impaired.
- 8.4 The powers and rights of the Lender are those powers and rights conferred by law on the Lender as mortgagee.
- 8.5 This agreement shall be governed by and construed in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with, this agreement.
- 8.6 Any notice required, or authorised, to be served by the Lender shall be deemed served if it is served by registered post, or recorded delivery, to the address of the mortgaged Property.
- 8.7 Any notice required to be served by the Borrower shall be deemed served if it is served by registered post, or recorded delivery, to the Lender's address shown on the Mortgage Deed.

**Housing Financial Assistance Policy**  
**Appendix 6B: Flexible Home Improvement Loan Conditions (Affordable Home Loans)**

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**Flexible Home Improvement Loans**  
**(Affordable Home Loan)**

**Mortgage Conditions (April 2012)**

**1 Interpretation**

In the Mortgage Deed and these Conditions, wherever the context allows:

- 1.1 The 'Borrower' means the person, or persons so described on the first page of this Mortgage Deed.
- 1.2 'Costs' means all costs, charges, expenses, taxes and liabilities of any kind, including (without limitation) costs and damages in connection with litigation, professional fees, disbursements and any VAT charged on Costs which the Lender or any Receiver may charge or incur in relation to this legal mortgage, the Property or breach of any provision of this legal mortgage by the Borrower.
- 1.3 The 'Lender' means the lender set down on the first page of this Mortgage Deed and its successors and assigns.
- 1.4 The 'Mortgage' refers to any given Mortgage or Charge into which these Conditions are incorporated.
- 1.5 The 'Mortgage Debt' means the aggregate of all the money outstanding for the time being on the security of the Mortgage.
- 1.6 The 'Interest Rate' means the rate set down on the first page of this Mortgage Deed, which rate shall be applied wherever the terms Interest of Interest Rate are referred to in this Mortgage Deed.
- 1.7 The 'Loan' means the loan of money made by the Lender to the Borrower, as shown on the first page of this Mortgage Deed under 'Loan Amount'.
- 1.8 The 'Term' means the length of the Mortgage in years set down on the first page of this Mortgage Deed.
- 1.9 The 'Property' means the property described on the first page of this Mortgage Deed and any part, or parts, of it.
- 1.10 The 'Housing Association' means a registered provider of social housing nominated by the Lender from time to time and the definition of Housing Association shall include the original registered provider nominated at the date of this deed and such replacement registered provider nominated by the Lender.

- 1.11 The 'Project' means the commissioning and supervising of the renovation of the Property and subsequently letting the Property to third party tenants as affordable housing.
- 1.12 The 'Tenancy Agreement' means an agreement between the Borrower and the Housing Association whereby the Borrower grants occupation and possession of the Property to the Housing Association for the Project for the duration of the Mortgage.
- 1.13 Words expressing the masculine include the feminine, words expressing the singular include the plural and obligations of more than one person are joint and several obligations.

## **2 Security**

- 2.1 The Borrower, with full title guarantee, charges the Property to the Lender by way of first legal mortgage.
- 2.2 The Borrower undertakes that he has a good and marketable title to the Property and that the Property is not subject to any other charges except those which have already been disclosed to the lender.
- 2.3 The Borrower shall, immediately on demand by the Lender, do and execute any and all further acts, deeds, documents and things as may from time to time be, in the opinion of the Lender, necessary or advisable to perfect the charge and to protect the interests of the Lender under the charge

## **3 Liabilities Secured by the Mortgage**

- 3.1 The Mortgage shall be a continuing security to the Lender for payment of all present and/or future indebtedness of the Borrower to the Lender in respect of:
- 3.1.1 The loan as stated in the Mortgage Deed.
- 3.1.2 Any loan, or further advance, made at any time to the Borrower.
- 3.1.3 Any money, including interest, becoming due to the Lender by the Borrower under these Mortgage Conditions.
- 3.2 In respect of 3.1.3 above, the following amounts will become due to the Lender by the Borrower:
- 3.2.1 Interest at the rate set down in the Mortgage Deed. The interest rate will be varied in accordance with the Bank of England rate and compounded monthly.
- 3.2.2 The Mortgage account will be debited with a charge of £15.00 annually to cover the cost of loan administration and statements.

## **4 Obligations of the Borrower**

- 4.1 The Borrower shall:
- 4.1.1 Perform and observe all relevant obligations contained in these Mortgage Conditions.
  - 4.1.2 Permit the Housing Association access to the Property for the Project.
  - 4.1.3 Acknowledge that the Lender is not required to pay the Loan proceeds to the Borrower or to any other party other than the Housing Association for the Project.
  - 4.1.4 Enter into the Tenancy Agreement with the Housing Association for the Project prior to release of the Loan proceeds.
  - 4.1.5 Enter into all subsequent Tenancy Agreements for the duration of the Mortgage and to comply and observe all covenants and conditions of the landlord in the Tenancy Agreements.
  - 4.1.6 Observe and perform all covenants and conditions affecting the Property or relating to the use and enjoyment of it.
  - 4.1.7 Produce to the Lender, without delay, any order, permission, notice, or document of any kind affecting, or likely to affect, the Property and served on the Borrower by any third party so that the Lender may make copies.
  - 4.1.8 Not do, or cause, or permit to be done, anything which might depreciate, jeopardise, or otherwise prejudice the value to the Lender of the security created by the Mortgage, nor permit any person to become entitled to any proprietary right or interest which might affect the value of the Property.
  - 4.1.9 Not alter the use made of the Property without the prior written consent of the Lender.
  - 4.1.10 Perform and observe the provisions of any statutory regulations so far as they relate to the Property. If the Borrower fails to do so the Lender may remedy such failure and the Borrower shall pay to the Lender its expenses of doing so.
  - 4.1.11 Not grant, or agree to grant, any lease, or tenancy of, or confer any enforceable licence to occupy the Property, or grant any other interest in the Property without the written consent of the Lender.
- 4.2 All of the obligations set out in this section are of a continuing nature and shall be performed and observed throughout the life of this Mortgage.

## **5 Payments of interest and capital**

- 5.1 The Borrower shall on demand pay to the Lender the Mortgage Debt when it becomes due.
- 5.2 The Borrower shall pay interest on any amounts due under clause 5.1 from day to day until the Mortgage Debt is fully discharged at the Interest Rate. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand or payment being made.

- 5.3 The Borrower shall make regular monthly payments of capital and interest, by direct debit, sufficient to repay the Mortgage Debt over the Term as stated in this Mortgage Deed.
- 5.4 The Borrower shall make the first payment of capital on the date that the Housing Association notifies the Borrower being no more than one calendar month from the date that the first tenant occupies the Property.
- 5.5 The Borrower may make additional payments to reduce the Mortgage Debt at any time without penalty.
- 5.6 Any payments received from the Borrower by Payment Card will be subject to a charge of £0.60 deducted from the payment on receipt.
- 5.7 The Borrower authorises the Housing Association to deduct a sum equal to the monthly payment of capital and interest from the rental proceeds under the Tenancy Agreement and pay such sum to the Lender on a monthly basis as payment (whether in whole or part) of the monthly payment of capital and interest due to the Lender.

### **6 Repayment of the outstanding Mortgage Debt**

- 6.1 The outstanding Mortgage Debt is to be repaid immediately upon the earliest of the following events:
  - 6.1.1 on the last day of the Term, or
  - 6.1.2 the Tenancy Agreement between the Borrower and the Housing Association, described in 4.1.4 above, ends and is not renewed or is determined by the Borrower, or
  - 6.1.3 the Property is sold, or
  - 6.1.4 the title to the Property is transferred, or
  - 6.1.5 on the death of the Borrower (or last surviving Borrower if the Mortgage is granted to more than one person).
- 6.2 Where any sum of money becomes due from the Borrower to the Lender under these circumstances it shall be payable without any prior demand and it shall, in any event, bear interest at the Interest Rate from the date when it becomes payable.
- 6.3 Upon repayment of the outstanding Mortgage Debt the Borrower will pay to the Lender the sum of £50.00 for discharge of the Legal Charge.

### **7 Insurance**

- 7.1 The Borrower is not obliged to take out insurance through the Lender as a condition of this loan. However the Borrower must ensure that the Property is insured for an amount to cover the full cost of reinstating the building at all times during the life of

the loan. The Lender reserves the right to inspect the buildings insurance policy on giving reasonable notice to be satisfied with its terms.

- 7.2 If the Borrower does not effect an appropriate buildings insurance policy, and keep the policy in force, the Lender reserves the right to arrange a suitable policy and debit the mortgage account with the premiums.
- 7.3 The Lender may at its discretion apply, or require to be applied, any money received from any insurance claim in, or towards, making good the loss or damage in respect of which the money is paid.

### **8 General**

- 8.1 Section 93 of the 1925 Act (Restrictions on Consolidation of Mortgages) shall not apply to this Mortgage.
- 8.2 The Lender shall be entitled to all Costs incurred by the Lender in relation to the Mortgage and any indebtedness or liabilities secured by it on a basis of full indemnity.
- 8.3 Each of the provisions of the Mortgage and these Conditions is severable and distinct from the others and if, at any time, one or more of such provisions is, or becomes, invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions and of the Mortgage shall not in any way be affected, or impaired.
- 8.4 The powers and rights of the Lender are those powers and rights conferred by law on the Lender as mortgagee.
- 8.5 This agreement shall be governed by and construed in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with, this agreement.
- 8.6 Any notice required, or authorised, to be served by the Lender shall be deemed served if it is served by registered post, or recorded delivery, to the address of the Borrower as described on the first page of this Mortgage Deed.
- 8.7 Any notice required to be served by the Borrower shall be deemed served if it is served by registered post, or recorded delivery, to the Lender's address shown on the Mortgage Deed.

### **9 Enforcement**

- 9.1 The security constituted by this legal mortgage shall be immediately enforceable and the power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal mortgage) shall be immediately exercisable at any time after the occurrence of breach of the terms of this mortgage.
- 9.2 Section 103 of the LPA shall not apply to this legal mortgage and the statutory power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal mortgage) shall, as between the Lender and a purchaser, arise on the execution of this legal mortgage and be exercisable at any time after such execution, but the Lender



shall not exercise such power of sale until the security constituted by this legal mortgage has become enforceable under clause 9.1.

- 9.3 After the security constituted by this legal mortgage has become enforceable, the Lender may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Property.
- 9.4 Neither the Lender or any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Property for which a mortgagee in possession might be liable as such.
- 9.5 If the Lender enters into or takes possession of the Property, it or he may at any time relinquish possession.

### 10 Receivers

- 10.1 At any time after the security constituted by this legal mortgage has become enforceable or at the request of the Borrower, the Lender may, without further notice:
- 10.1.1 appoint under seal or in writing, by a duly authorised officer of the Lender, any one or more person or persons to be a receiver or a Receiver and manager, of all or any part of the Property; and
- 10.1.2 (subject to section 45 of the Insolvency Act 1986) from time to time, under seal or in writing, by a duly authorised officer of the Lender, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.
- Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Lender specifies to the contrary).
- 10.2 The power to appoint a Receiver conferred by this legal mortgage shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA.
- 10.3 The power to appoint a Receiver (whether conferred by this legal mortgage or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Property.
- 10.4 *The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA and the remuneration of the Receiver shall be a debt secured by this legal mortgage which shall be due and payable immediately upon its being paid by the Lender.*
- 10.5 *Any Receiver appointed by the Lender under this legal mortgage shall, in addition to the powers conferred on him by the LPA and the Insolvency Act 1986, have the powers to do all such acts and things as an absolute owner could do in the ownership and management of the Property or any part of it.*

## 11 Protection of third parties

11.1 No purchaser, mortgagee or other person dealing with the Lender or any Receiver shall be concerned:

11.1.1 to enquire whether any of the Mortgage Debt has become due or payable, or remain unpaid or undischarged, or whether the power the Lender or a Receiver is purporting to exercise has become exercisable; or

11.1.2 to see to the application of any money paid to the Lender or any Receiver.

## 12 Conclusive discharge to purchasers

The receipt of the Lender or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Property or in making any acquisition in the exercise of their respective powers, the Lender and every Receiver may do so for such consideration, in such manner and on such terms as it or he thinks fit.

## 13 Costs and indemnity

13.1 The Borrower shall pay to, or reimburse, the Lender and any Receiver on demand, on a full indemnity basis, all Costs incurred by the Lender or any Receiver in relation to:

13.1.1 this legal mortgage or the Property;

13.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's or Receiver's rights under this legal mortgage; and

13.1.3 suing for, or recovering, any of the Mortgage Debt,

(including, without limitation, the Costs of any proceedings in relation to this legal mortgage or the Mortgage Debt), together with interest from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate and in the manner specified in this Deed. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand for payment being made.

13.2 The Lender and any Receiver and their respective employees and agents, shall be indemnified on a full indemnity basis out of the Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

13.2.1 the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this legal mortgage; or

13.2.2 any matter or thing done, or omitted to be done, in relation to the Property under those powers; or

13.2.3 any default or delay by the Borrower in performing any of its obligations under this legal mortgage.

### **14 Release**

Subject to full repayment of the Mortgage Debt, interest and Costs, on the expiry of the Term (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to release the Property from the security constituted by this legal mortgage.

### **15 Assignment and transfer**

- 15.1 At any time, without the consent of the Borrower, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this legal mortgage to any person. The Lender may disclose such information about the Borrower, the Property and this legal mortgage as the Lender considers appropriate to any actual or proposed assignee or transferee.
- 15.2 The Borrower may not assign any of its rights, or transfer any of its obligations, under this legal mortgage or enter into any transaction which would result in any of those rights or obligations passing to another person.
- 15.3 No delay or failure to exercise any right or power under this legal mortgage shall operate as a waiver.
- 15.4 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this legal mortgage under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

### **16 Special Conditions**

**Housing Financial Assistance Policy**  
**Appendix 6C: Flexible Home Improvement Loan Conditions (Rented Property Loans)**

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**Flexible Home Improvement Loans**  
**(Rented Property Loans)**

**Mortgage Conditions (November 2010)**

**1 Interpretation**

In the Mortgage Deed and these Conditions, wherever the context allows:

- 1.1 The 'Borrower' means the person, or persons so described on the first page of this Mortgage Deed.
- 1.2 'Costs' means all costs, charges, expenses, taxes and liabilities of any kind, including (without limitation) costs and damages in connection with litigation, professional fees, disbursements and any VAT charged on Costs which the Lender or any Receiver may charge or incur in relation to this legal mortgage, the Property or breach of any provision of this legal mortgage by the Borrower.
- 1.3 The 'Lender' means the lender set down on the first page of this Mortgage Deed and its successors and assigns.
- 1.4 The 'Mortgage' refers to any given Mortgage or Charge into which these Conditions are incorporated.
- 1.5 The 'Mortgage Debt' means the aggregate of all the money outstanding for the time being on the security of the Mortgage.
- 1.6 The 'Interest Rate' means the rate set down on the first page of this Mortgage Deed, which rate shall be applied wherever the terms Interest or Interest Rate are referred to in this Mortgage Deed.
- 1.7 The 'Loan' means the initial loan made by the Lender to the Borrower, as shown on the first page of this Mortgage Deed.
- 1.8 The 'Term' means the length of the Mortgage in years set down on the first page of this Mortgage Deed.
- 1.9 The 'Property' means the property described on the first page of this Mortgage Deed and any part, or parts, of it.
- 1.10 Words expressing the masculine include the feminine, words expressing the singular include the plural and obligations of more than one person are joint and several obligations.

**2 Security**

- 2.1 The Borrower, with full title guarantee, charges the Property to the Lender by way of first legal mortgage.
- 2.2 The Borrower undertakes that he has a good and marketable title to the Property and that the Property is not subject to any other charges except those which have already been disclosed to the lender.
- 2.3 The Borrower shall, immediately on demand by the Lender, do and execute any and all further acts, deeds, documents and things as may from time to time be, in the opinion of the Lender, necessary or advisable to perfect the charge and to protect the interests of the Lender under the charge

### **3 Liabilities Secured by the Mortgage**

- 3.1 The Mortgage shall be a continuing security to the Lender for payment of all present and/or future indebtedness of the Borrower to the Lender in respect of:
  - 3.1.1 The loan as stated in the Mortgage Deed.
  - 3.1.2 Any loan, or further advance, made at any time to the Borrower.
  - 3.1.3 Any money, including interest, becoming due to the Lender by the Borrower under these Mortgage Conditions.
- 3.2 In respect of 3.1.3 above, the following amounts will become due to the Lender by the Borrower:
  - 3.2.1 Interest at the rate set down in the Mortgage Deed. The interest rate will be varied in accordance with the Bank of England rate and compounded monthly.
  - 3.2.2 The Mortgage account will be debited with a charge of £15.00 annually to cover the cost of loan administration and statements.

### **4 Obligations of the Borrower**

- 4.1 The Borrower shall:
  - 4.1.1 Perform and observe all relevant obligations contained in these Mortgage Conditions, including carrying out such works or other matters for which the Loan was made to the reasonable satisfaction of the lender.
  - 4.1.2 Put and keep the Property in good repair and condition and not pull down, remove, or dispose of any of it without the prior written consent of the Lender.
  - 4.1.3 Observe and perform all covenants and conditions affecting the Property or relating to the use and enjoyment of it.
  - 4.1.4 Produce to the Lender, without delay, any order, permission, notice, or document of any kind affecting, or likely to affect, the Property and served on the Borrower by any third party so that the Lender may make copies.

- 4.1.5 Not do, or cause, or permit to be done, anything which might depreciate, jeopardise, or otherwise prejudice the value to the Lender of the security created by the Mortgage, nor permit any person to become entitled to any proprietary right or interest which might affect the value of the Property.
  - 4.1.6 Not alter the use made of the Property without the prior written consent of the Lender.
  - 4.1.7 Perform and observe the provisions of any statutory regulations so far as they relate to the Property. If the Borrower fails to do so the Lender may remedy such failure and the Borrower shall pay to the Lender its expenses of doing so.
  - 4.1.8 Not grant, or agree to grant, any lease, or tenancy of, or confer any enforceable licence to occupy the Property for a period greater than one year without the written consent of the Lender.
- 4.2 All of the obligations set out in this section are of a continuing nature and shall be performed and observed throughout the life of this Mortgage.

### **5 Payments of interest and capital**

- 5.1 The Borrower shall on demand pay to the Lender the Mortgage Debt when it becomes due.
- 5.2 The Borrower shall pay interest on any amounts due under clause 5.1 from day to day until the Mortgage Debt is fully discharged at the Interest Rate. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand or payment being made.
- 5.3 The Borrower shall make regular monthly payments of capital and interest, by direct debit, sufficient to repay the Mortgage Debt over the Term as stated in this Mortgage Deed.
- 5.4 The Borrower shall make the first payment of capital and interest within one calendar month of the date of making the initial Loan.
- 5.5 The Borrower may make additional payments to reduce the Mortgage Debt at any time without penalty.
- 5.6 Any payments received from the Borrower by Payment Card will be subject to a charge of £0.60 deducted from the payment on receipt.

### **6 Repayment of the outstanding Mortgage Debt**

- 6.1 The outstanding Mortgage Debt is to be repaid upon the earliest of the following events:
  - 6.1.1 on the last day of the Term, or
  - 6.1.2 the Property is sold, or

- 6.1.3 the title to the Property is transferred, or
- 6.1.4 on the death of the Borrower (or last surviving Borrower if the Mortgage is granted to more than one person).
- 6.2 Where any sum of money becomes due from the Borrower to the Lender under these circumstances it shall be payable without any prior demand and it shall, in any event, bear interest at the Interest Rate from the date when it becomes payable.
- 6.3 Upon repayment of the outstanding Mortgage Debt the Borrower will pay to the Lender the sum of £50.00 for discharge of the Legal Charge.

### **7 Insurance**

- 7.1 The Borrower is not obliged to take out insurance through the Lender as a condition of this loan. However the Borrower must ensure that the Property is insured for an amount to cover the full cost of reinstating the building at all times during the life of the loan. The Lender reserves the right to inspect the buildings insurance policy on giving reasonable notice to be satisfied with its terms.
- 7.2 If the Borrower does not effect an appropriate buildings insurance policy, and keep the policy in force, the Lender reserves the right to arrange a suitable policy and debit the mortgage account with the premiums.
- 7.3 The Lender may at its discretion apply, or require to be applied, any money received from any insurance claim in, or towards, making good the loss or damage in respect of which the money is paid.

### **8 General**

- 8.1 Section 93 of the 1925 Act (Restrictions on Consolidation of Mortgages) shall not apply to this Mortgage.
- 8.2 The Lender shall be entitled to all Costs incurred by the Lender in relation to the Mortgage and any indebtedness or liabilities secured by it on a basis of full indemnity.
- 8.3 Each of the provisions of the Mortgage and these Conditions is severable and distinct from the others and if, at any time, one or more of such provisions is, or becomes, invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions and of the Mortgage shall not in any way be affected, or impaired.
- 8.4 The powers and rights of the Lender are those powers and rights conferred by law on the Lender as mortgagee.
- 8.5 This agreement shall be governed by and construed in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with, this agreement.

- 8.6 Any notice required, or authorised, to be served by the Lender shall be deemed served if it is served by registered post, or recorded delivery, to the address of the Borrower as described on the first page of this Mortgage Deed.
- 8.7 Any notice required to be served by the Borrower shall be deemed served if it is served by registered post, or recorded delivery, to the Lender's address shown on the Mortgage Deed.

### 9 Enforcement

- 9.1 The security constituted by this legal mortgage shall be immediately enforceable and the power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal mortgage) shall be immediately exercisable at any time after the occurrence of breach of the terms of this mortgage.
- 9.2 Section 103 of the LPA shall not apply to this legal mortgage and the statutory power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal mortgage) shall, as between the Lender and a purchaser, arise on the execution of this legal mortgage and be exercisable at any time after such execution, but the Lender shall not exercise such power of sale until the security constituted by this legal mortgage has become enforceable under clause 9.1.
- 9.3 After the security constituted by this legal mortgage has become enforceable, the Lender may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Property.
- 9.4 Neither the Lender or any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Property for which a mortgagee in possession might be liable as such.
- 9.5 If the Lender enters into or takes possession of the Property, it or he may at any time relinquish possession.

### 15 Receivers

- 10.1 At any time after the security constituted by this legal mortgage has become enforceable or at the request of the Borrower, the Lender may, without further notice:
- 10.1.1 appoint under seal or in writing, by a duly authorised officer of the Lender, any one or more person or persons to be a receiver or a Receiver and manager, of all or any part of the Property; and
- 10.1.2 (subject to section 45 of the Insolvency Act 1986) from time to time, under seal or in writing, by a duly authorised officer of the Lender, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.

Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Lender specifies to the contrary).



- 10.2 The power to appoint a Receiver conferred by this legal mortgage shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA.
- 10.3 The power to appoint a Receiver (whether conferred by this legal mortgage or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Property.
- 10.4 *The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA and the remuneration of the Receiver shall be a debt secured by this legal mortgage which shall be due and payable immediately upon its being paid by the Lender.*
- 10.5 *Any Receiver appointed by the Lender under this legal mortgage shall, in addition to the powers conferred on him by the LPA and the Insolvency Act 1986, have the powers to do all such acts and things as an absolute owner could do in the ownership and management of the Property or any part of it.*

### **16 Protection of third parties**

- 11.1 No purchaser, mortgagee or other person dealing with the Lender or any Receiver shall be concerned:
- 16.1.1 to enquire whether any of the Mortgage Debt have become due or payable, or remain unpaid or undischarged, or whether the power the Lender or a Receiver is purporting to exercise has become exercisable; or
- 16.1.2 to see to the application of any money paid to the Lender or any Receiver.

### **17 Conclusive discharge to purchasers**

The receipt of the Lender or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Property or in making any acquisition in the exercise of their respective powers, the Lender and every Receiver may do so for such consideration, in such manner and on such terms as it or he thinks fit.

### **18 Costs and indemnity**

- 13.1 The Borrower shall pay to, or reimburse, the Lender and any Receiver on demand, on a full indemnity basis, all Costs incurred by the Lender or any Receiver in relation to:
- 13.1.1 this legal mortgage or the Property;
- 13.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's or Receiver's rights under this legal mortgage; and
- 13.1.3 suing for, or recovering, any of the Mortgage Debt,
- (including, without limitation, the Costs of any proceedings in relation to this legal mortgage or the Mortgage Debt), together with interest from day to day until full discharge

(whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate and in the manner specified in this Deed. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand for payment being made.

13.2 The Lender and any Receiver and their respective employees and agents, shall be indemnified on a full indemnity basis out of the Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

13.2.1 the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this legal mortgage; or

13.2.2 any matter or thing done, or omitted to be done, in relation to the Property under those powers; or

13.2.3 any default or delay by the Borrower in performing any of its obligations under this legal mortgage.

### **19 Release**

Subject to full repayment of the Mortgage Debt, interest and Costs, on the expiry of the Term (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to release the Property from the security constituted by this legal mortgage.

### **15 Assignment and transfer**

15.1 At any time, without the consent of the Borrower, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this legal mortgage to any person. The Lender may disclose such information about the Borrower, the Property and this legal mortgage as the Lender considers appropriate to any actual or proposed assignee or transferee.

15.2 The Borrower may not assign any of its rights, or transfer any of its obligations, under this legal mortgage or enter into any transaction which would result in any of those rights or obligations passing to another person.

15.3 No delay or failure to exercise any right or power under this legal mortgage shall operate as a waiver.

15.4 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this legal mortgage under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

### **16 Special Conditions**

Repairs and Energy Efficiency Works

	Current Policy	Proposed Changes	Reasons for change
<b>Assistance Type</b>	<b>Safer Homes Grant</b>	<b>Home Renovation Loan</b>	
Purpose	To address significant hazards under Housing Health and Safety Rating System (HHSRS)	To carry out works of repair and address hazards under the HHSRS	To enable wider works of repair to be funded, which may not score as a significant hazards under the rating system, but which needs to be carried out to improve conditions. This might include roof repairs or replacement of single glazed windows.
Means tested	Yes		
Maximum Amount	£20,000		
Conditions	First £1,000 not repayable. Remainder repayable on sale with 10% fee. Over 60s must apply for Flexible Loan for any amount above £1,000.	The whole amount is repayable on sale or transfer of the title, with a 10% fee. Over 60s must use Flexible Loan.	A grant is available for most serious hazards.
<b>Assistance Type</b>		<b>Safer Homes Grant</b>	
Purpose		To address significant hazards under HHSRS	This grant provides a cost effective way to tackle the most serious hazards for low income home owners without having to go through enforcement/works in default procedures
Means tested		Yes – only available to persons in receipt of income related benefits	Ensures that the assistance is targeted at those most in need, and avoids need for complex means testing.
Maximum Amount		£5000	This amount enables the most immediate hazards to be addressed, such as lack of heating or dangerous wiring.
Conditions		Repayable if property sold or transferred within 3 years of completion of works.	The limited repayment criteria will help to address evidenced reluctance of some of the most vulnerable households to accept repayment terms.
<b>Assistance Type</b>	<b>Mobile Home Grant</b>	<b>Mobile Home Grant</b>	
Purpose	For essential repairs and energy efficiency measures		

Means Tested?	Yes		
Maximum Amount	£7000	£10,000	Inflationary increase required. An increased maximum amount will enable a greater scope of work to be undertaken to the worse properties. Improves ability for CDC to take part in potential Age UK-led project and therefore lever in external funding.
Conditions	None		
<b>Assistance Type</b>	<b>Flexible Home Improvement Loan</b>	<b>Flexible Home Improvement Loan</b>	
Purpose	For works to improve safety, comfort and security of home for owners aged 60 and over		
Means Tested?	No		
Maximum Amount	£20000		
Conditions	Repayable with interest – repayment period is flexible		

	<b>Current Policy</b>	<b>Proposed Changes</b>	<b>Reasons for change</b>
<b>Assistance Type</b>	<b>HMO Grant</b>	<b>HMO Grant</b>	
Purpose	For landlords of HMOs to carry out fire safety works and improved amenities		
Means Tested?	No		
Maximum Amount	£10000	50% of eligible costs up to maximum of £5000	Limited capital budgets and increasing numbers of HMOs require the maximum amount to be reduced. A grant provides an incentive to prevent landlords converting HMOs back to single occupancy.
Conditions	Repayable if not let as HMO for a continuous period of 5 years following the completion of works	Also repayable on sale with 10% fee.	Provides consistency with assistance for owner-occupiers.
<b>Assistance Type</b>	<b>Green Deal Incentive Grant</b>	<b>Energy Efficiency Incentive Grant</b>	
Purpose	For Green Deal Assessment Reports via Green Homes Together	For energy efficiency measures via National Energy Foundation	Green Deal finance no longer available, so assistance to be made more generic.

Means Tested?	Targeted for specific campaigns agreed from time to time with Portfolio Holder		Criteria need to be flexible depending on the objectives of each project.
Maximum Amount	£100	Variable, to maximum £2500 depending on requirements of the project.	There is limited availability for funding of energy efficiency measures elsewhere. An increased maximum will provide more scope for targeted schemes, especially where there are opportunities to bid for external funding for projects requiring a matched funding element.
Conditions	Not repayable	Variable, depending on requirements of project.	Criteria need to be flexible depending on the objectives of each project.

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## Adaptations

	Current Policy	Proposed Changes	Reasons for change
<b>Assistance Type</b>	<b>Disabled Facilities Grant</b>	<b>Disabled Facilities Grant</b>	
Purpose	Mandatory grant for home adaptations	None – grant is prescribed by legislation	
Means tested	Yes		
Maximum Amount	£30000		
Conditions	Part repayable for owners	Greater guidance to be provided on circumstances where it is considered unreasonable to require repayment. Decision to be made by Head of Healthy Communities in consultation with Portfolio Holder.	Committee process introduces long delays where waiver of repayment is requested. Clearer guidance will enable these decisions to be made swiftly at officer level.
<b>Assistance Type</b>	<b>Accessible Homes Grant</b>	<b>Accessible Homes Grant</b>	
Purpose	Fast track grant for mandatory adaptations		
Means Tested?	Yes		
Maximum Amount	£7000	£10,000	Increased maximum amount will allow greater scope to use grant where more than one adaptation is required at the same time eg a curved stairlift and a wet floor shower.
Conditions	None		
<b>Assistance Type</b>		<b>Discretionary Disabled Facilities Grant</b>	
Purpose		<ul style="list-style-type: none"> <li>• For top ups to mandatory DFGs,</li> <li>• to assist with a move to a more suitable property,</li> <li>• for works outside mandatory scope in exceptional circumstances</li> </ul>	Maximum mandatory amount proving insufficient in a growing number of cases. Need to provide more flexibility to address issues which are not adequately catered for by mandatory regime eg for children with challenging behaviour, or where moving house provides better solution. Potential increase in funding from Better Care Fund will help to finance this.
Means Tested?		Yes	
Maximum Amount		£15,000	
Conditions		Repayable on sale (for owners)	

**Chiltern District Council  
and  
South Bucks District Council**

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**Housing Enforcement Policy**

**Adopted**

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## 1.0 Introduction

### 1.1 Objectives

Chiltern District Council and South Bucks District Council are two sovereign authorities with separate budgets and separate decision making processes. The two authorities have operated a shared housing service since April 2014 and have implemented a joint Private Sector Housing Strategy.

This document sets out Chiltern District Council and South Bucks District Council policy in using enforcement action to address health and safety hazards in housing, and builds on the general guidance set out in the Councils Enforcement Policy for Health and Housing.

This policy is written in the context of Chiltern and South Bucks Private Sector Housing Strategy which aims to ensure that

- private sector housing meets basic standards of fitness and is maintained in good repair
- the private rented sector within the district provides good quality, well-managed, safe accommodation.

One of the tools identified to achieve these objectives is through the use of enforcement action.

Enforcement officers, by necessity, have considerable discretion in decision making and initiating enforcement action. This policy applies to all dealings, formal and informal, between officers and landlords and owners of residential property – all of which contribute to securing compliance with the law. It provides policy standards to aid professional judgements and decision making and ensure both consistent and effective enforcement.

References to 'the Council' shall mean Chiltern District Council or South Bucks District Council, depending upon the administrative area in which the property subject to enforcement action is located.

### 1.2 Background

The Council is granted extensive enforcement powers in several Acts of Parliament to secure improvements in houses in disrepair. The main powers are summarised in Appendix 1.

Where a breach of the legislation is identified, there are four main options open to the council to ensure that the law is complied with:

- **Informal action** – this includes verbal advice given by Officers and advisory letters.
- **Formal Action** – this includes a range of responses including the service of statutory notices, orders and carrying out of emergency works. Most notices served under Housing legislation require the recipient of the notice to carry out specified works within given time limits.
- **Formal caution** - A formal caution is where an offender is given written details of the offence and s/he signs to say that s/he admits the offence. It is not a form of sentence. A record of the caution is kept at the Council for a period of three years and it may subsequently influence a decision to instigate proceedings if the offender breaks the law in the future. It may also be cited if the Council takes legal action for a subsequent offence.
- **Prosecution** – In some cases, breaching the legislation is a criminal offence. The Council is the prosecuting authority for such offences and as they are criminal in nature, proceedings are taken in the Magistrates Court.

Paragraphs 3.2 to 3.5 set down the factors to be considered by officers in deciding which option to take.

### **1.3 Comments and Complaints**

If you have any comments or questions in relation to this policy, please contact:

Senior Housing Standards Officer  
Chiltern and South Bucks Housing  
King George V Road  
Amersham  
Bucks  
HP6 5AW  
Telephone: 01494 732013  
Email: [housing@chiltern.gov.uk](mailto:housing@chiltern.gov.uk)

The Council has a corporate complaints procedure in cases where disputes arising from this policy cannot be resolved.

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## **2.0 Enforcement Principles**

This service has adopted the central and local government Enforcement Concordat. We will also follow the Hampton principles as the basis for good enforcement.

### **Openness**

We will provide information and advice in plain language and as far as possible, avoid jargon.

We will be open about how we do our work and in particular how we set our charges for enforcement. We will always discuss general issues, specific failures or problems with anyone who has been enforced against.

We will seek to make sure that people understand what is expected from them as well as knowing what they can expect from us.

Where notices have been served and are on a Public Register, this will be available for viewing free of charge.

### **Helpfulness**

Our staff will provide a courteous and efficient service. All staff who visit properties will identify themselves by name and carry identification cards.

We will always provide a contact point and telephone number for further dealings with Officers.

Interpretation services will be made available for both office and on-site visits where people do not have English as their first language.

Landlords and owners of residential property will be encouraged to seek advice/information; information will be freely available in the form of leaflets and pages on the council's website. When appropriate, training courses/seminars will be provided for landlords on specific issues.

### **Proportionality**

All enforcement actions and advice must be proportional to the risks posed to the public and the seriousness of any breach of legislation.

When considering enforcement action, consideration will be given to the cost of measures required to reduce the risk weighed against the benefit to be gained by reducing the risk.

In addition, there will be a staged approach to enforcement action with increasing degrees of enforcement if landlords and owners of residential property fail to respond to previous requirements.

### **Consistency and Fairness**

Officers will carry out their duties in a fair and consistent way. To this end, we have developed and put in place procedures for the range of enforcement activities we carry out and make sure that Officers follow such procedures.

Although Officers have to use judgement in individual cases, we will make sure that procedures wherever possible are the same and people are treated equitably.

### 3.0 Enforcement Decisions

In deciding whether to take action and if so, the most appropriate course of action, each case will be considered individually having regard to the circumstances of the case and a range of relevant factors. In making enforcement decisions, officers must have regard to the following guidelines.

- Housing Health and Safety Rating System Enforcement Guidance published by the ODPM in February 2006
- The Neighbourhood Renewal Assessment process and associated guidance published by the ODPM in 2004
- Guidance outlined in section 3.2 to 3.7 below.
- Any other subsequent national legislation and guidance

All enforcement decisions will be fully documented.

Before taking any action in respect of a tenanted property the tenant will normally be expected to contact their landlord about the problems first, though this will not be required in the following circumstances:

- Where the matter appears to present an imminent risk to the health and safety of the occupants.
- Where there is a history of harassment, threatened eviction or poor management practice.
- Where it is not considered reasonable, or the tenant is otherwise unable to contact his/her landlord

Where there is a shared or complimentary enforcement role, consultation will be carried out with the appropriate agency. Specifically, before serving a notice to address a Fire Hazard, consultation will be carried out with the Bucks Fire and Rescue Service. Where there is a problem with the gas installation in a property, the Health and Safety Executive (HSE) will be notified. Where dangerous conditions exist, the Building Control section will be notified. Contraventions of the furniture regulations will be notified to Trading Standards at Bucks County Council.

### 3.1 Authorisation and Delegation

Housing enforcement decisions are delegated to Head of Healthy Communities and in turn to authorised Officers of the Healthy Communities division, under the Council's Scheme of Delegation to Officers.

The decision to prosecute or administer a formal caution is determined, in consultation with the Legal Services Manager.

Demolition Orders, Clearance Areas and Compulsory Purchase Orders will normally only be served/declared following a decision by the Council's Cabinet.

The Council has developed procedures for the authorisation of officers undertaking housing work. Only officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. Authorised officers will also have sufficient training and understanding of this enforcement policy in order to ensure a consistent approach to service delivery.

Officers who undertake criminal investigations will be conversant with and adhere to the provisions of the Police and Criminal Evidence Act, 1984 (PACE) and the Criminal Procedure and Investigations Act, 1996 (CPIA), Regulation of Investigatory Powers Act 2000 (RIPA).

### 3.2 Informal Action

Informal action, that is verbal advice, requests or warnings, or letters and inspection reports can be used when

- the breach is not of a serious nature
- past experience has shown that such action will be effective
- there is not a significant risk to the safety or health of the occupant (or the public)
- informal action will be more effective and/or quicker than formal action
- there is confidence in the Manager/owner

Informal action will in most cases be commenced first before serving statutory notices or orders, but the Council will consider immediate formal action where such action appears to be necessary. Such action maybe warranted where:-

- an authority considers there is imminent risk to the health and safety of the occupants at the premises
- where an authority has followed informal procedures with the owner or landlord on previous occasions and considers that to repeat the informal procedure would amount to an unreasonable duplication of effort.

It is not always possible to adopt an informal approach especially where the legislation requires formal action to be taken straight away. (An example of this is the service of a notice under section 80 of the Environmental Protection Act 1990 where there is a statutory nuisance.)

The service of a Hazard Awareness Notice, while strictly a form of formal action, may also be considered appropriate in the above circumstances.

### 3.3 Formal Action

The most appropriate course of action will be determined having regard to the enforcement guidance and the NRA assessment. The range of formal action is that set out in section 5 of the Housing Act 2004 The service of a Hazard Awareness Notice may only be considered appropriate, however, in the circumstances described under 'Informal Action'.

Notices and other formal action will normally only be taken when

- there is a duty to take formal action (ie there are Category 1 hazards), or
- there is a significant contravention of legislation, or
- there is a lack of confidence in the manager/owner to respond to an informal approach, or
- non compliance could be potentially serious to public health, safety or well being of individuals, or
- there is a history of non-compliance, or
- standards are poor (for example there are multiple Category 2 hazards) and the manager/owner has little awareness of statutory requirements, or

- although it is possible to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating.

### **3.4 Works In Default**

The decision whether to undertake Works in Default will include consideration of:

- The risk to public health, safety or wellbeing of individuals.
- Whether reasonable progress has been made by the owner with regard to the works.
- The ability of the owner to arrange for the works to be done.
- The time which has elapsed for compliance with the notice.
- The history of the owner with regard to compliance with notices.
- Whether default work may afford greater benefit than prosecution, ie the defects will be remedied.

In exceptional circumstances, the Council will consider carrying out works in default in addition to prosecution.

### **3.5 Formal Caution and Prosecution**

The decision to either offer a formal caution or take a prosecution is one that is not taken lightly. Officers recognise that their decision is significant and could have far reaching consequences upon the alleged offender and others.

The decision to prosecute will be taken only in respect of one or more of the following:

- Where the alleged offence involves a flagrant breach of the law such that public health, safety or the wellbeing of individuals is or has been put at risk.
- Where the alleged offence involves a failure to correct an identified serious potential risk and the person responsible has been given a reasonable opportunity to comply with the lawful requirements of an authorised officer.
- Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice.
- Where there is no alternative remedy such as serving notices or carrying out works in default
- Where there is a history of similar offences relating to risk of public health, safety or the wellbeing of individuals.

Where such circumstances have been identified, all relevant evidence and information must be considered to enable a consistent, fair and objective decision to be made.

It is necessary to establish that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of a conviction: a bare prima facie case is not enough. There must also be a positive decision that it is in the public's interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which should be considered, including relevant public interest criteria. The factors to consider may include:

- a. The seriousness of the alleged offence;
- b. The previous history of the party concerned;
- c. The ability of any important witnesses and their willingness to co-operate;
- d. The willingness of the party to prevent a recurrence of the problem;
- e. The probable public benefit of a prosecution and the importance of the case, ie whether it might establish legal precedent;
- e. Whether other action might be appropriate;
- g. Any explanation offered by the individual or company.

In addition to the above considerations, there are certain conditions that must exist before a caution can be administered, namely

- there must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction;
- the offender must admit the offence;
- the offender must understand the significance of the caution and give his informed consent to accepting the caution.

If any of the above criteria are not met, the Council will not consider the issuing of a formal caution. Above all, a caution will not be used as a substitute for a prosecution that would otherwise be unsustainable.

### **3.6 Demolition, Compulsory Purchase and Clearance**

A Neighbourhood Renewal Assessment would be required in accordance with guidance contained in Government Circulars. Detailed consideration of many factors would have to be undertaken in association with other Directorates to ensure that it was the most satisfactory method of dealing with a property or an area, with ultimately the decision being made by the Council's Cabinet.. Any of these courses of action would be regarded as a last resort.

### **3.7 Enforcement against owner-occupiers**

Enforcement decisions will be made in full consultation with the owner and having regard to owner's eligibility for a Housing Assistance grant or loan.

Formal action will not be limited to the service of Hazard Awareness Notices. The service of statutory notices and orders and the carrying out of emergency works will be considered where the condition of an owner-occupied property is such that:-

- It is a danger or a serious health risk to the occupier or members of the public,  
**or**
- It is having a deleterious effect on adjoining properties

## **4.0 Enforcement Procedures**

### **4.1 Inspections**

Inspections and enforcement action will be targeted primarily on those activities giving rise to the most serious risks or where hazards are least controlled.

The prioritisation of inspections will be based on the risk assessment for Houses in Multiple Occupation, or following a complaint.

We will, wherever possible, seek to arrange routine visits and inspections at times to suit those concerned.

We will arrange routine inspections through landlords and their agents, but in the case of complaints will typically visit the complainant in the first instance to assess the facts of the case.

### **4.2 Actions**

We will confirm our advice, findings and conclusions (as the case may be) at the earliest opportunity, will do so in a clear and simple manner and will accommodate at least one meeting to discuss these matters if requested, other than in urgent cases.

If we require remedial action this will be put in writing and we will explain why it is necessary and when it must be done.

We will make sure that legal requirements are clearly distinguished from best practice advice.

We will confirm any decision to undertake formal action, work-in-default or prosecution in writing.

Officers serving statutory notices will be prepared to discuss the specified works with individuals/company representatives and will consider the availability and suitability of any alternative solutions.

Where a formal notice is served, the method of appealing against the notice (ie if the recipient felt that the notice is excessive in its requirements) will be provided in writing at the same time.

### **4.3 Timescales for Completion of Works**

We will take account of relevant factors when determining what deadlines to set for the commencement and completion of work. Relevant factors may include: the nature of the works; any ill effects that are likely to result if the work is delayed; the duration of the problem and the point at which it has been reported to us; any prior knowledge on the landlord or agent's part; and the nature of any attempts to remedy the problem. We will also seek to be sympathetic to financial and other practical constraints that may affect landlords' and agents' ability to act, whilst recognising that these do not limit obligations or legal duties to achieve appropriate standards.

We will consider properly made requests for the extension of deadlines where unforeseen problems have delayed works, but not simply to accommodate lack of sufficiently early action.



#### 4.4 Charges for Enforcement Action

A charge will be made for the cost of administrative and other expenses involved in serving Improvement Notices and Prohibition Orders.

The charge is £100 for the first notice/order and £50 for additional notices where served concurrently, with a maximum charge of £300 per property. Where more than one person is served with a notice/order the charge will be recovered from the main recipient, usually the person who is primarily responsible for the management of the property.

The charge will be waived where the notice is complied with within the timescales set out on the notice or where the notice is served and works arranged by the Council with the agreement of the property owner (eg as an alternative to a grant or loan).

Where there is an appeal against the Notice, or the notice is suspended, the charge is also suspended, until the appeal is resolved or the suspension is ended. There is no separate right of appeal against the demand. In cases of hardship the Head of Healthy Communities has discretion to reduce charges for enforcement action.

Where works are Emergency Remedial Works or works arranged by the local authority in default of a statutory notice served under the Housing Acts or other public health legislation, the expenses to be recovered are as follows:

- The actual cost to the local authority of undertaking the works in default
- The costs of serving the relevant notices at the rate set out above
- All other administrative costs reasonably incurred in relation to arranging the works. These costs will be calculated having regard to actual time spent and the hourly rate (including overheads) of the Healthy Communities department.
- Interest at base rate plus 2%.

## **5.0 Monitoring and Review**

Actions taken under this policy will be monitored annually as part of the overall monitoring of the Private Sector Housing Strategy outcomes.

This policy, including the charges, will be reviewed on an annual basis.

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## Summary of Housing Legislation

Legislation	Summary of Powers
<b>Protection from Eviction Act 1977</b>	
Section 1	<p>This section creates the offences of unlawful eviction and harassment of a residential occupier. Chiltern District Council is a prosecuting authority for the purposes of this section and it is Housing Officers who investigate claims of unlawful eviction and harassment. The Council can prosecute landlords, agents or others who contravene this section.</p>
<b>Environmental Protection Act 1990</b>	
Section 80	<p>Section 79 of this Act lists what are statutory nuisances. As far as the legislation enforced by the Housing Section is concerned, a statutory nuisance is any house in such a state as to be prejudicial to health or a nuisance.</p> <p>Prejudicial to health is defined as injurious or likely to cause injury to health. This typically includes properties that are damp or have mould growth, as dampness and mould growth can have an affect on people's health.</p> <p>A nuisance is taken to be anything that interferes with the use and enjoyment of a neighbouring property or which materially affects the comfort and quality of life of the public at large. Examples of nuisances include a hole in the roof of one property allowing rain to penetrate through and affect the neighbouring property or slates falling off a roof onto the footpath and thus endangering passers by.</p> <p>Once the Council is satisfied that a statutory nuisance exists or is likely to occur, it is under a duty to take action to deal with it. This means that Officers have to serve a notice requiring the abatement of the statutory nuisance within certain time limits or preventing the occurrence of a statutory nuisance. In the case where a house is let, this is generally served on the landlord of the property.</p> <p>If such a notice is served and not complied with, the Council is able to carry out the necessary work in default and recharge the person upon whom the notice was served. Not keeping to a notice is a criminal offence and the Council is able to prosecute the person who received the notice if he does not have a reasonable excuse for not keeping to it.</p>
<b>Housing Act 1985</b>	
Section 17	<p><b>Power to make a Compulsory Purchase Order</b></p> <p>The legal powers are contained in s17 Housing Act 1985 and s93 Local Government and Housing Act 1989.</p> <p>A compulsory purchase order may be served upon the owner of land or property by Chiltern District Council (or in certain circumstances, by the Housing Corporation) to acquire the land for the public good, usually at a valuation set by the district valuer.</p>
Section 265	<p><b>Power to make a Demolition Order</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Demolition Order is one of the actions that can be taken.</p> <p>A demolition order requires the property to be vacated within a specific time and subsequently demolished. It is a criminal offence to allow the property to be occupied after the demolition order has come into effect. If the person upon whom the order has been served does not demolish the building, the Council can demolish it instead and recharge the person accordingly.</p>

## Housing Enforcement Policy

## Appendix 1: Summary of Housing Enforcement Powers

Section 289	<p><b>Declaration of clearance area</b></p> <p>A clearance area is an area that is to be cleared of all buildings. The Council shall declare an area to be a clearance area if each of the residential building contains a Category 1 hazard and the other buildings in the area are dangerous or harmful to health and safety. The Council is required to consult on the declaration of a clearance area and publish its intentions. Owners and in certain cases occupiers of properties are compensated accordingly.</p>
<b>Housing Act 2004</b>	
Sections 11 and 12	<p><b>Power to serve an Improvement Notice</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of an Improvement Notice is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>An Improvement Notice under this section requires the recipient of the notice (usually the owner but not in all cases) to carry out certain works within a specified time scale. If the notice is not complied with, the Council can carry out the work in default and recharge the person upon whom the notice was served. Not keeping to a notice is a criminal offence and the Council is able to prosecute the person who received the notice, if he has intentionally failed to keep to it.</p> <p>An Improvement Notice can be suspended, varied or revoked.</p>
Sections 20 and 21	<p><b>Power to Serve a Prohibition Order</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Prohibition Order is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Prohibition Order under this section requires the recipient of the notice (usually the owner but not in all cases) to cease or limit the use of a property or part of the property for residential purposes. Prohibition Orders may also relate to the use of the premises by a specified number of people. Not keeping to an Order is a criminal offence and the Council is able to prosecute the person who received the notice, if he has intentionally failed to keep to it.</p> <p>An Prohibition Order can be suspended, varied or revoked</p>
Sections 28 and 29	<p><b>Power to Serve a Hazard Awareness Notice</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Hazard Awareness Notice is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Hazard Awareness Notice advises the person on whom it is served (usually the owner, but not in all cases) of the existence and the nature of the hazards identified, and the works considered to be required to address the hazard. The notice is advisory only - it does not require the recipient to take any action.</p>
Section 40	<p><b>Power to take Emergency Remedial Action</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential</p>

## Housing Enforcement Policy

## Appendix 1: Summary of Housing Enforcement Powers

	<p>premises, it can take Emergency Remedial Action.</p> <p>This means that the Council can arrange for works to be undertaken to remove the risk of harm. Within 7 days of starting the work, they must serve a notice under section 41 of the Act on the person having control of the house explaining the action taken. The Council have powers to recover expenses incurred in taking emergency remedial action.</p>
Section 43	<p><b>Powers to make an Emergency Prohibition Order</b></p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential premises, it can take Emergency Prohibition Order.</p> <p>This prohibits the use of the premises or part of the premises for residential use, with immediate effect. The Council must serve a notice on the person having control of the property on the day (or as soon as possible) that the Emergency Prohibition Order is made.</p>
Section 73	<p><b>Power to apply to the RPT for a Rent Repayment Order</b></p> <p>Where a licensable HMO is not licensed, the Council can apply to the residential property tribunal for an order requiring the landlord of the HMO to repay any housing benefit paid in respect of the HMO.</p>
Section 102	<p><b>Interim Management Orders</b></p> <p>Where an HMO which is required to be licensed is not licensed and there is no reasonable prospect of it becoming licensed or action is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, the local authority may make an Interim Management Order (IMO).</p> <p>An IMO can last for up to 12 months and enables the local authority to take steps to secure the proper management of an HMO, or to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity.</p> <p>An IMO gives the council rights to collect rents and carry out works to the property.</p> <p>An IMO may also be made in respect of any other dwelling, but only with the authority of the Residential Property Tribunal.</p>
Section 113	<p><b>Final Management Orders</b></p> <p>A local authority can serve a Final Management Order following an Interim Management Order, where, on expiry of the IMO, the HMO is required to be licensed and there is still no reasonable prospect of it becoming licensed or the Order is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, on a long term basis.</p> <p>A Final Management order can last for up to five years.</p>
Section 139	<p><b>Overcrowding Notices</b></p> <p>Where the Council considers that excessive numbers of people are (or are likely to be) accommodated in a non-licensable HMO, they may serve an Overcrowding Notice on the owner or a person having control of the house.</p>

## Housing Enforcement Policy

## Appendix 1: Summary of Housing Enforcement Powers

<b>The Smoke and Carbon Monoxide Alarm Regulations 2015</b>	
Regulation 5	<p><b>Remedial Notice</b></p> <p>Where the Council has reasonable grounds to believe that a landlord is in breach of his/her duties under these regulations, they must serve a Remedial Notice on the landlord giving him/her 28 days in which to carry out the actions specified in the notice.</p>
Regulation. 7	<p><b>Duty to arrange remedial action</b></p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, it must arrange to undertake the actions in the Notice.</p>
Regulation 8	<p><b>Power to issue Penalty Charge Notice</b></p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, they may require the landlord to pay a penalty charge.</p>

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**Chiltern District Council  
and  
South Bucks District Council**

**DRAFT**

**House in Multiple Occupation Policy**

**Adopted:**

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## **1.0 Introduction**

### **1.1 Scope and Objectives**

Chiltern District Council and South Bucks District Council are two sovereign authorities with separate budgets and separate decision making processes. The two authorities have operated a shared housing service since April 2014 and have implemented a joint Private Sector Housing Strategy.

This policy sets out the way in which Chiltern District Council and South Bucks District Councils will carry out the requirements of the Housing Act 2004 in relation to Houses in Multiple Occupation (HMO). This not only includes licensing, but also how the Council will address health and safety hazards in HMOs. A summary of the Housing Act 2004 in relation to HMO licensing is contained in Appendix 1.

This policy is written in the context of the Councils' joint Private Sector Housing Strategy. The councils aim to maximise the availability of private rented accommodation and ensure that it is of a decent standard to protect the health and safety of tenants. The availability of HMO lettings is also important in order to sustain affordable housing.

This policy applies to all HMOs which fall under the definition of an HMO as contained in the Housing Act 2004 or where the local authority has made an HMO declaration. Section 3.00 applies to those HMOs which are required to be licensed under the Housing Act 2004. Any references to statutory requirements include any subsequent enactment or amendment made after this policy was adopted.

References to 'the Council' means Chiltern District Council or South Bucks District Council, depending on which administrative area the property is located.

### **1.2 Comments and Complaints**

If you have any comments or questions in relation to this policy, please contact:

Senior Housing Standards Officer  
Chiltern and South Bucks Housing  
King George V House  
King George V Road  
Amersham  
Bucks HP6 5AW

Telephone: 01494 732209  
Email: [lquinn@chiltern.gov.uk](mailto:lquinn@chiltern.gov.uk)

If you need to make a formal complaint about any matter in relation to this policy, the Council has a formal complaints procedure can be found online at [www.chiltern.gov.uk](http://www.chiltern.gov.uk) or [www.southbucks.gov.uk](http://www.southbucks.gov.uk).

## **2.0 Standards For HMOs**

This section applies to all HMOs which fall under the definition of an HMO contained in s254 of the Housing Act 2004 (unless exempted from the definition by Regulations) and to those HMOs where the authority has made an HMO Declaration under s255.

### **2.1 House Condition**

All HMOs must be free from Category 1 hazards under the Housing Health and Safety Rating System (HHSRS). The Council is under a duty to take enforcement action where a Category 1 hazard exists.

The Council will seek to ensure that Category 2 hazards are minimised, where possible.

The Council will encourage owners/managers of HMOs to carry out works to improve the energy efficiency of the HMO.

### **2.2 Fire Precautions in HMOs**

Guidance on the standards of fire precautions required for HMOs has been produced and published in consultation with the Fire Officer. However, the requirement for fire precautions in each individual case will be determined on a risk assessed basis in consultation with the Fire Officer.

The requirement for fire precautions will normally be enforced through formal enforcement procedures.

### **2.3 Amenity Standards**

The requirements for licensable HMOs are set down by The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. The Regulations (and any subsequent amendments or re-enactments) will be enforced as part of licence conditions.

In the case of non-licensable HMOs, the Council will encourage owners/managers of all HMOs to provide amenities in accordance with the national amenity standards.

The Council has published more detailed guidelines on the standards required which are available on the Council's websites or on request.

### **2.4 Management Standards**

The managers of all HMOs should comply with the Management of HMO Regulations 2006 (and any subsequent amendments or re-enactments).

### **3.0 Licensing of HMOs**

This section applies to HMOs which are required to be licensed under Part 2 of the Housing Act 2004. These are HMOs which comprise three or more storeys and are occupied by five or more persons who belong to two or more households and are not exempted under Schedule 14 or any other Regulations made under the Act.

#### **3.1 Encouraging Applications**

The Council will encourage landlords to apply for licences and provide reasonable assistance using a variety of methods:

We will

- Publicise the need to licence HMOs
- Send letters and reminders to landlords
- Offer assistance for applicants in completion application forms
- Give landlords a reasonable time to submit their application

Reasonable time means a period of three months beginning on the date on which the application documents are issued to the landlord.

#### **3.2 Licence Applications and Fees**

Applications for a licence (including a renewal and a variation of a licence) must be made on the forms prescribed by the Council and include all of the requested information, as set out in Appendix 3.

The Council will charge a fee to reflect its costs in administering licence applications (including renewals) and enforcing licence conditions. Appendix 4 contains details of how the fees have been calculated. Discounts will apply where processing times are reduced and where full and complete applications are received within 3 months of issuing the application documents. Additional costs may be charged where an inspection is required or significantly more officer time is spent securing a full application.

Fees will be reviewed annually to take account of salary and overheads changes.

An application will only be considered to be made when all of the documents requested in Appendix 3 have been provided and the fee paid.

#### **3.3 The Licence Holder and Manager**

The licence will be granted to the person who is the most appropriate person to hold the licence. In most cases, the most appropriate person is the person 'having control of the property'. This is taken to mean a person who is an owner or head leaseholder of the property.

The property must be managed either by the person having control of the property or an agent or employee of that person.

#### **3.4 Fit and Proper Persons**

The Housing Act 2004 requires that in deciding whether to grant or refuse a licence, the local authority must consider whether both the licence holder and the proposed manager of the house is a "fit and proper" person.

The applicant is required by Regulations to make a declaration about previous 'unspent' convictions for offences involving fraud, dishonesty, violence, drugs or sexual offences, unlawful discrimination or contravention of any housing or landlord and tenant law, as part of the application for a licence.

The Council will also consult with external organisations and other departments in the authority to check for any evidence of such offences.

As HMOs are often occupied by the most vulnerable members of society, including children, the Council will also require applicants (and proposed managers where this is a different person) to submit a criminal record disclosure from Disclosure Scotland in the following circumstances:

- The authority has had a history of complaints or problems with the landlord
- The applicant has been evasive or untruthful in his/her application for a licence
- The applicant is entirely unknown to the authority and has not demonstrated any history or competence of managing HMOs or other private rented property
- The HMO is housing vulnerable persons and the applicant has no proven track record of managing such properties.

Where applications are made for the same person to be the licence holder of more than one property, only one disclosure will be necessary provided that no more than 12 months has elapsed between applications.

An applicant will be assessed to be a fit and proper person where there is no evidence of any of the offences referred to above.

Where relevant previous criminal convictions or other offences are declared or otherwise identified, the decision whether to accept an applicant as a fit and proper person will be taken in consultation with the Community Safety Team and other relevant agencies. Each case will be considered on its own merits, having regard to the Rehabilitation of Offenders Act 1974 and the guidance given in Appendix 5. Unspent convictions will not necessarily exclude a landlord from holding a licence; however, the overriding consideration is the protection of the public.

Where a proposed licence holder or manager is not deemed to be a 'fit and proper' person, the applicants will be provided with a full statement of reasons and be given a right of review (see section 3.9).

Where a proposed manager is deemed not to be a 'fit and proper person' the Council will recommend that the applicant identifies an alternative manager (such as a residential letting agency) to manage the property.

### **3.5 Suitability for Multiple Occupation**

In considering whether to grant a licence, the Council must consider whether the house is suitable for occupation by the proposed number of persons (or that it can be made suitable). To be considered suitable, the house must meet the minimum standards prescribed by The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (and any subsequent amendments or re-enactments) in relation to the maximum number of occupants.

To enable an assessment of the number of occupiers permitted in the licence, applications must include a plan of the property showing details of kitchen and

bathroom facilities, the location and size of each bedroom and the location of any fire precautions and fire fighting equipment.

The Council will undertake an inspection to verify these details. An inspection will not be required if the HMO has been inspected in the previous 12 months and there have been no significant changes to the accommodation provided in that time.

The requirement for fire precautions will be determined in consultation with Bucks Fire and Rescue Service. The Council will also aim to ensure that all licensed HMOs are free from Category 1 hazards within 5 years from obtaining a licence.

Where standards are not met, the Council may grant the licence for a lesser number of occupants, and/or seek to apply conditions requiring that works are undertaken to ensure the property is suitable for the maximum number of occupants. Reasonable timescales will be allowed for licence-holders to complete any required works, determined in relation to the level of risk posed by the lack of amenities.

### **3.6 Management Arrangements**

In deciding whether to grant or refuse an application for a licence, the local authority must have regard to whether there are satisfactory arrangements in place for the management of the HMO.

The Council will consider management arrangements satisfactory where the proposed manager is a fit and proper person (see section 3.4 ) **and** there are

- suitable arrangements to identify where repair or maintenance is needed
- suitable arrangements (including clear decision making structures and funding arrangements) to rectify defects or undertake routine maintenance in a timely manner
- satisfactory tenancy management arrangements in place

Management arrangements and levels of competence will be assessed having regard to the information provided in the application form in relation to the matters referred to above.

The Council will also have regard to:

- the manager's experience or training in relation to HMO management
- its own records of management of the HMO
- any recent history of formal action it has taken under the Management Regulations or other housing legislation,

in determining whether management arrangements are satisfactory.

The requirements will be deemed to be satisfied where a landlord/manager

- is a member of a recognised accredited landlord scheme, **or**
- holds a NAEA or ARLA qualification in Residential Property Management (or other equivalent professional qualification).

The Council will seek to arrange suitable training opportunities for landlords through its Private Landlord's Forum to assist landlords in demonstrating this requirement.

The Council may require landlords to undertake training as a condition of granting the licence.

### **3.7 Licence Conditions**

The following mandatory conditions will be applied to all licences (granted on or after 1 October 2015):

- if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months
- to keep electrical appliances and furniture made available by the landlord in a safe condition and to supply to the authority on demand, a declaration by him/her as to the safety of such appliances and furniture
- to ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation and to keep such alarms in working order
- to supply the authority, on demand, with a declaration by the landlord as to the condition and positioning of such alarms
- to ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance, and keeps any such alarm in working order
- to supply the occupiers of the house with a written statement of the terms on which they occupy the house
- any other condition required by subsequent Regulations or amendments to Schedule 4 of the Housing Act 2004

In addition to the mandatory licence conditions, the council will apply the following conditions to all licences:

- That the landlord complies with the Management Regulations 2006
- That the landlord must work in partnership with the statutory agencies to tackle incidents of anti-social behaviour from tenants

The Council will apply other discretionary conditions to individual licences with respect to the use, management and occupation of the HMO, where appropriate and may seek evidence of compliance with conditions at any time.

### **3.8 Duration of Licence**

A licence will normally be granted for a period of five years from the date of approval. However, the Council may issue the licence for a shorter period as is considered appropriate, having regard to

- any management deficiencies
- the need for works to be carried out to put the house into a satisfactory condition
- any concerns as to the Fit and Proper Person status of the relevant person(s)

Before granting a licence for a period of less than 5 years, the Council will discuss its decision with the HMO licence applicant.

### **3.9 Licence Decisions and Rights of Appeal**

The Council has powers to grant, refuse, vary or revoke a licence. Licence decisions will be made by the Head of Healthy Communities.



The Council will advise landlords of their rights of review and appeal against licence decisions and provide information on how to make an appeal to the Residential Property Tribunal.

The Council will aim to notify applicants of its intention to grant or refuse a licence within 30 working days of receipt of all information required in the application, including the CRB check result.

The Council will allow a consultation period of 21 days before granting, refusing, varying or revoking a licence during which time the applicant can make representations in writing regarding the proposed licence decision or the terms of the licence.

Where representations are received regarding the proposed licence decision or terms of the licence within the consultation period, the matter will be reviewed by the Head of Healthy Communities in consultation with the Director of Services. The representations will be considered within a period of 14 days.

### **3.10 Temporary Exemption Notices**

A Temporary Exemption Notice will be served where an owner of a licensable HMO states in writing that he/she is taking steps to make an HMO non-licensable and the Council is satisfied that the HMO will not be licensable within three months.

The council does not wish these notices to be used routinely, and therefore a second notice will only be issued in exceptional and unforeseen circumstances. Any exception to this policy will be agreed by the Head of Healthy Communities.

### **3.11 Discretionary HMO Licensing**

The council does not currently intend to set up any additional discretionary licensing schemes for HMOs, but will keep this under review.

### **3.12 HMO Registers**

The Council will maintain a register of the following in accordance with the requirements of the relevant regulations:

- i) all licences granted and in force
- ii) all Temporary Exemption Notices served and in force
- iii) all Management Orders served and in force

The Register will be available for inspection by the public at the Chiltern District Council offices during normal opening hours, and by arrangement at the South Bucks District Council offices.

## **4.0 Enforcement**

### **4.1 General**

The Council will seek to ensure minimum standards are met in all HMOs (whether licensable or not) in relation to condition, fire precautions, amenities and management, as set out above in Section 2.00.

It will do this by undertaking regular routine inspections of all known bedsit type HMOs in its area, by providing informal advice and by taking enforcement action where appropriate. The frequency of inspection will be determined by a risk rating system and will be between six months and five years.

Enforcement action in relation to this section and to any hazards under the HHSRS will follow the principles of the Enforcement Concordat and be in accordance with the Council's Housing Enforcement Policy.

### **4.2 Identification of HMOs**

The Council will seek to identify those properties which are being occupied as HMOs. It will do this by liaising with the Council's Revenues Team, checking the property press and referring to the Electoral register.

Where a property is thought to be occupied as an HMO, the Council will aim to carry out an initial inspection within 60 days. The inspection will be undertaken within 30 days in the case of a potentially licensable HMO.

### **4.3 Breach of Management Regulations**

The Council will advise landlords in writing of any breaches of the Management Regulations and give reasonable opportunity for the landlord to comply.

The Council will provide reasonable notice to landlords where prosecution for breach of Management Regulations is being considered.

### **4.4 Breach of Licence Conditions**

The Council will advise landlords in writing of any breaches of the licence conditions and give reasonable opportunity for the landlord to comply.

The Council will provide reasonable notice to landlords where prosecution for breach of licence conditions is being considered.

### **4.5 Failure to Obtain a Licence**

The Council will make all reasonable attempts to advise landlords of the need to make an application for a licence and to assist them in making an application.

The Council will provide reasonable notice to landlords where prosecution for failure to obtain a licence is being considered.

Where a landlord fails to apply for a licence within a reasonable period, the council intends to use its powers under the Act to seek Rent Repayment Orders for repayment of twelve months' Housing Benefit or for the period since the landlord was required to license the HMO, if less. We will provide other tenants with information on how to apply.

The Council will provide reasonable notice to landlords where an application for a Rent Repayment Order is being considered.

#### **4.6 Management Orders**

The Council will seek to work with a local RSL where a Management Order is deemed necessary.

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## Summary of the Housing Act 2004 legislation in relation to HMOs

This is a summary of the legislation and should not be taken as a full interpretation of the law.

### Definition of HMO

The Housing act 2004 has amended the definition of a House Multiple Occupation (HMO).

An HMO is a building or part of a building used as living accommodation by more than two people who are not members of the same family, and they share one or more basic amenities. It includes shared houses, hostels and houses containing bedsits and some buildings containing self contained flats.

### Exemptions

HMOs which are entirely occupied by owners or long leaser holders and HMOs managed by Registered Social Landlords, educational establishments, health authorities and some other bodies will be exempt from the definition of HMO for the purposes of licensing. Houses and flats occupied by two individuals will not be treated as an HMO.

### HMO Licensing

The aim of HMO licensing is to ensure the poorest properties in the private rental market meet the legal standards and are properly managed.

HMOs comprising 3 or more storeys and occupied by five or more persons who form two or more households will require a licence. Storeys occupied by commercial units, for example, shops on the ground floor, will count as a storey, as will basements if in residential use.

### Temporary Exemption Notice

The council may serve a Temporary Exemption Notice (TEN) where a landlord is, or shortly will be, taking steps to make an HMO non-licensable. A TEN can only be granted for a maximum period of three months. A second three-month TEN can be served in exceptional circumstances.

Applications for a TEN must be made in writing specifying the steps being taken which will mean that the house will not require a licence.

### Applying for a Licence

The onus is on the HMO landlord to make an application for a licence, where one is required, though the local authority must take steps to ensure that landlords are aware of the need to apply.

The application for a licence is made by completing an application in the form prescribed by the local authority, though there are some items which must be included.

Regulations require you to notify all people with an interest in the property eg mortgagees, head leaseholders etc, of your application.

## Granting a Licence

The Housing Act 2004 requires that in deciding whether to grant or refuse an application for a licence, the local authority must have regard to the following matters:

- Whether the house is reasonably suitable for occupation by the number of persons specified in the application

National amenity standards which set out the minimum requirements for numbers of bathrooms, wc, kitchen facilities etc, will be used to determine this.

- Whether both the licence holder and the proposed manager or person having control of the house is a “fit and proper” person

In considering this matter, the local authority must have regard (amongst other things) to evidence which shows that a person has committed an offence involving fraud, dishonesty, violence, drugs or sexual offences, practiced unlawful discrimination or contravened any housing or landlord and tenant law, or any Approved Code of Practice.

- Whether the proposed management arrangements are satisfactory

In considering this matter, the authority must have regard to whether a manager has a sufficient level of competence and whether any proposed management structures and funding arrangements are suitable.

Licences will be granted where the house is reasonably suitable for occupation as a HMO, the management arrangements are satisfactory and the licensee and manager are fit and proper persons. The applicant must be the most appropriate person to hold the licence.

### Fees

The Act enables local authorities to charge a fee to accompany an application for a licence which may take into account their costs incurred in carrying out their licensing functions. The government do not intend to specify a maximum fee limit or fee structure.

### Duration

Licences will be valid for up to five years and will specify the maximum number of occupiers or households. The occupancy number will depend on the number and size of rooms and the kitchen and bathroom facilities.

### Conditions

The following mandatory conditions must be applied to all licences:

- to provide copies of gas safety certificates annually
- to keep electrical appliances and furniture safe
- to install smoke alarms on each floor and keep them in working order
- to install a carbon monoxide alarm in each room where there is a solid fuel burning appliance and keep it in working order
- to provide tenants with written terms of their occupancy

Local authorities have powers to attach additional conditions as considered appropriate in relation to the management, use, occupation or condition and contents of the HMO.

## **Management Regulations**

The government have published Management Regulations which apply to all HMOs. These are similar in scope to the current Management Regulations and relate to keeping and maintaining the property, common parts, fire precautions etc clean and in good order.

## **Penalties and Enforcement**

It is a criminal offence to operate a HMO which is required to be licensed and is not licensed. It is a defence to show that an application for licence or TEN had been made or there was a reasonable excuse for not obtaining a licence. Upon conviction, a fine of £20,000 can be imposed.

It is a criminal offence if the person having control of or managing the house knowingly and without reasonable excuse permits more people to occupy the house than is allowed in the licence. Upon conviction, a fine of £20,000 can be imposed.

It is an offence if the licence holder (or person on whom a restriction or obligation is placed) without reasonable excuse fails to comply with any condition on the licence. Upon conviction, a fine of up to £5000 can be imposed.

In addition to the above, the local authority can decide to revoke a licence where there are serious or repeated breaches of conditions or where the authority considers that the licence holder or manager is no longer a fit and proper person.

Breaching HMO management regulations constitutes an offence for which the perpetrator can be fined up to £5000.

- **Rent Repayment Orders**

Where a landlord fails to license a HMO, the council can apply to the Residential Property Tribunal (RPT\*) for a Rent Repayment Order.. The RPT has the power to request that up to 12 months' rent is repaid to the council where a tenant is on housing benefits. Tenants can also apply to the RPT for repayment of any rents they have paid

- **Restriction on terminating tenancies**

No section 21 notice may be served under the Housing Act 1988 in relation to a shorthold tenancy of part of an unlicensed HMO.

- **Management Orders**

Where there is no prospect of an HMO being licensed, the Act requires that the council uses its interim management powers. This enables the council to take over the management of an HMO and become responsible for running the property and collecting rent for up to a year. In extreme cases this can be extended to five years with the council also having the power to grant tenancies.

\*The RPT will replace the courts and will judge cases relating to offences and appeals under the Act

## **More information**

More information about HMO licensing can be found at <https://www.gov.uk/house-in-multiple-occupation-licence>

Contact Chiltern District Council or South Bucks District Council on 01494 732013 or email [housing@chiltern.gov.uk](mailto:housing@chiltern.gov.uk)

## **The Applicant**

The application should normally be made by the owner or head leaseholder of the property.

Where the property is jointly owned by two or more people or by a company the application should be made jointly or by the Company Director(s), but should nominate one person to be the 'licence holder'.

Where the property is to be managed by an Agency which is a company, the person responsible for the management should be named as the proposed Manager.

## **Initial Licence Application and Renewal Application Documentation**

A valid application for an HMO licence or HMO Licence Renewal will comprise:

- the application form as prescribed by the Council, fully completed, signed and dated.
- A sketch plan of the HMO
- all required documents as proof of compliance with relevant standards or regulations.
- Where requested, a disclosure from Disclosure Scotland dated within the last 12 months
- Proof of identity and proof of address
- the relevant fee, in full.
- any other information which is subsequently required by Regulations.

All necessary forms will be included in an application pack provided by the Council, together with guidance on making the application.

Incomplete applications may be accepted at the discretion of the Council, although normally the only accepted omissions will be documents of proof.

## **Application for Variation of Licence**

A valid application for a Variation of an HMO Licence will comprise:

- the Variation application form as prescribed by the Council, fully completed, signed and dated.

## **Verification**

All the information presented on the application form will be subject to verification processes as required. This may take the form of a site inspection, inter-departmental liaison, and/or consultation with other agencies.

## HMO Licensing Fee Structure

### First Application or Renewal Application

#### Average time taken to administer an application or renewal of a five year HMO licence

	<b>480</b>	<b>minutes</b>
In hours	8	hours
Hourly recharge rate including overheads (2015/16)	£47	

Basic Fee:	<b>£376.00</b>
Plus Disclosure Scotland fee	<b>£25.00</b>
<b>Fee for a five year licence</b>	<b>£401.00</b>

### Additions

Extra assistance or advice on incomplete applications, or where property is larger and more complex	£47.00	per hour
Inspection to verify plans/amenities	£47.00	

### Deductions (Potential discount of up to £122 for qualifying circumstances)

Disclosure obtained within previous 12 months, or not required	£25.00
Professionally Qualified or Accredited landlord	£47.00
Complete application submitted within 2 months of issue of forms, or 2 months before renewal date	£50.00
	<b>£122.00</b>

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### Notes

This Fee Structure has been devised having regard to the guidance contained in the Local Government Association's HMO Licensing Fees toolkit.

Timings are based on the actual times taken to process licences during 2015/16. Timings will be reviewed on an annual basis to take into account changes in the licensing process.

The hourly re-charge rate is that for the Healthy Communities department. Hourly recharge rates are calculated by the Finance department and are reviewed annually.

The cost of a Disclosure Certificate is determined by Disclosure Scotland and may be subject to change.

### Additions

Where an application takes significantly longer to deal with than the estimated time, then an additional fee will be charged - for example, where inadequate information is provided on the application forms and the applicant has to be chased several times to provide information.

A detailed log of time spent on each application will be kept to determine whether any additional charges are due.

An inspection will not be required before a licence is issued where the property is currently known to the Council and has been inspected within in the previous 12 months.

Additional Disclosure Certificates will be required if the proposed manager is different to the proposed licence holder.



## Deductions

Where a Disclosure Certificate has been obtained within the last 12 months (for example for another property or in relation to a different activity) a further check will not be required.

Deductions for qualified or accredited landlords will only be made where:

- The landlord provides evidence of qualification or membership of an Accredited Landlord scheme
- and**
- The qualification/Accreditation Scheme is accepted by the Council as providing sufficient evidence of management competence.

NAEA/ARLA qualifications in Residential Property Management (or an equivalent professional qualification) will be accepted. The Council will develop and publish a guide to accepted accreditation schemes.

To act as an incentive for landlords to make their application quickly, a discount of £50 will apply to landlords submitting a complete application within 3 months of issue of the application forms, or in the case of a Renewal, if the application is submitted at least two full month before renewal is due.

## General

Publicity costs have not been included, nor have costs relating to enforcement activity. Fees will be reviewed annually to take account of salary and overhead inflation.

## Licence Administration Process

Initial Application/Renewal Application

### Action

**Time taken  
in minutes**

Service request entered on computer and application pack sent out	10
Advice and assistance to applicant to complete application form, or following up to ensure application is made	20
Application form received and checked. ID documents checked. Enter details on computer system	15
Acknowledge receipt or where information is missing or incomplete, return forms to applicant with a letter stating the requirements.	15
Send out consultation letters/memos and file responses.	20
Assess fit and proper person and document decision for file	20
Assess management arrangements and document decision for file	20
Assess suitability of property for multiple occupancy and document decision for file (for renewal application, carry out inspection to check current conditions)	60
Consider whether additional conditions are required and licence duration and document decision for files	30
Consult with Head of Healthy Communities for confirmation of decision	15
Prepare licence and Schedule 5 Notice and issue to applicant and relevant persons	90
Prepare, check, sign and issue licence documents	60
Update computer system	5
Annual checks on gas safety certificates etc (4 x 10 minutes checks during the five year licence period - costs charged at application)	40
Routine inspection to ensure compliance with licence conditions, during the period of the licence	60

Total **480** minutes

### **Guidance on determining Fit and Proper persons**

Evidence of any offences not referred to in section 66 of the Housing Act 2004 must be disregarded.

Where any evidence of previous offences causes the Council to question the 'fit and proper' status of an applicant, it will invite him/her to submit an explanation of their circumstances. The applicant will be required to account for the failure to comply with legislation, and satisfy the Council that this will not recur.

The local authority will consult with the Community Safety Team, Thames Valley Police Public Protection Team and the legal section as necessary, for advice on whether the applicant is a fit and proper person to hold a licence (and/or manage an HMO).

The decision to accept them as being a fit and proper person will be taken on the basis of:

- The severity of the offence
- The number of offences
- The time which has elapsed since the last offence and their conduct since it occurred
- The relevance of the offence to the management of HMOs and their occupation
- The evidence that the applicant has accepted the need to conduct his business in accordance with the appropriate standards
- The training received since the offence occurred.

<b>SUBJECT:</b>	FOOD AND HEALTH AND SAFETY BUSINESS PLANS
<b>REPORT OF:</b>	<i>Community, Health and Housing – Councillor Graham Harris Healthy Communities – Councillor Paul Kelly</i>
<b>RESPONSIBLE OFFICER</b>	<i>Anita Cacchioli, Interim Services Director of Services Martin Holt, Head of Healthy Communities</i>
<b>REPORT AUTHOR</b>	<i>Ian Snudden, 01494 732057, isnudden@chiltern.gov.uk</i>
<b>WARD/S AFFECTED</b>	<i>All</i>

### 1. Purpose of Report

To obtain Members' approval for the adoption of the joint Food and Health and Safety Service Plan for the year 2016/2017.

### RECOMMENDATION

To approve the joint Food and Health and Safety Service Plan **Appendix 1**  
To approve the Food and Health and Safety Enforcement Policies **Appendix 2 and 3**

### 2. Reasons for Recommendations

The Food Standards Agency's (FSA) Code of Practice and the Health and Safety Executive (HSE) require local authorities to produce and publish an annual service plan that demonstrates how the authorities are working to deliver its food safety and health and safety services. The Better Regulation Delivery Officer also requires local authorities to produce and publish their enforcement policies and to ensure that they comply with The Regulator's Code.

### 3. Report

The Food and Health and Safety Service Business Plan details how the food and health and safety enforcement services are to be delivered within both Chiltern District Council and South Bucks District Council areas for the year 2016/17.

The Service Plan is divided into the issues covered by the Food Standards Agency (FSA) Framework Agreement and the key priorities identified by the Health and Safety Executive's (HSE) Strategy Document. The Service Plan and Enforcement Policies are appended.

#### Food Safety Service 2016/17

In 2012, Chiltern and South Bucks District Councils launched the Food Standards Agency's national Food Hygiene Rating Scheme. Since then the percentage of all eligible rated food premises (rating of 3 or better) has increased and is currently 96% for both Chiltern and South Bucks Councils. This improvement is a clear indication that the introduction of the scheme has encouraged businesses to raise their standards coupled with the targeted mentoring and coaching of those businesses that are not broadly compliant. Whilst the main approach to inspections is supportive,

where businesses persistently fail to engage or improve standards, then more formal enforcement action will continue to be taken.

The inspection performance indicator has been amended to measure the percentage of food businesses that have changed from not being broadly compliant to being broadly compliant. This measure better reflects the impact of the officer's work in achieving improved outcomes and levels of compliance.

During 2015, an Environmental Health service review took place with the aim of improving service quality and resilience and identifying potential savings through sharing services between Chiltern DC and South Bucks DC. A shared Environmental Health, Sustainability & Resilience service came into effect on 1<sup>st</sup> December 2015 that introduced a new structure and incorporated a specific Business Support Team whose role it would be to deliver Official Control interventions, respond to food and health and safety related complaints and accidents and to provide training and support for local businesses. Previously these functions were delivered in Chiltern DC by generic EHOs who also responded to environmental protection service requests. During the service review, specific areas of work were identified, relating to bringing together the procedures and processes of the two authorities, improving business compliance and generating income. These are reflected in the service plan action plan.

#### **Health and Safety Service 2016/17**

Whilst health and safety remains a key priority for the Government, it aims to reduce the inspection burden on businesses. The consequence of this is that officers will only inspect businesses where there is a specific need, either due to local or national intelligence and the national strategic priorities. These priorities cover a range of sector specific interventions and cross-cutting themes. As a result of a number of fatalities in 2015/16, the topic based inspections will be related to health and safety measures to protect employees from falls from height and workplace transport accidents and raising awareness of the importance of communication between landlords and tenants and in particular maintenance responsibilities and reporting.

#### **Food Policy and Health and Safety Enforcement Policy**

Both policies reflect the principles set out in the Regulators' Code issued by the Better Regulation Delivery Office of the Department of Business, Innovation and Skills. The key principles are to supporting growth, engaging with businesses, having a transparent and risk based approach to activities, sharing information between regulators and providing clear information and advice to businesses. The Regulators' Code applies to local authority regulatory services such as: environmental health, licensing, housing standards, planning enforcement, building control and revenues and benefits. A corporate enforcement policy will be developed in compliance with the Code and will be the subject of a future Cabinet report.

**4. Consultation**  
Not Applicable

**5. Options**  
Not Applicable

**7. Corporate Implications**

7.1 Financial – the service plan will delivered within existing budgets

7.2 Legal – The Food Standards Agency requires local authorities to produce and publish a food service plan, as does the Health and Safety Executive for health and safety and local authorities are audited by these Government bodies for compliance against the statutory guidance. The FSA audit reports are public documents and published on the FSA website.

#### **8. Links to Council Policy Objectives**

The plan stems from the Healthy Communities Service Plan and makes a positive contribution towards the Chiltern District and South Bucks Councils' *Joint Business Plan 2015 – 2020* and *Sustainable Community Strategy 2009 – 2026*. The plan links into the Councils' Performance Management Framework.

#### **9. Next Step**

The approved action plan for the service plan will be implemented across both local authorities.

<p><b>Background Papers:</b></p>	<p>It is a legal requirement that we make available any background papers relied on to prepare the report and should be listed at the end of the report (copies of Part 1 background papers for executive decisions must be provided to Democratic Services )</p>
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**CHILTERN DISTRICT COUNCIL  
and  
SOUTH BUCKS DISTRICT COUNCIL**

**Environmental Health Section**

**Joint Food and Health and Safety Service  
Business Plan**

**2016-2017**

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## 1.0 INTRODUCTION

The joint Food and Health and Safety Service Business Plan outlines the nature, objectives and influences on the services and the statutory and policy framework within which the services are delivered. It sets out the key service priorities and objectives for 2016/17 and identifies the main issues planned to be addressed during the period. It also fulfils the requirements set down by the Food Standards Agency (FSA) in its 'Framework Agreement on Local Authority Food Law Enforcement' and the Health and Safety Executive (HSE) in its 'Section 18 Guidance to Local Authorities'.

## 2.0 SERVICE AIMS AND OBJECTIVES

### 2.1 Links to Corporate Objectives and Plans

The food service strongly contributes towards the Chiltern District and South Bucks Councils' *Joint Business Plan 2015 - 2020* and *Sustainable Community Strategy, 2009-2026*, performance measures and Key Objectives:

- Delivering cost-effective, customer-focused services;
- Working towards safe and healthier local communities ; and
- Striving to conserve the environment and promote sustainability.

### 2.2 Healthy Communities Service Plan

The key objectives within the Healthy Communities Service Plan that specifically relate to the food and health and safety service for 2016/17 are:

- Improve service quality to enable communities, residents and businesses to resolve their service requests at the first point of contact or close to the first time of asking
- Provide effective and efficient regulatory services that meets customer needs
- Provide effective partnership working to protect and improve public health and environmental quality

The Division has to find substantial cost savings over the coming years, achieved by:

- Reducing costs through innovative use of technology;
- Reducing back office handling costs;
- Transferring avoidable costs of delivery along the supply chain;
- Raising income through charging for discretionary services;
- Developing the new shared service and employing lean thinking principles to review processes;
- Developing systems that will improve the ability of business to manage regulatory compliance whilst reducing the frequency of inspection by the Council.

An Environmental Health, Sustainability & Resilience service review was undertaken in 2015 with project objectives of cost savings, greater resilience and improved service quality. The outcome of the review was a single shared environmental health service between Chiltern and South Bucks District Councils with the following key features:

- a) A single team delivering a holistic service based in both Chiltern and South Bucks utilising mobile working technology to enable officers to access and retrieve information as required in external locations.
- b) A team that is able to trade with other Councils to deliver services and is structured to deliver services to businesses such as training and advice to support regulatory improvements.
- c) Administration for both Councils' areas based at Amersham supporting the delivery of the wider Healthy Communities Division.
- d) Regulatory interventions for Food and Health and Safety will be delivered through a dedicated team within Environmental Health that will also be responsible for the development of business and partnership working to improve regulatory compliance. The team whilst based at Denham will require being co-located and utilising mobile working technology to minimise additional mileage costs.
- e) A public protection team responsible for the Councils response to consultations and enforcement of all matters involving; ASB, nuisance, high hedges, and public health etc. will be required to work closely with Licensing, Planning, Community Safety and the Police and RSL's.
- f) The service will maximise opportunities for channel shift to enable customers to self-serve via the website allowing access to information or to submit data (images, forms, sound files) in relation to the particular service request.
- g) The service will also seek to deliver a 'lead officer approach' to service delivery ensuring effective communication and timely case management.
- h) The team will develop joint policies in relation to enforcement, health and safety, sustainability and business continuity.

### 2.3 Service Aims and Objectives

The Environmental Health Section has a significant role to play in improving quality of life, predominantly through providing a proactive, accessible and efficient

service that protects and promotes the health of those who work, live and visit the area. This role directly supports the Councils' Key Objective 2 (*Working towards safe and healthier local communities*).

It is the Councils' aims to:

- Support and assist businesses to become food safety compliant
- Provide consistent accurate up-to-date information aimed at providing protection to customers
- Support and assist businesses to comply with legal obligations to ensure that food is safe

The Councils will achieve this aim in the following ways:

- Targeted current relevant information to businesses
- Ensure officers are equipped with tools to effectively support businesses
- Ensure that poor performing businesses are proportionately targeted with enforcement action
- Adopt "light touch" approach to compliant businesses, organisations and customers
- Proactive campaigns to promote food hygiene ratings
- Consider innovative opportunities and approaches to working with other regulatory stakeholders to improve businesses contact with local authorities.

## 2.4 Key Service Standards and Performance

As part of the Authorities' key objectives, service standards and performance measures have been set.

Services are prioritised and resources targeted at issues of greatest concern in terms of food and health and safety. The service covers inspections of businesses, complaint and accident investigation and developing schemes to assist and motivate businesses to achieve compliance and good practice. The key corporate performance measure used is: *Percentage of food businesses that are 'broadly compliant'* and will focus on the highest risk categories of A - C. As well as the overall percentage of businesses broadly compliant, the success of officer's interventions in moving those businesses which are not broadly compliant to becoming broadly compliant and above will also be measured and reported as a Departmental performance indicator.

Performance monitoring has been established with reports to relevant Committees, in addition to departmental monitoring meetings and to Management Team.

Food safety carries a high priority for the Authorities and the targets set for 2016/17 (91% broadly compliant businesses within the Chiltern District and 89% broadly compliant businesses within the South Bucks District) reflect that priority and ensures that the authority complies with current government guidance in measuring outcomes rather than inputs.

The Food Standards Agency will continue to collect data on broadly compliant businesses and as part of our continual service improvement; the intention is to collect data in respect of customer satisfaction following inspections.

As a consequence of Government's aims for health and safety reform including reducing the inspection burden on business and focussing on better health and safety outcomes, proactive inspections will be targeted at high risk premises where the national priorities identifies them as being an at risk group or local intelligence identifies businesses with poor compliance records.

### **3.0 BACKGROUND**

#### **3.1 Profile**

The Chiltern District is located in the centre of the Chiltern Hills, approximately 25 miles North West of London. The District covers an area of 19,635 hectares and has a population of approximately 92,635. It is predominantly a rural area with towns and villages set in countryside which is part of the greenbelt around London. A large part of the District forms part of the Chilterns Area of Outstanding Natural Beauty.

The South Bucks District covers an area of 14,150 hectares immediately to the west of Greater London with a population of approx. 62,000. The district is mainly rural in nature and large areas are within the Greater London Green Belt. The main towns in the district are Beaconsfield, Gerrards Cross Denham, Iver and Burnham.

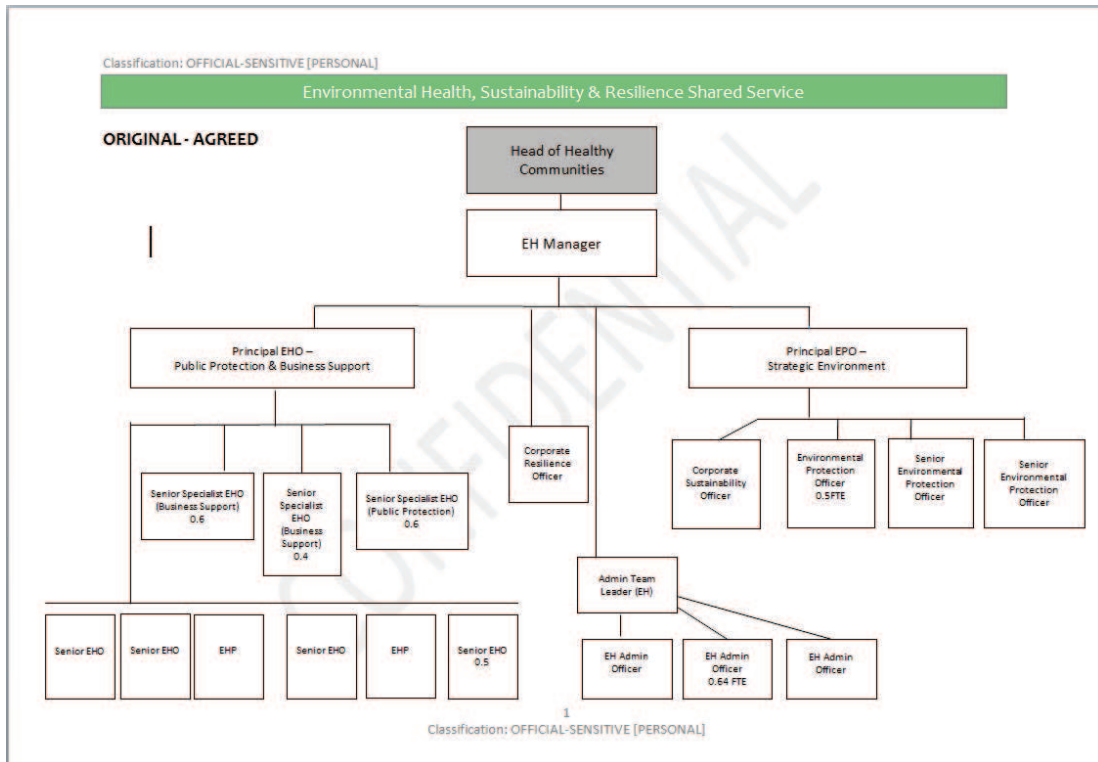
Both Districts have good transport links with adjoining areas. Both areas are served by good national and motorway networks. Direct rail-links to central London or Northwest to Aylesbury or High Wycombe and the Midlands are provided by Chiltern Railways, Great Western Railways and London Underground Ltd.

#### **3.2 Organisational Structure**

Since April 2014, a shared senior management structure has been created between Chiltern District Council and South Bucks District Council, comprising an acting Chief Executive, directors and heads of service. The Head of Healthy Communities is the head of service for environmental health across both authorities and reports to the Director of Services. The shared environmental health service came into effect on 1<sup>st</sup> December 2015 with the service being delivered from both Council offices. The food and health and safety service is delivered by specialist Environmental Health Officers within a single Business Support Team. Health promotion is delivered by the Community Team who provide links to community development, adult learning and Learning and Skills although the Business Support Team will have an increasing role in delivering promotional activities.

As of the March 2015, the Healthy Communities Division (inclusive of housing and licensing) comprised of 35.1 full time equivalents. The Division also employs specialist officers for Housing, Environmental Protection, Licensing, Emergency

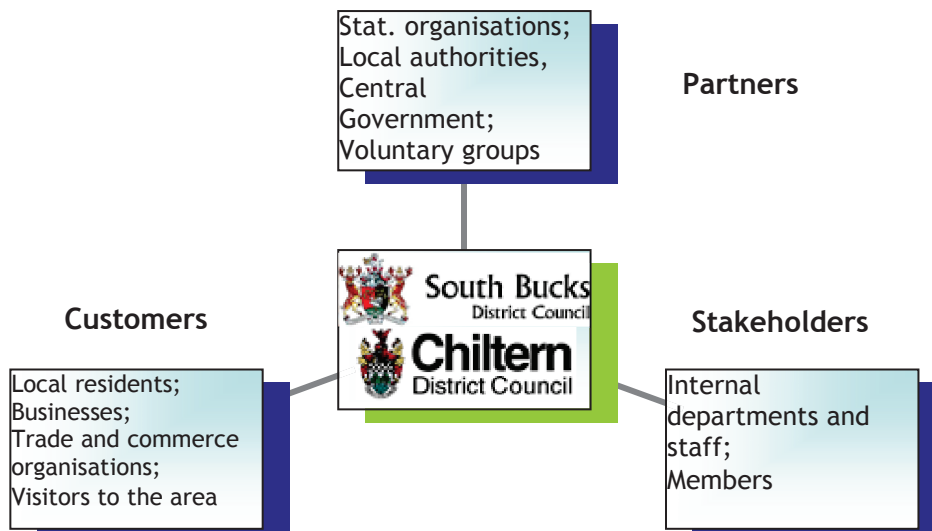
Planning and Business Continuity and Corporate Health and Safety, supported by a central administration team. In addition, the pest control service is provided on a contracted basis.



Dr Jill Morris is the appointed Consultant in Communicable Disease Control at Thames Valley Public Health England and is the 'Proper Officer' for the Authority.

The specialist officer for food safety as required by the Code of Practice is shared between the Principal Environmental Health Officer and a job shared Senior Specialist EHO post, and the Public Analyst is Anne Scarett at Hampshire Scientific Services.

### 3.3 Customers, Stakeholders and Partners



### 3.4 Scope of the Service

#### 3.4.1 The scope of the service is:

- i) The enforcement of legislation relating to safety, welfare and hygiene;
- ii) Routine auditing of businesses in accordance with current Government requirements;
- iii) Providing support, training and advice for food handlers and businesses, either free of charge or as part of a paid for advice service;
- iv) Investigation of consumer complaints relating to food safety and hygiene;
- v) Investigation of employee and public complaints and requests for information relating to working environments and standards;
- vi) Investigation of reportable accidents;
- vii) Health education and promotional activities to educate the consumer.

#### 3.4.2 The scope of infectious disease control aspects of the service are:

- i) Investigation of sporadic cases and outbreaks of infectious disease within the District, in consultation with the Consultant in Communicable Disease Control;
- ii) Health education/promotion activities;
- iii) Drawing up and implementing appropriate contingency outbreak control plans;

In addition, officers also enforce the smoke-free provisions and contribute to the Safety Advisory Group.

### 3.5 Demands on the Food Service

As at 1st April 2016 there were 801 food premises requiring inspection in the Chiltern District and 552 in the South Bucks District. The premises profile is given in Table 1, whilst the number of premises falling into each risk category is given in Table 2 below. Classification of premises is in compliance with Food Standards Agency Code of Practice. Category A businesses, either because of the nature of their operation or poor standards of hygiene, pose a greater risk than category E. Those premises within category E are subject to an alternative enforcement strategy which takes the form of a self-assessment questionnaire. Similarly, a Category D premise will alternate every 24 months between an inspection and self-assessment questionnaire. Category C premises that are broadly compliant will have a monitoring visit every other visit. Non-rated businesses are those whose risk rating has not yet been assessed.

Table 1 Number of establishments by premise type

Premises Type	Primary producers	Manufacturers and packers	Importer Exporter	Distributor	Retailer	Caterers
Number (Chiltern DC)	4	17	7	15	141	617
Number (South Bucks DC)	3	12	1	3	116	417

Table 2 Number of premises falling into risk categories

	A	B	C	D	E	Non - rated	Outside programme	Total
Number of premises (Chiltern DC)	3	23	198	177	380	11	9	801
Number of premises (South Bucks DC)	1	20	132	221	169	6	3	552
Interval between inspections (months)	6	12	18	24	AES			

- AES - Alternative Enforcement Strategy

Within the premises profile, there are five food businesses that are approved, an increase of 70% from the previous year.

One of the strengths of the service is that of promoting and educating food businesses. This tends to be targeted at new businesses and those businesses that have got a history of poor hygiene standards and has proved effective in raising and maintaining standards. Those with a food hygiene rating of 0-2 are particularly targeted.

### 3.6 Demands on the Health and Safety Service

As at 1st April 2016 there were 2007 premises within the Chiltern District and 945 within the South Bucks District which are eligible for health and safety enforcement. Classification of premises is in compliance with Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) Local Authority circular (LAC) 67/2 (rev5).

The assessment of the risk rating is dependent upon the identified health and safety hazards and their associated risks and the ability and confidence in the management to control them.

The service is delivered from both the Council offices in Amersham and Denham during normal office hours of 9.00 - 17.30. It is recognised that businesses operate outside normal office hours of work and so the inspection programme will take this into account. Officers are therefore expected to work outside these hours when circumstances require, for example, for food poisoning investigations and accident investigations, where the nature of the business dictates evening or early morning visits and upon request by businesses.

### 3.7 Enforcement Policy

The Healthy Communities Division has a generic enforcement policy that covers the majority of the work performed by the Division. However a more specific enforcement policy has been adopted and is detailed within the Food and Health and Safety Enforcement Policies, together with Enforcement Procedures that set out the actions to be taken when formal action is required.



Regard is given to the Regulator's Code published by the Department for Business Enterprise and Regulatory Reform and the Primary Authority Scheme.

#### 4.0 SERVICE DELIVERY and REVIEW

##### 4.1 Delivery and Priorities - 2016/17

The service will be delivered through:

- i) Routine programmed inspection of food businesses, with a frequency determined by a risk assessment, with appropriate follow-up action;
- ii) Proactive targeted inspections of businesses and service sectors where there is likely to be a greater risk of injury from those activities identified by national accident statistics and local intelligence with appropriate follow-up action.
- iii) Assessment of relevant food hygiene premises to determine their food hygiene score in terms of the national Food Hygiene Rating Scheme and which will be published on the Food Standards Agency website;
- iv) Routine self-assessment questionnaires to low risk premises;
- v) Investigation of complaints with appropriate follow-up action;
- vi) Investigation of accidents with appropriate follow-up action
- vii) Participation in national and local sampling programmes;
- viii) Appropriate training, development and monitoring of officers;
- ix) Provision of information, coaching and advice to businesses about legal requirements and good practices;
- x) Provision of relevant food safety courses for food handlers and a chargeable advice service to businesses;
- xi) Promotional activities to inform and encourage high standards in businesses;
- xii) Promotional activities to educate the consumer in food hygiene and safety.

Priority will be given to targeting those activities that pose the greatest risk to the members of the public and employees:

- i) the correct and uniform identification of high-risk areas during programmed inspections and as a result of complaint and accident investigation and to concentrate efforts to reduce these risks;
- ii) focussing enforcement efforts on those businesses who pose the greatest risks e.g. those that are not broadly compliant;
- iii) ensuring efforts are focussed on persistent offenders;
- iv) ensuring compliance with the law and;
- v) engaging in those promotional activities for businesses and consumers, which are most likely to foster improved safety.

Revisits to businesses will be undertaken in accordance with the relevant policy.

##### 4.2 Food Safety Interventions

The policy relating to the inspection of food premises is detailed in the Food Policy.



The number of premises programmed for inspection in 2016/17 has the following profile:

Risk category	A	B	C	D	E Alternative Enforcement Strategy	Non-rated	TOTAL
Number (Chiltern DC)	2	23	130	64	109	0	328
Number (South Bucks DC)	1	18	73	131	34		257

Currently 96% of food businesses in the Chiltern District and South Bucks District are broadly compliant with legislation. This is an increase on the previous year of 90%. Those that are not broadly compliant will be subject to full inspections and included within the food sampling programme.

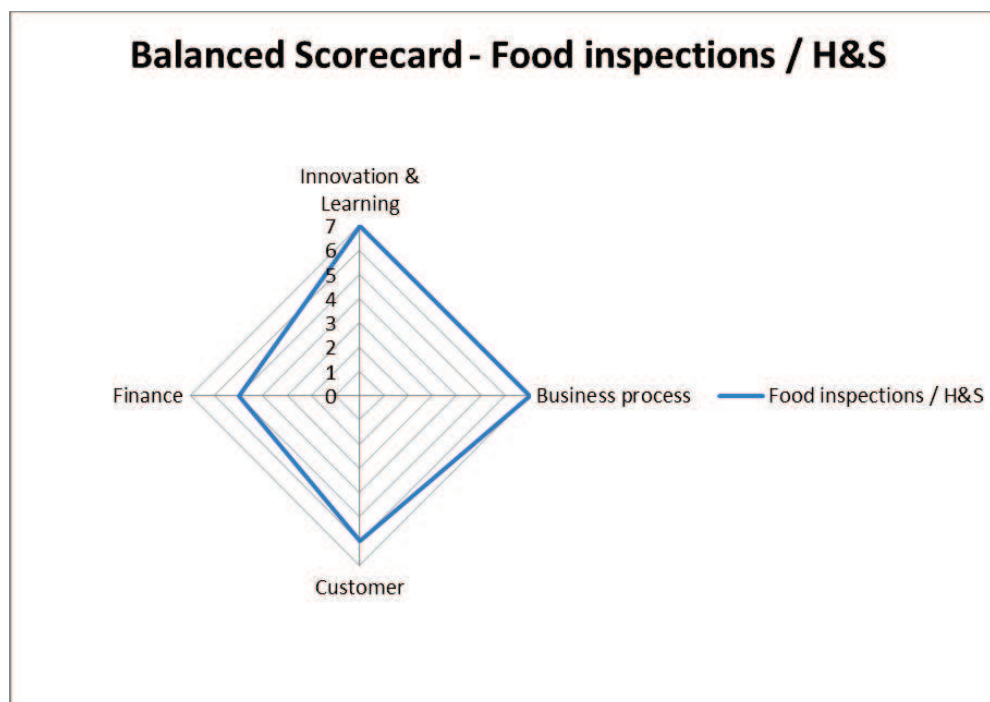
A self-assessment scheme is undertaken for the lower risk premises whereby a questionnaire is sent to the business and on return an assessment is made as to its continued business use and risk. Dependent upon the outcome, the business will either be inspected or re-assessed in three years' time. In creating more efficient, customer focused services, these questionnaires are sent out by email and an online form has been produced which enables easy completion and submission.

The revised Code of Practice introduced the opportunity to carry out alternative interventions where it is found that standards of food safety are generally good and do not warrant a full or partial inspection. Category A, B and C premises which are rated as being not broadly compliant businesses will be subject to full inspection whilst category C and D food businesses that are broadly compliant could be subject to alternative interventions alternating with full inspections every 18 months and 2 years respectively.

During 2015, an Environmental Health service review took place with the aim of improving service quality and resilience and identifying potential savings through sharing services between Chiltern DC and South Bucks DC. A shared Environmental Health, Sustainability & Resilience service came into effect on 1<sup>st</sup> December 2015 that introduced a new structure and incorporated a specific Business Support Team whose role it would be to deliver Official Control interventions, respond to food and health and safety related complaints and accidents and to provide training and support for local businesses. Previously these functions were delivered by generic EHOs who also responded to environmental protection service requests. The new structure will enable officers to develop more specialist knowledge and expertise in food hygiene and health and safety and to provide the capacity to develop tools to support businesses to improve standards and contribute to local economic growth. Additionally, income generation opportunities will be explored in the delivery of training courses and advice to businesses outside of the Chiltern and South Bucks areas and in providing support for other local authorities.

A scoping exercise was undertaken and a balanced scorecard produced which identified the strengths and weaknesses of the Business Support service. This

identified that the team was strong on business process and innovation but needed to improve in terms of finance, e.g. identifying income generation opportunities and making best use of resources. Additionally it was identified that more work could be done to tailor advice and guidance to business needs and to develop improved collaboration with trade representatives and organisations.



During 2016/17, the focus will be on the successful implementation of the shared service. To this end, policies and procedures of both authorities will be reviewed and developed, taking the best practice from each. Opportunities to look for external best practice will also be taken. This service plan and accompanying enforcement policies is the first step towards integrating the two services in providing not only a more effective and efficient service, but also improving the service delivered to businesses, both in terms of targeted advice and consistent and effective enforcement.

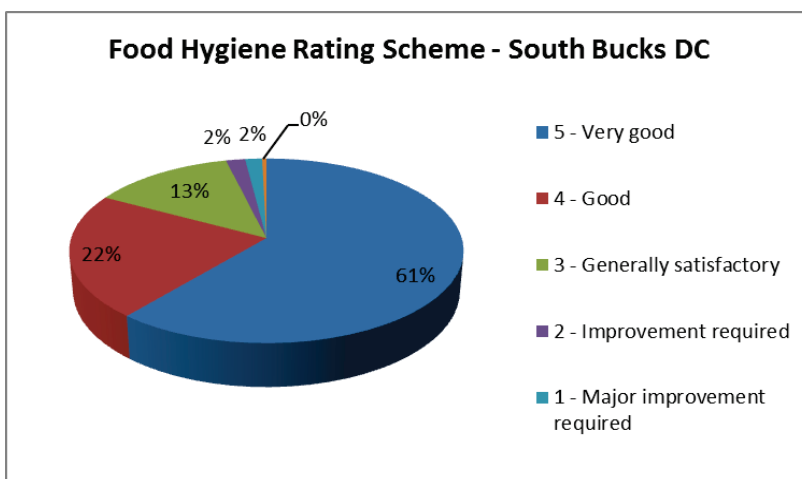
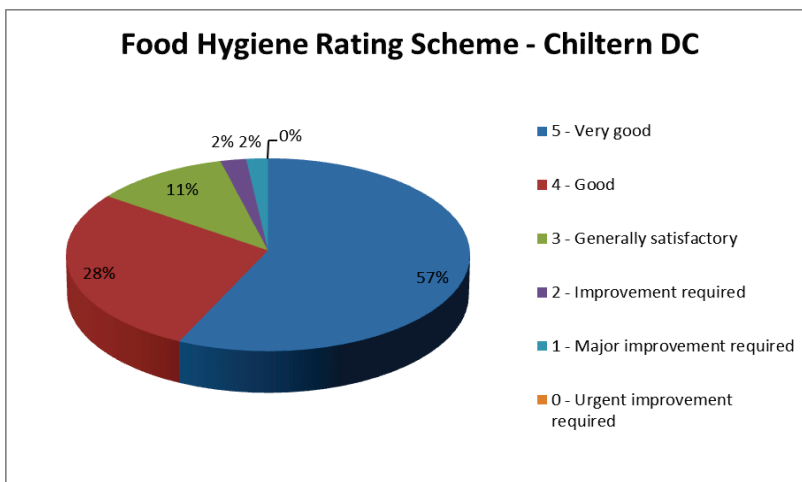
As part of an ongoing programme of service transformation, improved and more efficient and effective ways of working and delivering the service will be explored using 'lean thinking' principles to increase capacity to more effectively deal with non-compliant food businesses. This will be augmented by a corporate mobile working project across both authorities.

The national Food Hygiene Rating Scheme (FHRS) continues to be well received by both the public and businesses. The number of re-inspections has increased; businesses requesting a re-inspection to improve their rating following works being done. Chiltern DC participated in the FSA's research into why high rated businesses still did not display their rating. This comprised of premises checks and one-to-one conversations with proprietors to identify why they did not display their rating sticker. The table below shows the initial percentage of businesses displaying the sticker and the percentage after staff intervention. The research identified a number of reasons for not displaying but primarily, proprietors thought that anything below a 5 was not good enough to display and which might therefore have an impact on their business as customers may choose somewhere with a higher rating. Even though this was the expectation, those businesses did not then request

a re-rating of their business. Officers were of the opinion that it was unlikely that these proprietors would voluntarily display their food hygiene ratings.

Rating	5	4	3
% businesses displayed in scope at start of project	54%	65%	29%
% businesses displayed in scope at end of project	88%	79%	60%

The graph below shows the percentage breakdown of food hygiene rating distribution across all food businesses within each authority. The aim is to increase those businesses that achieve a 5 rating to above the national average.



### 4.3 Health and Safety Interventions

In the Government Report “*Good Health and Safety, Good for Everyone*”, following Professor Lofstedt’s review of health and safety legislation, protecting people in the workplace and wider society is still a Government key priority whilst reducing the inspection burden on businesses. The Government’s aim is to improve the targeting of relevant and effective interventions and preserving inspection for higher risk premises and issues.

The HSE have launched their new strategy for health and safety ‘*Helping Great Britain Work Well*’ which sets out 6 key themes:

**Helping Great Britain work well**

**A new strategy for health and safety**  
**The six key areas**

- Acting together**  
Promoting broader ownership of health and safety in Great Britain
- Supporting small employers**  
Giving SMEs simple advice so they know what they have to do
- Tackling ill health**  
Highlighting and tackling the costs of work-related ill health
- Keeping pace with change**  
Anticipating and tackling new health and safety challenges
- Managing risk well**  
Simplifying risk management and helping business to grow
- Sharing our success**  
Promoting the benefits of Great Britain’s world-class health and safety system

List of activities/sectors for proactive inspection by LAs<sup>1</sup> – only these activities falling within these sectors or types of organisation should be subject to proactive inspection

No	Hazards	High Risk Sectors	High Risk Activities
1	Legionella infection	Premises with cooling towers/evaporative condensers	Lack of suitable legionella control measures
2	Explosion caused by leaking LPG	Premises (including caravan parks) with buried metal LPG pipework	Buried metal LPG pipe work (For caravan parks to communal/amenity blocks only)
3	E.coli/ Cryptosporidium infection esp. in children	Open Farms/Animal Visitor Attractions <sup>2</sup>	Lack of suitable micro-organism control measures
4	Fatalities/injuries resulting from being struck by vehicles	High volume <sup>3</sup> Warehousing/Distribution	Workplace transport
5	Fatalities/injuries resulting from falls from height/ amputation and crushing injuries	Industrial retail/wholesale premises e.g. steel stockholders, builders/timber merchants	Workplace transport/work at height/cutting machinery /lifting equipment
6	Industrial diseases (occupational deafness/cancer/ respiratory diseases)	Industrial retail/wholesale premises e.g. steel stockholders, builders/timber merchants/ in-store/craft bakeries <sup>4</sup> , stone wholesalers <sup>5</sup>	Noise (steel stockholders), use of loose flour(in-store/craft bakeries <sup>4</sup> ), exposure to respirable crystalline silica (outlets cutting/shaping their own stone)
7	Falls from height	High volume <sup>3</sup> Warehousing/Distribution	Work at height
8	Crowd control & injuries/fatalities to the public	Large scale public gatherings e.g. cultural events, sports, festivals & live music	Lack of suitable planning, management and monitoring of the risks arising from crowd movement and behaviour as they arrive, leave and move around a venue
9	Carbon monoxide poisoning	Commercial catering premises using solid fuel cooking equipment	Lack of suitable ventilation and/or unsafe appliances
10	Violence at work	Premises with vulnerable working conditions (lone/night working/cash handling e.g. betting shops/off-licences/hospitality <sup>5</sup> ) and where intelligence indicates that risks are not being effectively managed	Lack of suitable security measures/procedures. Operating where police/licensing authorities advise there are local factors increasing the risk of violence at work e.g. located in a high crime area, or similar local establishments have been recently targeted as part of a criminal campaign

To support the strategy, guidance has been published for local authorities (LAC 67/2 (rev 5)) to aid the prioritisation of health and safety interventions. This identifies the national priorities based upon accident statistics and the associated high risk activities and business sectors which will form the focus of our work during 2016/17. The guidance is clear, however that there should not be an inspection without a reason and that other alternative interventions may be more suitable, for example advisory visits, publicity campaigns and seminars.



In 2015, three fatalities were reported to Chiltern DC and resulted in Coroner's Inquests. As a consequence, projects will be developed relating to health and safety measures to protect employees from falls from height and workplace transport accidents and raising awareness of the importance of communication between landlords and tenants and in particular maintenance responsibilities and reporting.

In 2015, in partnership with Public Health England, we participated in an educational campaign aimed at informing leisure centres and schools of the need to undertake suitable risk assessments for *Cryptosporidium*.

Category B and C premises will not form part of the inspection programme and so will not be subject to any proactive interventions unless they come within one of the priority subject areas or local intelligence suggests the need for targeted interventions.

#### 4.4 Service Requests

The Food and Health and Safety Enforcement Policies detail the policy relating to the investigation of complaints, whether they are about hygiene standards at premises, complaints about food purchased within the Districts, safety standards at premises or welfare issues. In 2015/16 across both authorities, 61 food related service requests were received, 44 concerning the hygiene of premises and 17 in relation to food itself. Of the 84 health and safety related service requests, 15 were requesting advice whilst 16 concerned standards at premises. Both Chiltern and South Bucks Councils have established Safety Advisory Groups, the purpose of which is to collate information about an event to enable the emergency services to gauge its potential impact upon the local community and to identify beforehand any issues or concerns which may potentially arise. In 2015/16 124 consultations were held for a variety of events.

#### 4.5 Accident Notifications

Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, employers and self-employed are required to notify the enforcing authority of any notifiable injury etc. The table below indicates the level of accident notifications for 2015/16. The policy for the investigation of accidents is detailed in the Health and Safety Enforcement Policy and accidents are investigated according to the criteria within it.

Number of accidents 2015/16

Type of Accident	2015/16 Chiltern DC	2015/16 South Bucks DC
Fatal Injuries	2	0
Non-fatal major injuries	0	0
Over 7 day injuries	26	16
Public injuries	29	23
Total	57	39

## 4.6 Primary Authority Scheme

In July 2009, the Regulatory Enforcement and Sanctions Act introduced the concept of a 'Primary Authority' for the majority of regulatory functions. At the request of a business, a local authority is compelled to act as that company's Primary Authority. The role of the Primary Authority will be to act as a point of contact for other local authorities on policy issues, inspection programmes and when considering taking any enforcement action. The Primary Authority is able to prohibit that local authority from taking their enforcement action subject to an appeal process to the Better Regulation Delivery Office against the decision of the primary authority. The newly formed Business Support Team will actively pursue primary authority partnerships with local businesses and trade associations.

## 4.7 Advice to Businesses



The authority is committed to ensuring that businesses are aware of the requirements of the law and good practice, and will wherever resources permit, provide advice to assist businesses. Information fact sheets have been developed for businesses which have received positive attention from other authorities.

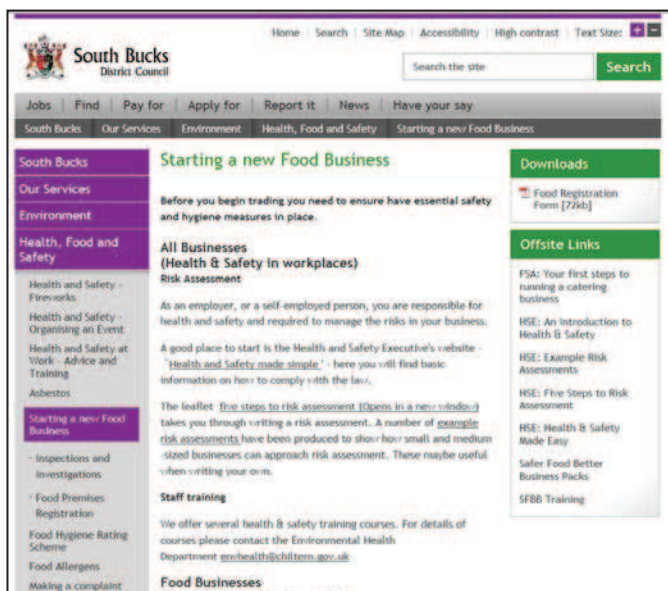
Greater links with local Chambers of Commerce and the Buckinghamshire Thames Valley Local Enterprise Partnership will be forged to support existing and new businesses and to improve awareness of the services Environmental Health can provide. For businesses, and in particular new start-ups, a 'one-stop' approach to regulatory services and compliance will be established in a bid to minimise the number of hand-ons a business may experience.

The feasibility of providing a chargeable advice service will be explored aimed at new and existing businesses to support them in achieving higher standards of safety and compliance.

Eight Level 2 'Award in Food Safety in Catering' courses are planned each year delivered at Chiltern DC by an external tutor. Chiltern DC staff administer the course provision and manage the bookings and payment. Chiltern DC retains the net income. In South Bucks DC courses are provided by an external tutor who uses a room at the South Bucks offices free of charge and administers the course herself. No income is received. Therefore, in 2016, the provision of courses will be reviewed in terms of their most cost effective delivery and types of courses/training provided to businesses. All courses are accredited by QCA and the Chartered Institute of Environmental Health. These courses can also be run for organisations at their premises upon request. The Section is also able to provide

the CIEH Level 2 Award in Health and Safety in the Workplace; CIEH Risk Assessment Principles and Practice and CIEH Principles of Manual Handling.

In addition to advice being given to businesses, information is also provided for the public in the form of information on the website and participation in National campaigns. As part of the inspection service review, the Environmental Health websites of both authorities have undergone significant development.



#### 4.8 Food Sampling

The policy in relation to sampling is detailed in the Food Policy and covers sampling of food, water and faecal and food samples as part of food poisoning investigations.

An annual sampling programme has been drawn up to cover:

- i) Water - private supplies;
- ii) Food products manufactured locally;
- iii) National and regional co-ordinated sampling;
- iv) Imported foods;
- v) Locally co-ordinated sampling.

The sampling programme is based on the following objectives and an assessment of the potential risks associated with the particular activity:

- i) To obtain recognised and usable microbiological standards for foods, via a nationally co-ordinated sampling programme;
- ii) To fulfil legal and government driven obligations;
- iii) To monitor those businesses whose standards of hygiene are less than satisfactory;
- iv) To check that foods comply with statutory microbiological standards, where available;
- v) To check that locally manufactured and handled foods are microbiologically safe;
- vi) To identify specific foodstuffs which are more likely to be microbiologically unsound.

It is recognised that good co-operation and co-ordination at a national and local level is necessary to achieve such objectives and the authorities are committed to:

- i) Participating in and co-operating with the Public Health England and Food Standards Agency's national sampling schemes;
- ii) Co-ordinating with adjoining local authorities and local PHE to agree locally co-ordinated sampling;

- iii) Ensuring 10% of samples come from third country imported foodstuffs, in line with the Food Standards Agency requirements.

Sampling is also performed on an adhoc basis as necessary, generally in response to a complaint from a member of the public, as part of a food poisoning outbreak or during a routine inspection. Where officers identify poor practices during inspections these will be incorporated into the sampling programme and inform future inspection approaches.

As part of the revised inspection processes the use of ATP analysis of hand and food contact surfaces provides rapid assessments of cleanliness and cross contamination. As well as demonstrating potential failures in hygiene arrangements, the visual nature of these tests also aids the educational aspect of the inspection.

Samples for microbiological analysis continue to be taken to the PHE laboratory at Colindale, London. The UK Food Surveillance System (UKFSS) is used to facilitate the electronic submission of samples data and receipt of results to a national database hosted by the FSA. Routine private water supply samples for chemical analysis are sent to Affinity Water and samples for examination will go to the Public Analyst.

#### 4.9 Control and Investigation of Outbreaks and Food Related Infectious Disease

The policy for dealing with food related diseases is to:

*“Prevent the spread of notifiable infectious disease in the community and particularly reduce outbreaks of food poisoning.”*

a) To investigate all outbreaks of notifiable disease within the Districts in co-operation with Public Health England.

- i) to identify the cause of infection;
- ii) to prevent the spread of infection;
- iii) to educate and prevent re-occurrence.

b) Promote the training of food handlers.

Procedures have been developed in consultation with the Consultant in Communicable Disease Control and Thames Valley PHE Centre. These, together with the appropriate outbreak control plans are reviewed on a regular basis.

For 2015/16 110 sporadic cases of food related infectious disease were investigated across both authorities, a reduction of 25% from the previous year. All notified cases are followed up to identify the source and cause, and to establish whether the case is within a high-risk group. The number of food poisoning outbreaks investigated during the past year remains low. Such outbreaks involve a considerable amount of time and effort to investigate and control and as a consequence, other proactive work tends to be held in abeyance until the outbreak is concluded.

A major food poisoning outbreak was investigated in the Chiltern District from an event attended by 434 people. Of these 43 developed symptoms of vomiting and



diarrhoea within 12 hours of eating the main course. Despite an extensive investigation, no causative organism or vehicle of transmission was identified.

#### 4.10 Food Safety Incidents

Food Alerts are the Food Standards Agency's way of informing local authorities and consumers about problems associated with food and, in some cases, provide details of specific action to be taken. They are often issued in conjunction with a product withdrawal or recall by a manufacturer, retailer or distributor. Officers will carry out action specified in the Food Alert as instructed and in the most appropriate, expeditious and cost effective manner possible to safeguard public health. Action will be taken in accordance with guidance issued by central government. Action taken in relation to food alerts associated with chemical contamination will be in consultation with Buckinghamshire and Surrey Trading Standards.

Rapid Alert System for Food and Feed (RASFF) is primarily a tool to exchange information between competent authorities on consignments of imported food and feed in cases where a risk to human health has been identified and measures have been taken. As with the food alert officers will carry out any action specified in the RASFF.

If a Food Alert or RASFF needs to be issued following complaints or issues arise as part of the routine inspection programme, the guidance in the Code of Practice will be followed.

When necessary, the Consultant in Communicable Disease Control and Public Analyst will be consulted and advice sought as to the public health significance of particular issues. Specialist experts will also be called upon as necessary. Appropriate resources will be allocated to resolving any food safety incident and alternative measures taken to deal with other work.

In 2015/16, 79 Food Alerts were issued by the Food Standards Agency, the majority of which were for information. In instances where action was required of the local authority, contact was made either by contacting food businesses directly or visiting.

#### 4.11 Liaison with other Organisations

The Authorities have a number of formalised liaison arrangements with various public bodies and neighbouring local authorities. These include:

- i) Buckinghamshire Food and Health and Safety Liaison Groups - bi-monthly meetings to discuss current enforcement issues and to develop action plans to progress food and health and safety promotion and enforcement. Also in attendance are representatives from Trading Standards to discuss joint initiatives and the Quality Manager from the PHE, Colindale to discuss sampling results and programmes and the Health and Safety Executive.
- ii) Thames Valley PHE Centre - meetings to discuss current infectious disease issues and to progress initiatives in outbreak control.
- iii) Chiltern District Council and South Bucks District Council Safety Advisory Group - meetings with event organisers to discuss event safety management and to highlight issues of particular concern.

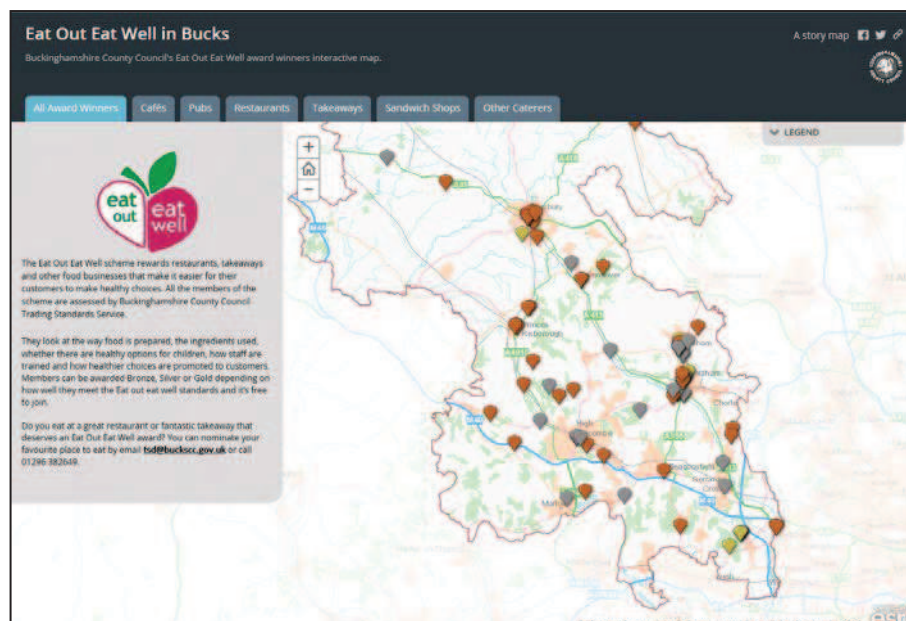
- iv) Thames Water Utilities and Affinity Water - 6 monthly meetings to discuss current developments in water quality and monitoring and to develop closer links between organisations.
- v) The Division also has links with other Council services e.g. Planning and Building Control regarding new applications and Engineers regarding complaints.

#### 4.12 Promotion

The value of safety promotions is recognised as an effective way of conveying safety information to both public and businesses and as a means to raising standards. Therefore officers actively participate in a number of promotions. These include Food Safety Week, Health and Safety Week and other local promotions organised on an adhoc basis through the Buckinghamshire Liaison Groups.

In 2015/16, officers publicised Food Safety Week using a variety of social media tools which, for the past couple of years has focussed on the risks from *Campylobacter* in the home and in particular the safe preparation and cooking of chicken. In 2016, the focus will be on food waste and so officers will work with the Waste Management Team to promote and publicise this campaign. Officers will also promote food hygiene at other times during the year at events such as the Senior Wellbeing Fair.

In 2014, Bucks Trading Standards introduced an 'Eat Out, Eat Well' scheme for businesses aimed at promoting healthier food choices for consumers and staff actively promote this scheme during their hygiene inspections.



The national Food Hygiene Rating Scheme shows how well food businesses are complying with food hygiene law. The scheme applies to all caterers and retailers handling and preparing open food to the public. The food business is given a sticker to display that shows their food hygiene rating out of 5. The ratings are made



publicly available on a national website so that customers can make informed choices about the places where they eat out and purchase food, and through this, to encourage businesses to improve hygiene standards. Businesses are encouraged to display their rating.

## 5.0 RESOURCES

### 5.1 Staffing allocation

As a consequence of the Environmental Health shared service review, the departmental structure has significantly changed, creating a designated Business Support Team who are responsible for undertaking food safety and health and safety interventions, investigations of accidents and hygiene complaints, food poisoning outbreaks and sporadic infectious disease cases and provide support and advice to businesses and the primary authority partnership scheme. The Team is comprised of Principal Environmental Health Officer, a job shared Senior Specialist Environmental Health Officer post and , who, with the Principal EHO jointly act as the Lead officers for food and health and safety and 2.6 Environmental Health Officers, supported by 0.1 FTE Administrative Officers. Additional Environmental Health Officer resources will be deployed from the Public Protection team as required.

All officers are authorised in accordance with an assessment of their individual competencies and qualifications and in accordance with the FSA Code of Practice and Section 18. A record of authorisation for each individual is kept and any training and competency issues are dealt with throughout the year.

Contractors engaged in food or safety interventions will be appointed and authorised in accordance with the authorisation procedures and must demonstrate

their competence to the satisfaction of the relevant codes of practice. During 2015 a consultant was employed to undertake food hygiene inspections across both authorities.

## 5.2 Staff Development Plan

The Authorities are members of the Investors in People (IIP) Scheme and are regularly appraised through audit of its membership.

The Food Standards Agency, as part of their revision of the Code of Practice, has introduced a Competency Framework for officers who are responsible for undertaking official controls. All officers authorised to carry out official control interventions will be required to complete the Competency Framework and any gaps will form part of their personal development plan.

The Staff Development Plan serves to identify the training and development activities required enabling officers to perform their duties in an efficient and effective manner. Not only does the Plan reflect the business needs of the Division, it also provides for the personal development of individual officers. The Food Standards agency's Competency Framework has been used to identify individual competencies and training and knowledge gaps.

All training undertaken is reviewed as to its usefulness and practical applications and feedback to other officers is done as necessary.

All staff are appraised on an annual basis at which time any training needs are identified and incorporated into the Staff Development Plan. Additionally, throughout the year, core courses are identified and staff allocated to attend as necessary.

Each officer is allocated individual aims and objectives. These comprise of general performance objectives relating to standards of work and targets to be achieved and more specific 'projects' pertinent to their work and the overall aims of the service. These are reviewed on an on-going basis and as part of the annual appraisal.

## 5.3 Financial Allocation

The budget for the food service is comprised of a number of elements, the greatest of which is staffing costs. This is followed by support services comprised of costs for administration, corporate services (mainly financial income administration), office running costs and internal health and safety. Legal charges are based on the actual work that is performed and a contingency is available for expert advice. The budget for food and health and safety work across both authorities is £273,700.

A separate budget for sampling has been allocated which is available for food complaint analysis and other sampling work, e.g. for chemical analysis of food or water.

Microbiological analysis is undertaken by the PHE who has agreed an allocation of sampling units based on one food sampling unit per 1000 head residential population. Due to the extensive sampling programme, the Division tends to use its allocation of food sampling units.

#### 5.4 Physical Assets

The officers involved in the food service are provided with any equipment that is deemed necessary for them to carry out their duties effectively and efficiently. A record of equipment allocated to staff is listed in an equipment inventory, which also includes a record of the necessary calibration and service checks. The value of these assets costed on a replacement value is estimated to be in the order of £2000.

#### 5.5 Information Technology

The Division operates the Uniform database and management system supplied by IDOX and is used to log complaints, investigations and inspections. The system interfaces with the corporate Geographical Information System (GIS) and is based on the Local Land and Property Gazetteer. We also use Laserforms to provide consistency in enforcement notices.

All documents are scanned and linked to the Uniform record using the IDOX Electronic Document Management System which provides a more efficient management of information and data and improved access to information and business history. Additionally, the use of online application forms and payments improves both access to services by residents and businesses and efficiency. A corporate mobile working project will be implemented during 2016 which will facilitate more efficient working across both authorities.

The ICT platform is Windows 7 using Microsoft Office 2010 software packages. These systems are supported by a dedicated ICT Department.

### 6.0 QUALITY ASSESSMENT

It is recognised that as well as ensuring that premises due for inspection are actually inspected, the quality of the inspection is of equal importance. By ensuring and maintaining the quality of an inspection, it becomes a more focussed, effective tool in securing food safety.

To this end, the quality of the service is monitored in accordance with the 'Inspection Monitoring Management System' in compliance with FSA Code of Practice. This sets out the measures that will be taken to ensure quality and consistency of approach to inspections, information provided and correspondence.

In order to attain and maintain a quality inspectorate, minimum qualifications and experience are set for enforcement officers. This is monitored regularly. Staff also undergo shadow inspections and peer review inspections/case studies. Regular file audits and action training sessions are also carried out to maintain quality, competency and consistency within the Section.

Additionally, Notices to be served and other enforcement work are verified by the Senior Specialist EHO (Business Support) or Principal Environmental Health Officer to ensure consistency with the Enforcement Policy and compliance with the Code of Practice and correspondence and files are monitored on a routine basis.



**ACTION PLAN 2016/17**

Task	Responsibility	Action	Success Criteria	Monitoring	Target
Review the inspection process to improve hygiene standards in food businesses	PEHO SSEHO (FS)	<ul style="list-style-type: none"> <li>Implement a project designed to improve hygiene standards within targeted food businesses using a variety of tools, including                             <ul style="list-style-type: none"> <li>Business Mentoring</li> <li>Toolkit for businesses</li> <li>Coaching and training</li> <li>Web information</li> <li>Score improver training</li> </ul> </li> <li>Increased face to face contact time with businesses</li> </ul>	Increased number of food businesses that are Broadly Compliant	Quarterly review against project plan. Report on the percentage of businesses that are 'broadly compliant'	March 2017
Report to the Food Standards Agency via the statutory return the percentage of businesses that are broadly compliant	PEHO SSEHO (FS)	<ul style="list-style-type: none"> <li>Using the FSA's LAEMS report, identify the percentage of businesses that are/are not broadly compliant.</li> <li>Target appropriate food safety interventions to increase the percentage of businesses that are 'broadly compliant'.</li> </ul>	Increasing percentage of businesses that are 'broadly compliant'.	Report on the percentage of businesses that are 'broadly compliant'.	Ongoing
Review processes relating to the work of the Business Support Team, including written policies and procedures, working arrangements and documentation to develop common streamlined	PEHO SSEHO (FS) EHM	<ul style="list-style-type: none"> <li>Using lean thinking principles, review processes to identify where improvements to service delivery can be made from a business perspective. Identify and agree common procedures and processes to</li> </ul>	Common policies, processes and procedures developed and implemented across both local authorities. More efficient, effective and	Quarterly review against project plan.	March 2017

service delivery across both authorities.		be adopted and implemented across both authorities.	streamlined service delivery.		
Consider best way to implement new technology, and consider 'lean thinking' approach to reduce the time spent on inspections	PEHO SSEHO (FS) EHM	<ul style="list-style-type: none"> <li>Identify how technology can aid inspectors in delivering a lean inspection process.</li> <li>Participate in Corporate mobile working project.</li> </ul>	IT requirements identified. Assessment of value streams	Quarterly review against project plan.	March 2017
Develop links with businesses through local trade associations, Chambers of Commerce and Bucks Local Enterprise Partnership (LEP) to improve support for businesses and provide advisory service	PEHO SSEHO (FS) EHM	<ul style="list-style-type: none"> <li>Identify relevant Chambers of Commerce, Trade Associations and contacts within the LEP.</li> <li>Identify ways in which the service can work better with these organisations to better support local businesses.</li> <li>Develop service delivery in light of discussions with these organisations</li> </ul>	Better communication between local business representatives and the authorities. Changes in service delivery to better reflect business needs	Quarterly review against project plan.	March 2017
Develop Primary Authority arrangements with local businesses for both food and health and safety	PEHO SSEHO (FS) SEHO	<ul style="list-style-type: none"> <li>Actively pursue Primary Authority Partnerships</li> <li>In discussion with the particular business, develop the Primary Authority Principle in line with BRDO guidance.</li> </ul>	Successful development and smooth implementation of the Primary Authority Principle.	Monitoring of food and health and safety complaints/enquiries and liaison with other local authorities	March 2017
To develop and enhance the authorities' websites in relation to food and health and safety	SEHO/IT	<ul style="list-style-type: none"> <li>Identify ways in which the websites can be better used to provide information and guidance for businesses and to improve service delivery.</li> </ul>	Websites enhanced - improved and readily accessible guidance and information available for	Quarterly review against project plan. Quarterly review of website information to ensure that	March 2017

		<ul style="list-style-type: none"> <li>Identify ways in which the websites can supplement the mobile/remote working project to provide more efficient and effective work practices.</li> <li>To review the content of the Councils' websites in relation to food and health and safety and amend, remove or add new information as necessary in light of changes in legislation, government guidance and Council changes.</li> </ul>	<p>businesses.</p> <p>Officers able to use website to improve their interaction with businesses and to enhance remote working.</p> <p>The relevant sections of the websites are up to date, relevant and readily accessible.</p>	information is still current	
<p>Identify additional income streams for the department.</p> <p>Develop and deliver a chargeable advice service</p>	<p>PEHO</p> <p>SSEHO (FS)</p> <p>SEHO</p> <p>EHM</p>	<ul style="list-style-type: none"> <li>Identify sources of additional income that can be exploited.</li> <li>Develop projects that can be marketed to businesses and other local authorities as an additional service.</li> <li>Produce a marketing plan and identify ways in which new services can be publicised and promoted.</li> </ul>	<p>Increase in income generated.</p> <p>Projects identified and new services developed. Uptake of new services by businesses and local authorities.</p> <p>Business support valued by the community, active participation on training courses. Increased uptake of food and health and safety courses.</p>	Quarterly review against project plan.	March 2018
Participate in National	All	<ul style="list-style-type: none"> <li>Carry out promotional work</li> </ul>	Successful local	Project implemented	June 2016,



Food Safety Week June 2016 and other promotional events		<p>in collaboration with the Waste Management Team in relation to food safety theme of reducing food waste</p> <ul style="list-style-type: none"> <li>Continue to participate and promote the Bucks Trading Standards' Eat Well' scheme</li> </ul>	<p>publicity to highlight food waste issues at home and raised awareness of food waste issues generally.</p>	<p>throughout the week in June.</p>	<p>ongoing</p>
Carry out customer service survey to identify areas for service improvement	All	<ul style="list-style-type: none"> <li>Send out questionnaires after each inspection by email to assess business's degree of satisfaction and identify areas where the service can be improved</li> </ul>	<p>Questionnaire sent out to businesses after each inspection. Returns show a high degree of business satisfaction.</p>	<p>Report on questionnaires posted and percentage of 'satisfied' returns received.</p>	<p>Ongoing</p>
Ensure a programme of priority campaigns are carried out	All	<p>In line with the HSE Strategy and guidance, identify and deliver appropriate intervention projects</p> <p>Work to include articles in Grub's Up, development of website information, business seminars and targeted visits in collaboration with the HSE representative, as appropriate.</p>	<p>Identified projects delivered according to the project plan. Businesses increasingly aware of the priority topic areas and implementing recommendations.</p>	<p>Review meeting at end of project period. Briefing note provided on successes and lessons learned for future projects.</p>	<p>Ongoing</p>



Classification: OFFICIAL

**CHILTERN DISTRICT COUNCIL  
and  
SOUTH BUCKS DISTRICT COUNCIL**

**Environmental Health Section**

**FOOD POLICY**

**2016-2017**



Classification: OFFICIAL

- 1.0 Aims, Objectives, Priorities and Methods
- 2.0 Standards for food related work
- 3.0 Planned Food Hygiene Inspections
- 4.0 Food Enforcement Policy
- 5.0 Food Complaints
- 6.0 Food Sampling

Appendix Risk Rating Categories and Interventions

Classification: OFFICIAL

## Background

The Healthy Communities Division has a key role in working with businesses and consumers to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the districts, is without risk to the health or safety of the consumer.

For the past few years, the number of food poisoning cases has continued to increase. Whilst many incidents of food borne illness arise from visits abroad and poor hygiene awareness in the home, the need for high standards of hygiene within food businesses remains paramount particularly to engender public confidence and meet consumer expectations.

The Councils' approach to the enforcement of food safety reflects the responsibilities placed upon them by the Food Safety Act 1990, Food Safety and Hygiene (England) Regulations 2013, General Food Regulations 2004 (as amended), the Official Feed and Food Control (England) Regulations 2009 (as amended) and other regulations.

We aim to protect the public by delivering a complementary programme of education and enforcement which endeavours to ensure that food businesses within the districts are operated and maintained at a standard that complies with relevant legislation. We also ensure that our service fulfils the statutory duty imposed on the Councils as "food authorities" and to ensure the effective implementation of Government strategy on food safety issues.

## 1.0 AIMS AND OBJECTIVES

### 1.1 Aims

It is the Councils' aims for food safety to:

- Support and assist businesses to become food safety compliant
- Provide consistent, accurate and up-to-date information aimed at providing protection to customers
- Support and assist businesses to comply with legal obligations to ensure that food is safe

Classification: OFFICIAL

## 1.2 Objectives

The Councils will achieve these aims in the following ways:

- Targeted, current and relevant information to businesses
- Ensure officers are equipped with tools to effectively support businesses
- Ensure that poor performing businesses are proportionately targeted with enforcement action
- Adopt a “light touch” approach to compliant businesses and organisations
- Proactive campaigns to promote food hygiene ratings

## 1.3 Service Delivery

The service will be delivered through:

- i) Routine programmed inspection of food businesses, with a frequency determined by a risk assessment, with appropriate follow-up action;
- ii) Assessment of relevant food hygiene practices to determine a food hygiene rating, in line with the [national Food Hygiene Rating Scheme \(FHRS\)](#). Premises are given a rating of between 0-5 and results are posted onto the Food Standards Agency website to provide clear, accountable evidence of visits;
- iii) Routine self-assessment questionnaires to low risk premises;
- iv) Investigation of complaints and incidents with appropriate follow-up action;
- v) Participation in national and local sampling programmes;
- vi) Appropriate training, development and monitoring of Council officers in accordance with Chapter 4 of the [FSA Food Law Code of Practice](#);
- vii) Provision of information and advice to businesses about legal requirements, good practices and what to expect of the inspecting officer/authority;
- viii) Provision of relevant food safety courses for food handlers;
- ix) Promotional activities to inform and encourage high standards;
- x) Promotional activities to educate the consumer in food hygiene and safety.

## 1.4 Priorities

Priority will be given to targeting those activities that pose the greatest risk to the consumer arising from the consumption of food. This will be by:

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- The correct and uniform identification of high-risk processes during programmed inspections and other interventions, including complaint investigation and to concentrate efforts to reduce significant risks;
- Focussing enforcement efforts on those businesses that pose the greatest risks e.g. those that are not broadly compliant;
- Ensuring efforts are focussed on persistent offenders;
- Ensuring compliance with the law and;
- Engaging in those promotional activities for businesses and consumers which are most likely to foster improved safety.

## 2.0 STANDARDS FOR FOOD RELATED WORK

### 2.1 Authorisations

The Councils will set standards for the qualifications, experience and competence of its officers.

In the context of the Food Safety Act 1990 and Regulations under the European Communities Act 1972, an authorised officer's powers include the inspection of food premises, the inspection, detention and seizure of food, the service of notices and taking emergency action. Authorised officers will be authorised in accordance with the [Food Safety Law Code of Practice](#).

Under the Chiltern District Council Constitution reviewed on 12 February 2008, the Head of Healthy Communities has the following delegated authority:

- i) to appoint Inspectors for all purposes in connection with the Food Safety Act 1990 and any statutory instruments made under the European Communities Act 1972 relating to food safety and/or food hygiene and all subordinate and/or related enactments thereto including (without prejudice to the generality of the foregoing);
- ii) to exercise or to authorise appointed Inspectors to exercise any of the powers specified within the enactments referred to above, including powers of:
  - Entry and inspection of premises, equipment and articles;
  - Approval or refusal of licences;
  - Registration of premises;
  - Service of improvement and emergency prohibition notices;
  - Seizure and detention and remedial action notices;
  - Taking of samples
  - Certifying that food has not been produced and distributed in accordance with Food Hygiene Regulations., and
  - To institute prosecution proceedings or issue simple cautions in connection with any offences created by the enactments above.

Under the South Bucks District Council Constitution adopted on 25<sup>th</sup> February 2015,

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the Director of Services has the following delegated authority:

- i) to appoint authorised officers and inspectors for functions Director of Services and issue new authorisations and powers of entry under all Acts of Parliament and Regulations within the terms of reference of the Executive, subject to any exercise of the powers being reported to the next meeting.
- ii) The seizure of food which fails to comply with food safety requirements or appears likely to cause food poisoning or any disease communicable to human beings.
- iii) The service of Improvement Notices.
- iv) The service of Emergency Prohibition Notices (in consultation with Head of Legal Services)
- v) The issue of approvals under ‘Product Specific’ Regulations.
- vi) Authority to make a departure from the approved Food Safety Enforcement Policy; (in consultation with the Health & Housing Portfolio Holder.
- vii) Authority to revise the policy to take account of staff and legal changes, as necessary from time to time; and
- viii) Authority to issue a formal caution as an alternative to pursuing a prosecution, in appropriate circumstances, offences in relation to Food Safety (Environmental Health Officer in consultation with the Head of Legal Services and the Head of Health and Housing/Director of Services in accordance with considerations set out in the Policy.

The Director of Services and Head of Healthy Communities, in exercising their authority to appoint authorised officers, will apply the standards contained in this policy.

### 2.1.1 Inspections

The inspection of food premises will only be undertaken by officers who are suitably qualified, experienced and competent in accordance with the requirements of the Food Law Code of Practice pertinent to their duties. This will equally apply to those employed on a contract basis. Inspectors will be authorised in accordance with the ‘*Authorisation and Training Procedure*’.

Newly appointed officers or currently employed officers who are extending their duties will not be authorised unless they are qualified as above, that they possess the appropriate competencies, skills, qualifications and experience to undertake their duties and that they have undergone a period of structured training in accordance with the Code of Practice. The assessment of competency etc. will be undertaken by the Senior Specialist Environmental Health Officer (Business Support) in consultation with the Principal Environmental Health Officer.

### 2.1.2 Enforcement Notices



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Service of Hygiene Improvement Notices will only be undertaken by qualified officers with experience in food law enforcement, in accordance with the Food Law Code of Practice and after consultation with the Senior Specialist Environmental Health Officer (Business Support) or -Principal Environmental Health Officer.

Such persons will be an Environmental Health Officer enforcing food hygiene or food processing regulations; holders of the Higher Certificate in Food Premises Inspection authorised to carry out food hygiene inspections or; holders of the Ordinary Certificate in Food Premises Inspection authorised to carry out food hygiene inspections in risk categories C - E and who are authorised to sign notices in respect of these premises.

The service of notices by hand will be by any person who is capable of explaining the meaning and legal status of the notice. Notices served by other methods will be in accordance with current legal guidance.

The Environmental Health Officers will be authorised to serve Hygiene Emergency Prohibition Notices in accordance with the standards within the policy. Such persons will be an Environmental Health Officer authorised to inspect food premises, hold a certificate of registration issued by EHORB (or equivalent), who have at least 2 years post qualification experience in food safety matters and are currently involved in food enforcement. Where practicable, he/she will be accompanied by another EHO to corroborate the proceedings and will consult with the Senior Specialist Environmental Health Officer (Business Support) or Principal Environmental Health Officer.

### 2.1.3 Seizure and Detention of Food

Environmental Health Officers and officers holding the Higher Certificate in Food Premises Inspection issued by EHORB will be authorised to inspect, detain and seize foodstuffs subject to experience and competence.

All officers will be assessed for the necessary practical skills, experience and competency by the Senior Specialist Environmental Health Officer (Business Support)

### 2.1.4 Competency

The Principal Environmental Health Officer has been given specific responsibility for food hygiene and food safety matters and managing the food safety service. This will be in accordance with the documented *Food Safety Monitoring Procedure*.

Environmental Health Officers and Environmental Health Technical Officers will carry out inspections and exercise their powers in accordance with the relevant legislation, Food Law Code of Practice and within the restrictions of their authorisation.

The Senior Specialist Environmental Health Officer (Business Support) (or in his/her absence, the Principal Environmental Health Officer) will be responsible for the supervision and training of officers and for the maintenance of auditable records. The FSA Competency Framework will be used to establish current qualifications and

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competencies and to identify future training needs in order that officers can effectively carry out their duties.

Recommendations will be made by the Principal Environmental Health Officer or Senior Specialist Environmental Health Officer (Business Support), to the Head of Healthy Communities in respect of the powers to be given to officers and the category of premises to be inspected.

A list of the officers, their powers and the category of premises which the officer may inspect, will be maintained and regularly updated in an '*Authorisations Manual*'. Records of training will also be kept.

Other officers may be appointed to assist in carrying out inspections.

## 2.2 Guidance

The authorities will have regard to the Food Law Code of Practice and Guidance issued by the Food Standards Agency, other advice issued by the Government, advice issued by the Better Regulation Delivery Office (BRDO), information and guidance issued by a Primary Authority and any approved Industry Guides.

## 2.3 Approvals

Some specific food premises are required to be formally approved by the local authority. They are then given an approval number that specifically relates to their premises and products and can then use the "health mark" required by EC Directives.

The Head of Healthy Communities, in consultation with the Principal Environmental Health Officer, has the authority to issue or revoke such approvals.

Other suitably qualified and experienced officers will be designated as being able to approve premises which will be assessed and recorded as in 2.1, above. The ability to revoke approvals will remain solely within the authority of any of the two officers named above.

## 2.4 Licences and Registrations

Under the Chiltern District Council Constitution, the Head of Healthy Communities has delegated power to issue licences and registrations pursuant to Section 19 of the Food Safety Act 1990 and to refuse or revoke licences in accordance with Regulations and any guidance issued. This function is delegated to the Director of Services in South Bucks District Council. This will be in consultation with the Principal Environmental Health Officer.

## 2.5 Uniformity

The Authorities acknowledge the need to act in a consistent and uniform manner and advocate a common-sense approach to the selection of enforcement action and activities.

The following areas are all considered important in achieving uniformity. These are detailed in the '*Inspection Monitoring Management System*':

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- i) the awareness, adherence to and review of the food policy document and further development of office procedures;
- ii) training, qualifications, supervision of staff. Regular practical training and update sessions will be essential to ensure uniformity;
- iii) cross monitoring visits of staff;
- iv) use of the [Primary Authority Partnership Scheme](#), specified by the Better Regulation Delivery Office (BRDO);
- v) liaison with local food groups/adjoining authorities. Use of joint training initiatives. Co-operation and joint working on uniformity issues;
- vi) compliance with the Code of Practice and guidance.

## 2.6 Advice to Businesses

The Authorities are committed to ensuring that food businesses are aware of their legal obligations and to supporting businesses in achieving best practice by providing coaching, training and appropriate advice.

In responding to requests, the advice given should support compliance and be reliable. On a quarterly basis, the information on the Councils' website will be reviewed in light of changes in legislation and government guidance. Requests for advice should not necessarily trigger enforcement action but should be a means to forge positive relationships with businesses.

Where opportunities arise to provide advice and guidance to businesses over and above that required to ensure legal compliance, e.g. to increase a business' food hygiene rating or to establish 'best practise' for supplier auditing purposes, then a charge may be made.

Where advice is provided by another agency, e.g. Trading Standards at the County Council, then the business will be appropriately signposted. In relation to allergens in food, officers will provide advice in respect of non-pre packed food. All other requests for guidance and information will be referred to Buckinghamshire County Council Trading Standards. Officers will not make direct referrals.

In particular:

- i) Businesses will be encouraged to acquire food hygiene training. To assist in this, Level 2 Food Hygiene courses will be run by or in partnership with, the authorities for as long as demanded, on a cost recovery basis in order to encourage attendance. A charitable organisation will be able to benefit from 2 discounted group courses per year, after which they will be charged at the going rate for group bookings. At all times it will be made clear that there is no legal requirement to attend the course run by the Councils;
- ii) The Councils' websites will be the primary source of information to assist businesses with interpretation of legislation or good practice. The Councils also provide services for ethnic minority groups through 'Language Line' translation services and courses in languages other than English. Where the Councils do not provide the service themselves, information will be given to businesses about other providers.

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- iii) A chargeable advice service will be available to new and existing food businesses to support them in achieving high standards of safety and compliance.
- iv) Businesses will be supported and encouraged to participate in the [Primary Authority partnership scheme](#) where applicable.
- v) Coaching and mentoring visits will be made to businesses in order to raise standards of hygiene by focussing on issues identified during primary inspections. Appropriate toolkits will be used to assist effective delivery of information.
- vi) Where there is sufficient demand occasional talks will be given to businesses. Charges to cover costs may be made for out of hour's sessions.

## 2.7 Advice to Consumers

The authorities are committed to assisting consumers to understand basic hygiene in the home and to providing consumer confidence in local food businesses. The Councils' website will provide access to advice and information on food safety issues and will be reviewed on a quarterly basis. The authorities will participate in national food safety activities and local events and promote the national Food Hygiene Rating Scheme. Talks to voluntary organisations and groups will be given free of charge where resources permit.

## 2.8 Conduct

Inspecting officers will at all times act and dress in a professional manner. Protective clothing will be worn that is appropriate to the premises being inspected and equipment will be maintained and calibrated where appropriate.

Officers will ensure the highest standards of personal hygiene and will not act in such a way as to pose a risk of cross contamination or to health.

## 2.9 Information Sharing

Where the legislation permits, the authorities will share information via agreed secure mechanisms with other regulatory agencies and local authorities about businesses to help target resources and activities and to minimise duplication.

The authorities will share information about businesses with the primary authority as appropriate and with other authorities when acting as a Primary Authority.

The authorities will, where feasible, follow the principle of 'collect once, use many times' when requesting information from businesses.

## 3.0 PLANNED FOOD HYGIENE INSPECTIONS

### 3.1 Premises

An up to date record will be kept and maintained on a computer database of all

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known food premises, together with the food register required by law. All known food businesses will be assessed for the need to be included on the planned programme of inspection based on information obtained from the food business operator or following inspection.

Newly registered high risk food businesses will be inspected within 28 days following receipt of the application for registration. Any longer period should take account of the nature of the business and prior knowledge of the level of managerial competence.

### 3.2 Frequency and type of inspections

Over the last few years there have been a series of regulatory reforms, which aim to reduce red tape and regulatory burdens upon business. In light of the regulatory reviews such as; Hampton Report; McCrory Review, Davidson Review; and Rogers Review, it has been recognised that "a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection." The reviews also stated that "The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions."

Article 2 of EC Regulation 882/2004, states that, it is possible to undertake Official Controls by means other than the traditional food hygiene inspection. It goes on to recognise five other activities (classed as interventions) which are deemed to meet the requirements of an official control at a food business. They are; Inspections, Audit, Sampling, Monitoring, Surveillance and Verification. The Food Standards Agency also identifies other ways of assessing and encouraging low risk businesses to be compliant such as by coaching, advice and training.

Article 2 of Regulation 882/2004 provides the following definitions of official controls:

**'Inspection'** means the examination of any aspect of feed, food, animal health and welfare in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules.

**'Monitoring'** means conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with feed or food law, animal health and animal welfare rules.

**'Surveillance'** means a careful observation of one or more food businesses, or food business operators or their activities.

**'Verification'** means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.

**'Audit'** means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.

**'Sampling for analysis'** means taking feed or food or any other substance (including from the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify through

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analysis compliance with feed or food law or animal health rules.

In light of this, the Food Safety Code of Practice, to which officers must have regard when inspecting food businesses, allows authorised officers and food authorities to use a range of interventions, using strategy and officers' professional judgement to determine the most suitable level of intervention, proportionate to the activities of the food business. The range and scope of interventions is detailed in Appendix 1. In determining the inspection approach, officers will take into account the compliance record of the business and any other earned recognition and third party verification in place. Officers have been given training and regular reviews are in place to ensure consistency in this approach. Interventions are defined as activities that are designed to monitor, support and increase food law compliance within a food establishment. More intensive regulation will be directed at those food businesses that pose the greatest risk.

Systems will be maintained to monitor inspection frequency against the planned programme. All visits will be recorded on the computer-based system and documents scanned to the corporate Electronic Document Management System.

### 3.3 Inspection Procedure

#### 3.3.1 Approach

The authorities will work to the standards in the Food Law Code of Practice and Guidance and the internal inspections procedure documents.

The main purpose of inspection is to identify potential risks to food safety or which are likely to give rise to food poisoning and to ensure that the business understands the risks and has put the necessary measures in place to minimise them. When undertaking an intervention, officers will pay particular emphasis to HACCP based management systems. However it is recognised that the seven HACCP principles are a model towards compliance and that the legislative requirement can be achieved by other simplified, effective equivalent means.

A systematic approach to risk assessment will be adopted based on The Food Safety and Hygiene (England) Regulations 2013. Where businesses have identified their own critical points for food safety and have introduced controls, the intervention will focus on the accuracy of the critical points assessment and on the effectiveness of the controls. Written assessments will normally be expected in high risk or complex businesses. Low risk or simple businesses will not be expected to have written or elaborate assessments although the use of Safer Food, Better Business will be promoted where appropriate.

Where no assessment by the business can be demonstrated the inspection will focus on the officer's own critical points assessment and examination of controls. In accordance with BRDO advice on enforcement, formal action will be considered where an informal approach has been unsuccessful in achieving compliance with the food safety management requirements.

The whole of a premise may not necessarily be inspected at each inspection; those areas of greatest risk will be given priority. Where the inspection varies from government guidance or departmental procedures, this will be recorded.



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Computer records will be updated following every visit.

Where the County and District Councils jointly have powers to enforce a particular piece of legislation e.g. with Trading Standards, then officers will liaise with the County Council to discuss the most appropriate course of action. In relation to enforcement of allergen information (Food Information Regulations 2013), officers will check for compliance when undertaking programmed official food controls and issue advice and guidance where there is non-compliance. Officers may seek formal compliance by taking enforcement where regulatory action for other food safety matters is being carried out.

### 3.3.2 Communication

Every intervention (including those where no defects are identified) will result in a written report to the proprietor either in the form of a letter or a carbonated report left at the premises at the time of the inspection. Copies of the report will be sent to the Manager or other relevant persons. The report will comply with the requirements of the Code of Practice and advice will be in line with guidance and relevant Industry Guides to Good Hygiene Practice issued by central government.

A standard format will be used. The report will cover the important issues noted during the inspection in priority order and will clearly distinguish between legal requirements and recommendations. It will give details of the person carrying out the inspection, date, time, the areas inspected, the FHS rating where possible and the procedure if the proprietor disagrees with the issues raised in the report.

Good communication between inspector and proprietor/manager is essential wherever possible, including ensuring that the purpose and scope of an inspection is understood and the "works" needed following the inspection with an agreed time limit. The impact of the advice should be considered so that it does not impose unnecessary burdens upon businesses.

### 3.3.3 Timing of Inspections

Programmed inspections will be carried out at all reasonable hours. It is recognised that food businesses operate outside normal office hours of work and so the inspection programme will take this into account. Food businesses operating outside of 'normal' office hours will, on occasions, be inspected at times when different activities occur to that in the day time.

Programmed inspections will normally be unannounced with the following exceptions:

- i) Where officers are unlikely to gain access without notifying the proprietor e.g. sports clubs, small home caterers, church halls etc.;
- ii) Where security measures are in existence;
- iii) If full information is not able to be gained at the unannounced visit, an appointment may then be made to discuss the issues further, e.g. specific HACCP documentation, advice from a technical manager at a large manufacturer.

Notice will not be given where complaints are being investigated.

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Revisit dates may be notified in advance as an aid to ensuring that works are completed and to facilitate further discussions with the proprietor.

Where alternative dates for visits are requested by a business the inspector may agree, if suitable justification is given, and the inspector is satisfied that the purpose behind the request is not to conceal a major risk. Where the officer suspects that the intention is to hide a serious offence he/she should agree to have a quick inspection and then agree a full visit at a later date.

### 3.3.4 Revisits

Revisit inspections will be arranged to check on matters raised during an inspection (and any obvious extra defects) where there are *significant* contraventions and/or serious risks to public health and to check on compliance with statutory notices. They will not turn into a further full inspection except where a major risk is identified. Where significant breaches of hygiene regulations have been identified, the re-visit should whenever practicable be undertaken by the same officer who undertook the initial visit. After initial inspections, employers must be made aware that a revisit will be made and appropriate dates discussed.

Revisits will not always result in a written report (unless further work is required) to the proprietor/manager although the proprietor/manager will always be advised of the outcome verbally, and in writing if requested. However, detailed records of revisits will be made and kept on the property database. Records will be maintained of formal and informal notices which have been complied with.

For premises with a FHR score of 0, 1, or 2, a 2 phase revisit process will be implemented. This will apply to those businesses who have contraventions that are likely to affect the safety of the food being served, producing an 'unsafe contravention'. Where necessary, enforcement action will be taken in accordance with the Enforcement Policy. After the inspection, the business will receive a 1st revisit that will involve a coaching session in the areas that they have scored poorly on. A range of tools have been developed to aid officers when coaching these businesses. The business will then, if necessary, be given time to implement the changes before another revisit is made. Dependant upon the nature of the outstanding requirements, and the past history of the Food Business Operator, for the 2<sup>nd</sup> revisit, this may be able to be achieved over the phone. This process will only be implemented for non-compliant businesses that have not received any coaching or mentoring in the past. Should businesses fail to maintain their compliance during subsequent inspections, then enforcement action will be taken in accordance with the Enforcement Policy.

Where a re-inspection under the FHR is requested, this will be in writing and supplemented with supporting evidence in order to establish whether adequate measures have been put in place to warrant a re-inspection. Re-inspections will generally be un-announced and will not occur within 3 months of the initial intervention. After this 'standstill period', the re-inspection will take place within a further 3 months and the business re-rated according to the hygiene standards found at the time. Distinction will be made between those re-visits necessary to ensure compliance and to address food safety issues and those re-inspections at the request of the FBO to re-rate the business under the FHR.



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#### 4.0 ENFORCEMENT POLICY

This section sets out the policy relating to enforcement in relation to food safety. It details the general principle of enforcement. It embraces the principles set out in the 'Regulators' Code' issued by the Better Regulation Delivery Office.

More specific procedures concerned with statutory notices, emergency action, formal cautions and prosecutions are detailed in enforcement procedures. These procedures take account of all Codes of Practice and 'The Code for Crown Prosecutors'

Enforcement officers by necessity as professional officers have considerable discretion in decision making and initiating enforcement action. Such action can range from informal advice, information and support through to formal enforcement mechanisms, including the use of statutory notices and prosecution.

This part applies to all dealings, formal and informal, between officers and businesses - all of which contribute to securing compliance with the law. It will provide policy standards, aid professional judgements and decision making and ensure both consistent and effective enforcement.

#### 4.1 Principles of Enforcement

The core expectation for those we deal with, quite reasonably, is for us to be professional, fair, co-operative and consistent in our approaches. Businesses and the public also expect local authority actions to result in the remedying of potentially risky situations and for those guilty of serious offences to be adequately punished.

We will adopt a positive and proactive approach towards ensuring compliance by:

- i) Helping and encouraging businesses to understand and meet regulatory requirements more easily without imposing unnecessary additional cost;
- ii) Assess whether other social, environmental and economic outcomes can be achieved by less burdensome measures, and
- iii) Responding proportionately to regulatory breaches.

Enforcement should be informed by the principles of **proportionality** in applying the law and securing compliance; **consistency** of approach; **targeting** of enforcement action, **openness** about how we operate and what businesses may expect and **helpfulness** in providing advice and assisting with compliance.

Appendix 2 sets out the standards of service you should expect to receive.

It will be expected that enforcement officers, when making decisions and communicating with businesses will follow these principles, together with relevant codes of practice and guidance. The Primary Authority partnership scheme will be used where appropriate.

Any departure from this must only occur when the following criteria are complied with:

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- i) in exceptional circumstances;
- ii) where actions are capable of justification;
- iii) Where there has been full consultation with the Principal Environmental Health Officer or Environmental Health manager.

In considering any sanctions or penalties, regard should be given to the principles set out in the Macrory Review. These are that any sanctions should:

- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit from non-compliance;
- Be responsive and consider what is appropriate for the particular offender and regulatory issue
- Be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- Aim to deter future non-compliance

This policy will be reviewed periodically in response to new legislation and guidance issued by central government and BRDO.

#### 4.1.1 Proportionality

All enforcement actions and advice must be proportional to the risks posed to the public and the seriousness of any breach of legislation.

When considering enforcement action, consideration should be given to the cost of measures required to reduce the risk weighed against the benefit to be gained by reducing the risk. Consideration should be given as to the impact upon small businesses.

In addition, there should be a staged approach to enforcement action with increasing degrees of enforcement as management of businesses fail to respond to previous requirements. Officers should provide an opportunity for dialogue in relation to the advice, requirements and decisions.

The only exceptions to the above approach would be where a serious and/or imminent risk to public safety or health exists.

The staged approach to enforcement is further detailed in the enforcement procedures.

#### 4.1.2 Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

Businesses expect consistency from enforcing authorities in advice given, the use of statutory notices, decisions on prosecution and responses to complaints. It is recognised however, that in practice it is not simply due to the wide range of variables faced. Therefore it is expected that officers will use their professional judgement and exercise discretion, in conjunction with this policy, when coming to a decision on appropriate action.

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Enforcement officers will however have the following arrangements in place in order to promote consistency of approach; -

- i) officers will perform validation exercises relating to joint inspections on an annual basis;
- ii) the Senior Specialist Environmental Health Officer (Business Support) will accompany all officers on a minimum of one initial inspection per year to assess the consistency of approach between officers;
- iii) officers openly discuss cases at team meetings and/or with the Senior Specialist Environmental Health Officer (Business Support) to provide a consensus of opinion;
- iv) all formal action will be 'signed off' by the Principal Environmental Health Officer
- v) in the event of differences of opinion or where there is a need for clarification, approaches will be made to the Bucks Food Liaison Group;
- vi) officers will participate in inter-authority consistency exercises and change working practices, if necessary, to achieve consistency;
- vii) Chiltern and South Bucks District Councils will take an active role in the Bucks Food Liaison Group;
- viii) reference will be made to appropriate central government guidance;
- ix) reference will be made to appropriate guidance issued by a Primary Authority;
- x) Where inconsistencies arise, appropriate training will be given by the Senior Specialist Environmental Health Officer (Business Support).

#### 4.1.3 Targeting

Inspections and enforcement action will be targeted primarily on those activities giving rise to the most serious risks or where hazards are least controlled and that action is focussed on those responsible for the risk and who are best placed to control it.

The prioritisation of inspections will be based on guidance issued by the Food Standards Agency, primarily the Code of Practice and the Regulators' Code.

#### 4.1.4 Openness

Enforcement officers will help businesses to understand what is expected of them (and what would not be expected) and what they should expect from the enforcing authorities.

Confirmation of all work (initial inspections, revisits and complaints) will be given in writing to business managers and as appropriate to head offices. Information will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these.

There will be a clear distinction between legal requirements and good practice recommendations (either verbally or written).

The Food Standards Agency's leaflet 'Food Law Inspections and Your Business' will

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be brought to the attention of Food Business Operators (or their Representatives) via the Councils' website after initial inspections and after other visits if formal action is proposed.

Where notices have been served and are on a Public Register, this will be available for viewing free of charge.

If formal requests for information are received from a third party, advice will be sought from the Data Protection Monitoring Officer or the Legal Department prior to replying.

Businesses will be made aware of the Corporate Complaints Procedure when appropriate and the appeals procedure to the Principal Environmental Health Officer in the first instance. This is to be included in correspondence to businesses following inspections.

#### 4.1.5 Helpfulness

The principle is to actively work with businesses to advise on and assist with compliance wherever possible. To this end, officers will identify themselves by name and provide a contact point and telephone number for further dealings. Businesses will be encouraged to seek advice/information; information will be freely available on the Councils' website with links to those produced by central government. When appropriate, training courses/seminars will be provided for businesses on specific issues.

#### 4.2 Procedures Based on HACCP Principles

Article 5 of EC Regulation 852/2004 is flexible and requires food businesses to establish procedures that control food safety hazards and integrate these with documentation and record keeping appropriate to the size and nature of the business. Whilst larger, more complex businesses and those with a high level of understanding of food safety management may choose to demonstrate compliance by having a traditional HACCP system, other may do so with simpler approaches that take account of this flexibility as long as the same outcome is achieved; safe food being produced.

##### 4.2.1 Appropriateness of the Food Safety Management System (FSMS)

Although the Food Standards Agency has produced the SFBB packs to help a variety of businesses within the food industry e.g. catering, retail and childminders, it is recognised that it does have limitations and may not be the most appropriate FSMS to use. Therefore if inspectors identify that the scope of the food operation exceeds that of the SFBB toolkit, then the food business will be required to produce a fully documented food management system in accordance with HACCP principles.

In certain circumstances, in particular in food businesses where there is no preparation, manufacturing or processing of food, it may be the case that the relevant hazards can be controlled through the implementation of prerequisite requirements. For example, where a business is especially low risk, e.g. sweet shop, greengrocer, market stalls etc. presenting only basic hygiene hazards; it may be sufficient that the business has a guide to good hygiene practice and

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understands and applies it. In these circumstances, documentation and record keeping may not be necessary.

## 4.2.2 Enforcement

The Food Standards Agency has produced guidance and toolkits; Safer Food, Better Business (SFBB) for a variety of businesses and funded local authorities to deliver coaching during the initial introduction of SFBB. Therefore unless a new business, all established food businesses have been given a great deal of advice and guidance to meet their legal obligations.

This policy will secure compliance with Article 5 of EC Regulation 852/2004 through a staged approach where appropriate but otherwise, where non-compliance is established, appropriate enforcement action will be taken. This will normally take the form of Hygiene Improvement Notices but where significant risks exist, more immediate action will be taken.

Where there is a partly developed system, and controls are in place and there are no significant risks to health, a more informal approach may be more appropriate.

Some of the HACCP principles are on-going, for example monitoring, so notices can not be served. It is therefore likely that notices may only be served for the implementation or review of a documented FSMS.

## 4.2.3 New Premises

From time to time new businesses will be established and existing premises will change ownership. The following options should be considered:

- i. New owners should be made aware of their responsibilities in respect of Article 5 (if possible before the premises are open for business);
- ii. Establish at the initial inspection that the business does not present a significant risk to public health. This inspection should be performed at the earliest opportunity following the local authority being notified;
- iii. Provided that no significant risk to public health exists, agree with the proprietor a programme of compliance with Article 5;
- iv. Where a significant risk to public health exists, action is to be taken in line with the general enforcement policy.

## 5.0 POLICY WITH RESPECT TO COMPLAINTS

### 5.1 Background

Complaints in respect of food either relate to:-

- i) hygiene issues and hence involve local businesses;
- ii) complaints relating to the actual food itself, either appearance, taste, contamination, (whether physical, chemical or allergenic where an imminent risk to health), or microbiological quality or;
- iii) Food Alerts issued by the Food Standards Agency in relation to national or international food safety issues.

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The purpose of investigating such complaints is:

- i) to identify possible causes for and to resolve any problems which pose a risk to public health;
- ii) to substantiate complaints and to provide a service to the public;
- iii) to provide information to the food industry in order to raise and maintain standards;
- iv) to perform a duty of enforcement and;
- v) to prevent further complaints.

## 5.2 Food Hygiene

These types of complaint generally involve a local business, either relating to the standard of hygiene seen/experienced or a complaint following illness.

Complaints that relate to issues that may pose a risk to health are considered of utmost importance and therefore require an immediate response upon notification in order to investigate as thoroughly as possible and to ensure that food continues to be prepared safely. In cases involving issues that do not pose a risk to health, these will be investigated within the departmental response time of 3 days.

Officers will conduct their investigations and visits in accordance with previously detailed policies and guidance. Where appropriate, samples will be taken in accordance with the Sampling Policy.

## 5.3 Food Complaints

These types of complaint relate to food that has been purchased or eaten within the District and does not meet certain health standards as defined by EC Regulation 178/2002. This could include issues such as mould growth, physical contamination or chemical contamination posing an imminent risk to health. Where the complaint is concerned with composition, adulteration, chemical contamination where no imminent risk to health or misleading claims (labelling), the complaint will be transferred to the Trading Standards Service at the County Council. Likewise, where the complaint originated outside Chiltern and South Bucks areas, the complaint shall be referred to the relevant local authority.

In relation to complaints associated with allergens, officers, will investigate complaints where there has been an alleged reaction by a member of the public. All other complaints relating to labelling and provision of information to consumers will be referred to Trading Standards if the business is not due an official food control intervention.

All investigations shall be performed in accordance with the FSA Code of Practice and Practice Guidance and the 'Primary Authority Scheme' shall prevail throughout the investigation.

Enforcement action will be in accordance with the Enforcement Policy.

## 5.4 Food Alerts

The Food Standards Agency operates a system to alert the public and local authorities of serious problems concerning food that does not meet food safety

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requirements, food that is inadequately labelled or food that may be allergenic. Where a problem has occurred, food is normally withdrawn on a voluntary basis. However in some cases the withdrawal of food involves the food companies working with central and local Government.

When a Food Alert is issued, local authorities are informed of the action that they should take at a local level e.g. local publicity, contact with local food businesses or just to be aware of potential problems during visits to businesses.

Officers will carry out action specified in the Food Alert as instructed and in the most appropriate, expeditious and cost effective manner possible to safeguard public health. Action will be taken in accordance with guidance issued by central government.

If, following complaints, a Food Alert needs to be issued, the guidance in the Code of Practice will be followed.

When necessary, the Consultant in Communicable Disease Control and/or Public Analyst will be consulted and advice sought as to the public health significance of particular issues.

## 6.0 POLICY WITH RESPECT TO SAMPLING

It is recognised that food sampling provides a valuable contribution to the protection of the public and the food law enforcement functions of the authority and that the food and water sampling programme is a valuable tool to assist in determining food safety standards.

### 6.1 Objectives

The following are the key objectives for sampling recognised by the authorities:

- To protect the consumer through the enforcement of food legislation.
- To obtain recognised and usable microbiological standards for foods, via a nationally co-ordinated sampling programme.
- To assist in the assessment of food safety and to help in the evaluation of hazard analysis (or HACCP) management systems.
- To check that foods comply with statutory microbiological standards, where available.
- To assess the microbiological quality of food manufactured, distributed or retailed in the authority's area.
- To identify specific foodstuffs that could pose a hazard to

When sampling, officers will have regard to the Code of Practice and comply with additional guidance issued by the Food Standards Agency. Officers will also undertake appropriate training in sampling techniques.



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## 6.2 Co-ordination

It is recognised that good co-operation and co-ordination at a national and local level is necessary to achieve some objectives and therefore the authority is committed to:

- i) Participating in and co-operating with the Food Standards Agency's national sampling schemes and EU co-ordinated control programmes.
- ii) Participating in and co-operating with Public Health England national schemes.
- iii) Co-ordinating with adjoining local authorities and local PHE to agree locally co-ordinated sampling.
- iv) Undertaking final product and critical control point monitoring as part of the authority's own primary authority responsibilities and to avoid duplication with other Port Health or Primary Authorities.

## 6.3 Sampling Programme

An annual sampling programme will be drawn up based on the objectives above to cover:

- private water supplies, locally bottled water
- PHE and FSA co-ordinated sampling
- Locally co-ordinated sampling including locally manufactured products and approved premises
- identified high risk businesses
- poor performing businesses

The sampling programme will take account of the number, type and risk ratings of food businesses within the Chiltern and South Bucks areas, the authorities' own Primary Authority responsibilities and the need to ensure that the provisions of food law are adequately enforced.

Adequate resources will be available to fulfil the annual sampling programme. However, in the event of food poisoning outbreaks and other emergency incidences, additional resources will be made available as necessary. A reciprocal agreement has been made between the Buckinghamshire authorities to share resources in the event of an emergency.

When deciding to sample, the following should be considered:

- i) Whether further processing of the food will reduce or eliminate micro-organisms prior to consumption;
- ii) The role played by hazard analysis or HACCP in the production of safe food;
- iii) The statistical confidence in the sampling technique.

All businesses will be notified at the time of sampling of the purpose of taking the sample and will be sent the results. In circumstances where results are unsatisfactory, businesses will be given advice and guidance to remedy the problem.



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As part of informal monitoring, the company concerned generally will volunteer the sample to the sampling officer. However, if the company requests payment or the quantity or frequency of sampling is likely to give rise to significant financial consequences for the owner of the food, then the food will be purchased.

If enforcement action is anticipated under Section 14 of the Act following microbiological examination, the sampling officer should purchase the sample. Otherwise, in other circumstances, powers under the Food Safety Act 1990 will be used. Enforcement action will be in accordance with the Enforcement Policy.

In relation to nationally co-ordinated sampling programmes, the protocol concerning obtaining the sample will be followed.

### 6.4 Water

All private water supplies will be monitored and risk assessed in accordance with the Private Water Supplies Regulations.

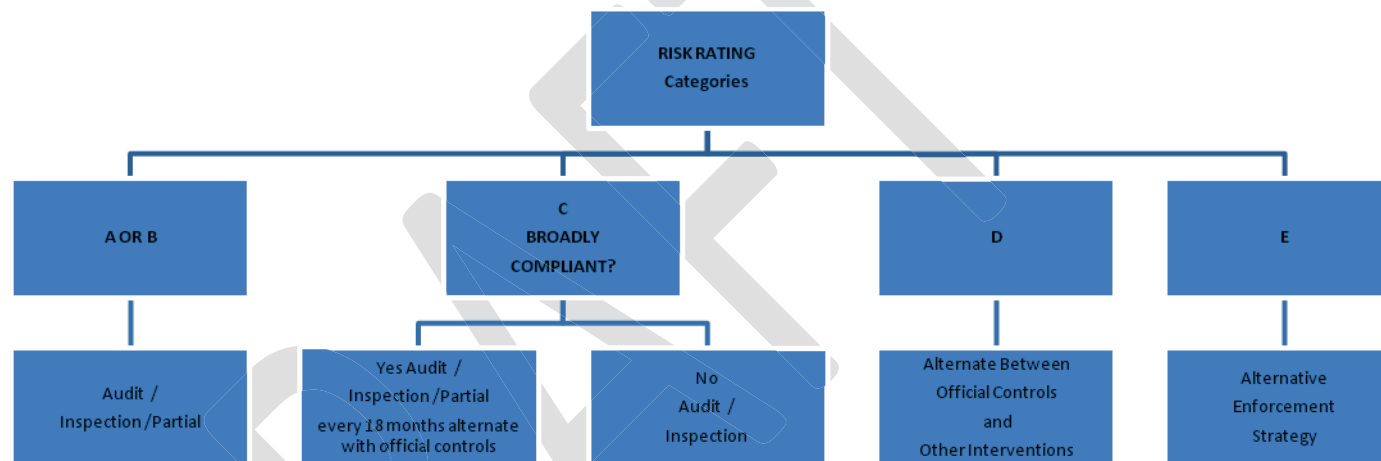
Swimming pool waters will not be routinely sampled, on the grounds that such samples are of limited snapshot value, do not necessarily fall to the authorities for enforcement purposes and should be maintained and monitored by the operator on a daily basis. However, this would not preclude the need for one-off sampling exercises particularly targeted at high risk pools such as jacuzzis' and spa pools or where incidents have been associated with a facility.

### 6.5 Suspect Food Poisoning

Where a food poisoning outbreak is suspected, faecal specimens will be taken together with any remaining foodstuffs, as a matter of priority.

Individual cases of suspect food poisoning will be referred initially to their General Practitioner unless officers feel other action is merited. Foodstuffs will be sampled where evidence supports this action.

**APPENDIX 1 - RISK RATING CATEGORIES AND INTERVENTIONS**



NB. A broadly compliant premises is one which has a risk rating score of not more than 10 points under each of the following three parts of Annex A i.e. Level of compliance relating to hygiene, structure and confidence in management. The types of intervention allowed will therefore vary depending upon the category. The following explains the types of interventions allowed for each category.

**1a. Types of intervention for Category A& B & C which are not Broadly Compliant**

For Categories A and B, and those category C premises that are not broadly compliant, these are considered to be the high risk premises, and therefore most of our focus will be targeted to these premises. The appropriate planned intervention should be;

- An inspection
- A partial inspection; or
- An Audit

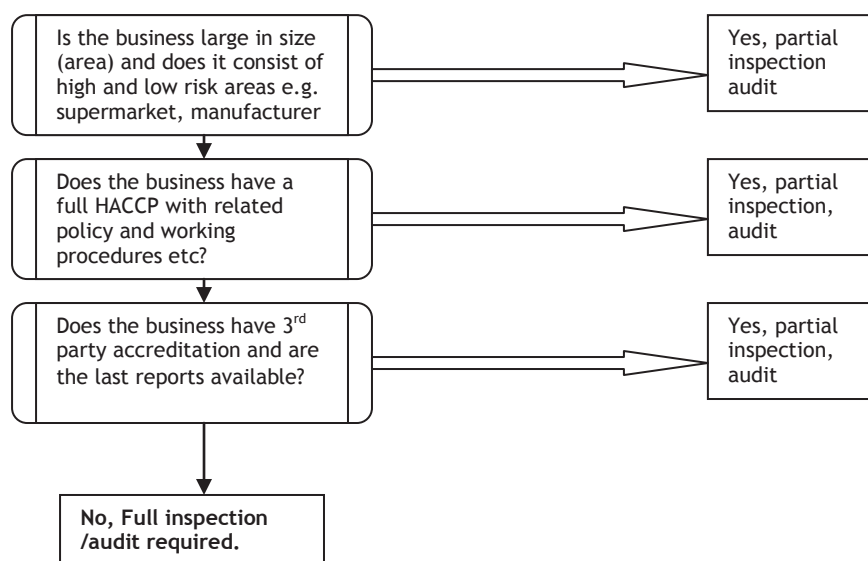
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Other interventions such as sampling, or education and training can also take place along side the above interventions. Sampling of high risk premises is encouraged. Officers will complete a sampling request form where poor practices at a high risk food business are identified, or where they do not have confidence in the method of production of a particular foodstuff.

To decide whether to conduct an Inspection, Partial Inspection or Audit the following flow chart will be considered.

**For Category A & B and Broadly Compliant C, Choosing Full or Partial**

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**1b. Types of intervention for Category A& B which are not Broadly Compliant and have persistent non compliance**

At the start of each financial year the Principal Environmental Health Officer or Senior Specialist Environmental Health Officer (Business Support) will assess those premises within those categories that have **persistent** non compliance i.e. those food businesses that have been rated at Category A or B and that have not been broadly compliant on more than two occasions. Each persistent non compliant premises will be allocated

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to an officer and will be inspected on the due date. Case reviews of these premises will be carried out between the inspecting officer and either the Principal Environmental Health Officer or the Senior Specialist Environmental Health Officer (Business Support).

### **1c Food Hygiene Inspections Full and Partial**

During partial or other inspections the following information as a minimum will still be ascertained;

- Confirmation of the operations carried out
- Confirmation of the Products Produced
- An assessment of the effectiveness of the critical control points
- The examination of the CCP records

Partial areas officers can choose to cover; Drainage, Personal Hygiene, Sickness Policies, Ventilation, Pest Control Records, Detailed water plans, Waste Contracts, Detailed Cleaning Schedules etc

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## **2. Types of Intervention for Premises that are Category C and Broadly Compliant**

For Category C Premises that are broadly compliant; On an 18 month alternative basis, official control interventions, other than inspections, can be used for example;

- Sampling visit
- Surveillance / alternative enforcement visit
- Monitoring and Verifications visits - risk based visit, focus on most critical points;
- Cleaning
- Temperature Control (chilling, cooking, hot holding, cold displays)
- Cross contamination etc

## **3. Types of Interventions for Category D Premises**

These are premises that are considered to be lower risk. ; On a 2 year alternating basis, official control interventions, other than inspections, can be used for example;

- Sampling visit (sampling visits will not currently be used with this type of premises unless high risk contraventions are found.)

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- Surveillance / Alternative Enforcement Visit
- Monitoring and Verifications visits - risk based visit, focus on most critical points;
- Cleaning
- Temperature Control (chilling, cooking, hot holding, cold displays)
- Cross contamination etc
- Coaching Visit
- Advice, Education, Information,

#### 4. Types of interventions for Category E Premises- Alternative Enforcement Visits

Alternative food hygiene inspections (AI) are carried out in 'low risk' establishments. These are establishments which score less than 31 points overall as dictated by the Food Law Code of Practice - Food Hygiene Inspection Rating Scheme. The Administration team is responsible for sending out the self-assessment packs. Authorised officers are responsible for analysing the returned forms and carrying out the necessary follow up action. The strategy will remain the same as is currently in place.

The alternative enforcement strategy involves self assessment, via a postal or emailed self-assessment form, completed by the food business operator but which involves reading educational literature to enable completion.

#### Summary of Interventions relating to risk category

Premises Category	Interventions that can be undertaken
A	Inspection, Audit (Full or Partial)
B	Inspection, Audit (Full or Partial)
C (not broadly compliant)	Inspection, Audit (Full or Partial)
C (broadly compliant)	Inspection, Audit (Full or Partial) alternating (18 monthly) with Monitoring, Surveillance or Verification, Sampling
D	Inspection, Audit (Full or Partial), Monitoring, Surveillance or Verification, Sampling alternating (every 2 years) with Advice, Coaching, Information, Intelligence Gathering
E	Alternative Enforcement

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The risk assessment will be reviewed at every general inspection, but not at revisits. Businesses will be encouraged to be aware of this risk assessment scheme and be encouraged to reduce their score thereby reducing the frequency of inspection. When requested each officer will advise the food business operator/manager of their rating and be prepared to discuss how it was arrived at and how the business can reduce it.

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## Service Standards

### Our Commitment

- We will give you verbal feedback at the end of each inspection and aim to give you written confirmation either at the time of the inspection or within 5 working days.
- We will update the FSA Food Hygiene Rating Scheme website fortnightly
- We will respond to FHRs safeguarding requests within 10 working days
- If we receive a request for service we will investigate and respond within 10 working days.
- We will answer letters within 10 working days of receiving them and if we cannot give a full reply within that time, we will let you know when you can expect one and why there is a delay.
- We will answer emails within 10 working days of receiving them.
- We will answer the telephone within 20 seconds (6 rings).
- If we cannot give you a satisfactory reply when you telephone, we will call back at an agreed time.
- We will provide you with a contact name and number.

### What to do if you are unhappy with the service?

The Council has a Corporate Complaints Procedure which can be found at:

<http://www.chiltern.gov.uk/complaints>  
<http://www.southbucks.gov.uk/complaints>

These pages explain how to make a complaint against any Council Service.

If you disagree with the nature of your food hygiene inspection, the FHRs outcome or wish to add a comment to your website entry, then you can use the safeguarding measures published at:

<http://www.southbucks.gov.uk/fhrssafeguards>  
<http://www.chiltern.gov.uk/fhrssafeguards>





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**CHILTERN DISTRICT COUNCIL  
and  
SOUTH BUCKS DISTRICT COUNCIL**

**Environmental Health Section**

**HEALTH AND SAFETY ENFORCEMENT POLICY**

**April 2016 - 17**



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- 1.0 Aims, Objectives, Priorities and Methods
- 2.0 Standards for health and safety related work
- 3.0 Planned Safety Inspections
- 4.0 Health and Safety Enforcement Policy
- 5.0 Health and Safety Complaints
- 6.0 Accident Investigation
- 7.0 Disclosure of Information

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## Background

The Healthy Communities Division has a key role in ensuring that everyone who works, resides or visits Chiltern and South Bucks Districts, are protected from unsafe work practices.

The Health and Safety Executive (HSE) specifies the following elements as essential for a Local Authority to adequately discharge its duty as an enforcing authority:

- i. A clear published statement of enforcement policy and practice;
- ii. A system for prioritised planned inspection activity according to hazard and risk, and consistent with any advice given by the Health and Safety Executive (HSE) and Local Authority Unit (LAU);
- iii. A service plan detailing the local authority's priorities and its aims and objectives for the enforcement of health and safety;
- iv. The capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health and safety failures;
- v. Arrangements for benchmarking performance with peer local authorities
- vi. Provision of trained and competent inspectorate;
- vii. Arrangements for liaison and co-operation in respect of the Primary Authority scheme.

This policy sets out the ways in which the Healthy Communities Division will achieve Central Government aims and objectives, and policies in relation to ensuring that standards required by the Health and Safety at Work etc Act are met, advise businesses and employees on safety issues and ensuring that preventative health measures are adopted by businesses.

## 1.0 AIMS AND OBJECTIVES

### 1.1 Aim

It is the Councils' aim to:

- Support and assist businesses to comply with legislation
- Provide consistent, accurate and up-to-date information aimed at providing protection to employees and customers
- Support and assist businesses to comply with legal obligations to ensure a safe environment

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## 1.2 Objectives

The Councils will aim to achieve these aims in the following ways:

- To protect people by providing information, training and advice, promoting a goal-setting system of regulation and undertaking enforcement in accordance with this policy and Government guidance
- Develop partnerships and approaches to service delivery to enhance services, increase impact and reduce costs through innovation;
- To support businesses to adopt best practice and to recognise their contribution towards economic growth and social benefits;
- Develop new ways to establish and maintain an effective health and safety culture in a changing economy, so that all employers take their responsibilities seriously, the workforce is fully involved and risks are properly managed;
- Exemplify our own corporate health and safety practice in managing our resources.

## 1.3 Service Delivery

The service will be delivered through:

- i) Risk-based targeting of inspections of high risk businesses based on national and local intelligence, with appropriate follow-up action;
- ii) Project based intervention programmes based on the HSE's key priority areas;
- iii) Investigation of complaints with appropriate follow-up action;
- iv) Investigation of accidents with appropriate follow-up action;
- v) Suitably trained and experienced officers who are effectively monitored;
- vi) Provision of information to businesses about legal requirements, good practices and what to expect of the inspecting officer/authority;
- vii) Promotional activities to inform and encourage high standards in businesses.

## 1.4 Priorities

It is recognised that resources are finite. Therefore it is particularly important that resources for health and safety are targeted at activities that pose the greatest risk and that will allow for the most effective and efficient use of resources in delivering outcomes.

Priority will be given to targeting those activities that pose the greatest risk to

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employees and members of the public. In particular, priority will be given to those issues within the HSE Strategy identified as the greatest causes of accidents within the local authority enforced sector. In setting priorities and the local authorities' work plan, due regard will be given to the National Local Authority Enforcement Code published by the HSE. This will consist of having regard to national priorities and sector specific strategies set by the HSE; local priorities informed by local intelligence, workplace accidents and complaints, Matters of Evident Concern and Matters of Potential Major Concern; and Primary Authority inspection plans.

These key priorities will determine the approach taken towards individual inspections and the overall intervention programme itself. Officers will focus on these key priorities during interventions in the following way:

- the correct and uniform identification of high-risk areas with particular attention being given to the key priorities during inspections and as a result of complaint and accident investigation and to concentrate efforts to reduce these risks;
- ensuring compliance with the law and;
- engaging in those promotional activities for businesses and employees, which are most likely to foster improved health and safety;
- working with other agencies to improve health and safety standards either through enforcement or promotional activities.

## 2.0 STANDARDS FOR HEALTH AND SAFETY RELATED WORK

### 2.1 Authorisations

The Councils will set standards for the qualifications, experience and competence of its officers.

In the context of the Health and Safety at Work Act 1974, an authorised officer's powers include the inspection of premises, the examination, sampling and seizure of substances, articles and equipment, the service of notices and taking emergency action. Authorised officers will be authorised in accordance with Section 18 guidance issued by the HSE.

Under the Chiltern District Council Constitution reviewed on 12 February 2008, the Head of Healthy Communities has the following delegated authority:

- i) to appoint Inspectors for all purposes in connection with the Health and Safety at Work etc Act 1974 and subordinate and related enactments;
- ii) to exercise or to authorise appointed Inspectors to exercise any of the powers specified within the enactments referred to above, including powers of:
  - a) Entry and inspection of premises, equipment and articles;
  - b) Service of improvement and prohibition notices;
  - c) Seizure and detention;
  - d) Taking of samples and;
  - e) Waiver of notification periods for control of asbestos at work.

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- iii) to authorise appointed Inspectors to institute prosecution proceedings or issue formal cautions in connection with any offences created by the enactments above;
- iv) To agree the transfer or assignment of enforcement responsibilities under the Health and Safety Enforcing Authority Regulations.

Under the South Bucks District Council Constitution adopted on 25<sup>th</sup> February 2015, the Director of Services has the following delegated authority:

- i) to appoint authorised officers and inspectors for functions Director of Services and issue new authorisations and powers of entry under all Acts of Parliament and Regulations within the terms of reference of the Executive, subject to any exercise of the powers being reported to the next meeting.
- ii) The authority for enforcement of the Health and Safety at Work etc. Act 1974 in premises and activities listed in Schedule 1 of the Regulations.
- iii) Authority to sign transfer documents (Regulations 5 and 6). (and Head of Healthy Communities
- iv) Health & Safety Enforcement – Shared Functions - authority to undertake enforcement work in the South Bucks District, with specific reference to the Local Government Act 1972 and the Health and Safety (Enforcing Authority) Regulations 1998 (Authorised Officers / Appointed Inspectors of: Aylesbury Vale DC, Wycombe DC, Milton Keynes C and Health & Safety Executive.
- v) Prosecutions: Food Safety Act 1990; Health and Safety at Work Act 1974; Control of Pollution Act 1974; Environmental Protection Act 1990; Building Act 1984 and similar Public Health Legislation - Authority to prosecute or take proceedings where a notice has been served and not complied with or where there is an immediate risk to public health and safety (Services Director of Services in consultation with the Head of Legal)

The Director of Services and Head of Healthy Communities in exercising his/her authority to appoint authorised officers will apply the standards contained in this Policy.

### 2.1.1 Inspections

Inspection of premises will only be undertaken by officers who are suitably qualified, experienced and competent in accordance with the requirements of Section 18 Guidance. This will equally apply to those employed on a contract basis.

Newly appointed officers or currently employed officers who are extending their duties will not be authorised unless they possess the appropriate competencies, skills, qualifications and experience to undertake their duties and that they have undergone a period of structured training in accordance with Section 18 Guidance. The assessment of competency etc. will be undertaken by the Senior Specialist Environmental Health Officer (Business Support) or the Principal Environmental Health Officer.

### 2.1.2 Enforcement Notices

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Service of Improvement Notices will only be undertaken by qualified officers with experience in health and safety law enforcement, and after consultation with the Senior Specialist Environmental Health Officer (Business Support) or Principal Environmental Health Officer.

The service of notices by hand will be by any person who is capable of explaining the meaning and legal status of the notice. Notices served by other methods will be in accordance with current legal guidance.

Officers will be authorised to serve Prohibition Notices in accordance with the standards within the Policy. In each instant, he/she will be accompanied by another authorised EHO to corroborate the proceedings and will consult with the Senior Specialist Environmental Health Officer (Business Support) or Principal Environmental Health Officer. If this is not possible, then the Environmental Health Manager is to be notified as soon as possible after service.

### 2.1.3 Seizure and Detention

Officers will be authorised to inspect, detain and seize articles and equipment subject to experience and competence.

All officers will be assessed for the necessary practical skills, experience and competency by the Senior Specialist Environmental Health Officer (Business Support) or Principal Environmental Health Officer.

### 2.1.4 Competency

The Principal Environmental Health Officer has been given specific responsibility for health and safety matters and managing the health and safety service. This will be in accordance with the documented 'Inspection Monitoring Management System'.

Environmental Health Officers and Technical Officers will carry out inspections and exercise their powers in accordance with the Health and Safety at Work etc. Act, associated Regulations and accompanying Codes of Practice and within the restrictions of their authorisation.

The Senior Specialist Environmental Health Officer (Business Support), (or in his/her absence, the Principal Environmental Health Officer) will be responsible for the supervision and training of officers and for the maintenance of auditable records. A training and development plan will be used to establish current qualifications and competencies and to identify future training needs in order that officers can effectively carry out their duties.

Recommendations will be made by the Principal Environmental Health Officer to the Head of Healthy Communities in respect of the powers to be given to officers and the nature of premises to be inspected.

A list of the officers, their powers and the nature of premises which the officer may inspect, will be maintained and regularly updated together with records of training.

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### 2.1.5 Authorisation of Persons with Expert Knowledge.

Under Section 20(2) (c)(i) of the Health and Safety at Work etc. Act 1974 an authorised officer may take another person with them on the inspection e.g. a person with an expert knowledge of the type of activity being inspected. Authorisation of such persons is necessary to ensure the right of entry to the premises concerned. Where it is necessary to be accompanied by another person, an officer will ensure they are duly authorised in writing and empowered under Section 19 to perform such activities as are necessary under Section 20 of the Act. Such authorisation is given under the authority of the Head of Healthy Communities.

### 2.2 Guidance

The authorities will have regard to Codes of Practice and guidance issued by the Health and Safety Executive, other advice issued by the Government and advice issued by Health and Safety Executive/Local Authority Enforcement Liaison Committee.

### 2.3 Uniformity

The Authorities acknowledge the need to act in a consistent and uniform manner and advocates a common-sense approach to the selection of enforcement action and activities.

The following areas are all considered important in achieving uniformity. These are detailed in the 'Inspection Monitoring Management System':

- i) the awareness, adherence to and review of the health and safety policy document and further development of office procedures;
- ii) training, qualifications, supervision of staff. Regular practical training and update sessions will be essential to ensure uniformity;
- iii) cross monitoring visits of staff and monitoring of letters, inspection records and notices by senior officers;
- iv) use of the Primary Authority Partnership Scheme, specified in HELA Guidance and by the Better Regulation Delivery Office;
- v) liaison with local health and safety groups/adjoining authorities. Use of joint training initiatives. Co-operation and joint working on uniformity issues;
- vi) compliance with relevant Codes of Practice and guidance from LAU;
- vii) Consistent application of the Enforcement Management Model (EMM) when making enforcement decisions.

### 2.4 Advice to Businesses

The authorities are committed to ensuring that businesses are aware of their legal obligations and to supporting businesses in achieving best practice by providing information and guidance to assist businesses. In particular, it is recognised that small businesses do not have access to specialist health and safety knowledge or information and so initiatives will be developed to target information for these businesses within



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the districts. The authorities will be committed to helping small businesses.

Where opportunities arise to provide advice and guidance to businesses over and above that required to ensure legal compliance, then a charge may be made.

- i) The Councils' websites will be the primary source of information to assist businesses with interpretation of legislation or good practice. The Councils also provide services for ethnic minority groups through 'Language Line', translation services and courses in languages other than English. Where the Councils do not provide the service itself, information will be given to businesses about other providers.
- ii) A chargeable advice service will be available to new and existing businesses to support them in achieving high standards of safety and compliance.
- iii) Businesses will be supported and encouraged to participate in the Primary Authority partnership scheme where applicable.
- iv) Where there is sufficient demand occasional talks will be given to businesses. Charges to cover costs will be made for out of hour's sessions.

## 2.5 Advice to Members of the Public

The Councils' websites will be the primary source of advice and information on safety issues and will be reviewed on a quarterly basis. The authorities will participate in national health and safety activities and local events. Talks to voluntary organisations and groups will be given free of charge where resources permit.

## 2.6 Conduct

Inspecting officers will at all times act and dress in a professional manner. Protective clothing will be worn that is appropriate to the premises being inspected and equipment will be maintained and calibrated where appropriate.

Officers will not act in such a way as to pose a risk to safety or health either to themselves, employers and employees and members of the public.

## 2.7 Information Sharing

Where the legislation permits, the authority will share information via agreed secure mechanisms with other regulatory agencies and local authorities about businesses to help target resources and activities and to minimise duplication.

The authorities will share information about businesses with the primary authority as appropriate and with other authorities when acting as a Primary Authority.

The authorities will, where feasible, follow the principle of 'collect once, use many times' when requesting information from businesses.

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### 3.0 HEALTH AND SAFETY INTERVENTIONS

#### 3.1 Premises

An up to date record will be kept and maintained on a computer database of all known premises. As necessary, businesses will be assessed for the need to be included within an intervention programme based on information obtained from the proprietor or following inspection.

#### 3.2 Frequency of inspections

The Government Report “*Good Health and Safety, Good for Everyone*”, following Professor Lofstedt’s review of health and safety legislation, aims is to improve the targeting of relevant and effective interventions and preserving inspection for higher risk premises and issues. The National Local Authority Enforcement Code and HELA guidance note LAC 67/1 (Rev4.1) ‘Advice to Local Authorities on Inspection Programmes and a Rating System’ provide advice as to the prioritisation of inspections. Proactive inspection will be used only for the activities identified within the HSE’s published list of higher risk activities or where there is local intelligence that risks are not being effectively managed. It is recognised that ‘inspection’ may not necessarily be the most effective means of dealing with a particular situation and that other types of interventions may be more suitable. The current guidance is that *‘there should be no inspection without a reason’*.

Risk ratings alone will not be used to determine the use of a particular intervention or to decide an intervention frequency. However, whilst it is likely that premises rated Category A have been rated such because they have been judged as not managing their risks effectively, sufficient evidence will be required to justify the risk rating; confidence in management considered in isolation is not sufficient to justify an A rating.

In recognition of the HSC/HELA Strategy priorities, inspections will be programmed on a project based basis. Each project will be identified in relation to the impact it will have in addressing the key priorities and will either be a cross-cutting project targeting a single priority e.g. slips and trips across a wide range of businesses or will be sector specific targeted at those activities that have been identified as being high risk e.g. warehousing, or those sectors where inspections will address a number of the key priorities at the same time e.g. residential care homes.

This project based approach will provide for a more efficient use of resources and be more effective in targeting the priorities that have been identified as giving rise to the highest number of accidents. Statistical data, both nationally and locally, will be used to identify those activities which require the most attention.

Category B1, B2 and C premises will not form part of the inspection programme and so will not be subject to any proactive interventions unless they come within one of the priority subject areas.

Revisits to check on outstanding issues will be made where necessary. Where health

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and safety interventions coincide with food hygiene inspections, a joint inspection will be undertaken. All visits will be recorded on the computer-based system and documents scanned to the corporate Electronic Document Management System.

### 3.3 Inspection Procedure

#### 3.3.1 Approach

The authorities will work to standards set within HELA Guidance and internal inspections procedure documents.

The main purpose of inspections is to identify potential risks to employee's and the public's safety or health and to ensure that the business understands the risks and has put the necessary measures in place to minimise them. When undertaking an inspection, officers will pay particular emphasis to risk assessment based management systems and the HSE key priorities.

A systematic approach to risk assessment will be adopted. Where businesses have identified their significant risks and have introduced controls, the inspection will focus on the accuracy of the assessment and on the effectiveness of the controls. Written assessments will normally be expected in high risk or complex businesses. Businesses with less than 5 employees will not be expected to have written, elaborate assessments.

Where no assessment by the business can be demonstrated the inspection will focus on the officer's own assessment and examination of controls.

The whole of a premise may not necessarily be inspected at each inspection; those areas of greatest risk will be given priority. Officers will have regard to the key priorities and the focus will be on those which are significantly pertinent to the activities of the business being inspected.

Computer records will be updated following every visit.

#### 3.3.2 Communication

Every inspection (including those where no defects are identified) will result in a written report to the employer. This will take the form of either a letter or carbonated inspection report left at the premises at the time of the inspection. Copies of the report will be sent to the Manager or other relevant persons, including employee and safety representatives.

A standard format will be used. The report will cover the important issues noted during the inspection in priority order and will clearly distinguish between legal requirements and recommendations. It will give details of the person carrying out the inspection, date, time, the areas inspected and the procedure if the proprietor disagrees with the issues raised in the report.

Good communication between inspector and employer is essential wherever possible, including ensuring that the purpose and scope of an inspection is understood and the "works" needed following the inspection with an agreed time limit. The impact of the

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advice should be considered so that it does not impose unnecessary burdens upon businesses.

The role of Safety Representatives in preventing injuries and ill health at work and promoting good standards of health and safety in the workplace is recognised. Therefore their role will be promoted and officers will effectively consult and communicate with them where appropriate.

Section 28(8) of the Health and Safety at Work etc. Act places a duty on inspectors to provide factual information where it is necessary to do so for the purposes of assisting in keeping employees or their representatives informed about matters that affect their health and safety. This factual information will also be provided to employers. This will include correspondence, enforcement notices, results of sampling and monitoring and intentions to prosecute.

### 3.3.3 Timing of Inspections

Programmed inspections will be carried out at all reasonable hours. It is recognised that some businesses operate outside normal office hours of work and so the timing of interventions will take this into account. Interventions will normally be by appointment to facilitate better communication with the most appropriate person at the business. However, when circumstances dictate the use of contract staff, appointments may not be possible. Notice will not be given where poor standards are likely to be found, the nature of the project work dictates an alternative approach or where complaints or accidents are being investigated.

Revisit dates may be notified in advance as an aid to ensuring that works are completed and to facilitate further discussions with the employer. Appointments may also be made when there is a need to discuss specific issues.

Where alternative dates for visits are requested by a business the inspector may agree, if suitable justification is given, and the inspector is satisfied that the purpose behind the request is not to conceal a major risk. Where the officer suspects that the intention is to hide a serious offence he/she should agree to have a quick look around and then agree a full visit at a later date.

### 3.3.4 Revisits

Revisit inspections will be arranged to check on matters raised in an inspection (and any obvious extra defects) where there are **significant** contraventions and/or serious risks to public health and to check on compliance with statutory notices. They will not turn into a further full inspection except where a major risk is identified. Where significant breaches of regulations have been identified, the re-visit should whenever practicable be undertaken by the same officer who undertook the initial visit particularly where formal notices have been served. After initial inspections, employers must be made aware that a revisit will be made and appropriate dates discussed.

Revisits will not always result in a written report (unless further work is required) to

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the employer although the employer will always be advised of the outcome verbally, and in writing if requested. However, detailed records of revisits will be made and kept on the property database. Clear records will be maintained of formal and informal notices which have been complied with.

#### 4.0 ENFORCEMENT POLICY

This section sets out the policy relating to enforcement in relation to health and safety. It details the general principles of enforcement and embraces those set out in the 'Regulators' Code' issued by the Better Regulation Delivery Office and Section 18 Guidance issued by the HSC.

More specific procedures concerned with statutory notices, emergency action, formal cautions and prosecutions are detailed in enforcement procedures. These procedures take account of all Codes of Practice and guidance issued by HSE and 'The Code for Crown Prosecutors'.

Enforcement officers by necessity as professional officers have considerable discretion in decision making and initiating enforcement action. Such action can range from informal advice, information and support through to formal enforcement mechanisms, including the use of statutory notices and prosecution.

This part applies to all dealings, formal and informal, between officers and businesses - all of which contribute to securing compliance with the law. It will provide policy standards, aid professional judgements and decision making and ensure both consistent and effective enforcement.

#### 4.1 Principles of Enforcement

The core expectation for those we deal with, quite reasonably, is for us to be professional, fair, co-operative and consistent in our approaches. Businesses and the public also expect local authority actions to result in the remedying of potentially risky situations and for those guilty of serious offences to be adequately punished.

We will adopt a positive and proactive approach towards ensuring compliance by:

- Helping and encouraging businesses to understand and meet regulatory requirements more easily; without imposing unnecessary additional cost;
- Assess whether other social, environmental and economic outcomes can be achieved by less burdensome measures, and
- Responding proportionately to regulatory breaches.

Enforcement should be informed by the principles of **proportionality** in applying the law and securing compliance; **consistency** of approach; **targeting** of enforcement action, **openness** about how we operate and what businesses may expect and **helpfulness** in providing advice and assisting with compliance.

Appendix 1 sets out the standards of service you should expect to receive.

It will be expected that enforcement officers, when making decisions and communicating with businesses will follow these principles, together with relevant

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codes of practice and guidance. The Primary Authority partnership scheme will be used where applicable.

When considering formal action, officers will perform an assessment in accordance with the Health and Safety Executive's Enforcement Management Model (EMM). Where the proposed enforcement action deviates from the EMM, a management review will be undertaken by the Principal Environmental Health Officer.

Any departure from this must only occur when the following criteria are complied with:

- i) in exceptional circumstances;
- ii) where actions are capable of justification;
- iii) where there has been full consultation with the Principal Environmental Health Officer or Environmental Health Manager .

In exceptional circumstances when officers become aware that they are considering measures which may be inconsistent with those adopted by other local authorities, formal action should be delayed to allow the matter to be discussed at the local liaison group. Reference will also be made to the Primary Authority where appropriate. However this would not be applicable in cases where there is a serious risk to public health.

In considering any sanctions or penalties, regard should be given to the principles set out in the Macrory Review. These are that any sanctions should:

- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit from non-compliance;
- Be responsive and consider what is appropriate for the particular offender and regulatory issue
- Be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- Aim to deter future non-compliance

This policy will be reviewed periodically in response to new legislation and guidance issued by central government and HELA.

#### 4.1.1 Proportionality

All enforcement actions and advice must be proportional to the risks posed to the public and the seriousness of any breach of legislation. When considering enforcement action, consideration should be given to the cost of measures required to reduce the risk weighed against the benefit to be gained by reducing the risk.

In addition, there should be a staged approach to enforcement action with increasing degrees of enforcement as management of businesses fails to respond to previous requirements. Officers should provide an opportunity for dialogue in relation to the advice, requirements and decisions.

The only exceptions to the above approach would be where a serious and/or imminent



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risk to safety or health exists.

The staged approach to enforcement is further detailed in the enforcement procedures.

#### 4.1.2 Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

Businesses expect consistency from enforcing authorities in advice given, the use of statutory notices, decisions on prosecution and responses to complaints.

It is recognised however, that in practice it is not simple, due to the wide range of variables faced. Therefore it is expected that officers will use their professional judgement and exercise discretion, in conjunction with this policy, when coming to a decision on appropriate action.

The following arrangements will be in place in order to promote consistency of approach:

- i) officers will perform validation exercises relating to joint inspections on an annual basis;
- ii) the Senior Specialist Environmental Health Officer (Business Support) will accompany all officers on a minimum of one initial inspection per year to assess the consistency of approach between officers;
- iii) officers openly discuss cases at team meetings and/or with the Environmental Health Manager or Senior Specialist Environmental Health Officer (Business Support) to provide a consensus of opinion;
- iv) all formal action will be 'signed off' by the Principal Environmental Health Officer
- v) correspondence, file records and enforcement notices will be checked and monitored on a regular basis;
- vi) where inconsistencies arise, appropriate training/coaching will be given by the Senior Specialist Environmental Health Officer (Business Support);
- vii) in the event of differences of opinion or where there is a need for clarification, approaches will be made to the Bucks Health and Safety Liaison Group and the Primary Authority where applicable;
- viii) officers will participate in inter-authority consistency exercises and change working practices, if necessary, to achieve consistency;
- ix) Chiltern and South Bucks District Councils will take an active role in the Bucks Health and Safety Liaison Group;
- x) reference will be made to appropriate central government guidance;
- xi) reference will be made to appropriate guidance issued by a Primary Authority.

#### 4.1.3 Targeting

Inspections and enforcement action will be targeted primarily at those activities giving rise to the most serious risks or where hazards are least controlled and that action is

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focussed on those responsible for the risk and who are best placed to control it.

The prioritisation of inspections will be based on guidance issued by the HSE and informed by the HSE Strategy.

#### 4.1.4 Openness

Enforcement officers will help businesses to understand what is expected of them (and what would not be expected) and what they should expect from the enforcing authorities.

Confirmation of all work (initial inspections, revisits and complaints) will be given in writing to business managers and as appropriate to head offices. Information will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these.

There will be a clear distinction between legal requirements and good practice recommendations (either verbally or written).

Where notices have been served and are on a Public Register, this will be available for viewing free of charge.

If formal requests for information are received from a third party, advice will be sought from the Freedom of Information Monitoring Officer within the Legal Department prior to replying.

Businesses will be made aware of how to access copies of procedures, the Corporate Complaints Procedure when appropriate, the informal appeals procedure to the Principal Environmental Health Officer in the first instance and any statutory appeals procedure against enforcement. This is to be included in correspondence to businesses following inspections.

#### 4.1.5 Helpfulness

The principle is to actively work with businesses to advise on and assist with compliance wherever possible. To this end, officers will identify themselves by name and provide a contact point and telephone number for further dealings. Businesses will be encouraged to seek advice/information; information will be freely available on the Councils' website with links to those produced by central government. When appropriate, training courses/seminars will be provided for businesses on specific issues.

#### 4.2 Prosecution of Individuals

Subject to the general provisions of this Enforcement Policy, recommendations for prosecutions of individuals will be made if warranted. The role played by individual directors and the management chain will be taken into account, particularly when investigation reveals that the offence was committed with their consent or connivance or to have been attributable to neglect on their part.



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#### 4.3 Enforcement against Employees

Enforcement action may be taken against employees and others, including managers, company officers etc. under the Health and Safety at Work etc. Act 1974, Sections 7, 8, and 37(1). Prosecution will only be considered against the employee if they have been warned before, either by an authorised officer or by the business, or the employer can demonstrate that they have taken all reasonably practicable steps to ensure that safety devices were in place and the offence by the employee was flagrant.

#### 4.4 Death at Work

Any authorised officer called upon to investigate a fatality should ensure that early contact with the bereaved family is made and/or arrangements made to meet the bereaved as soon as they wish in order to explain the local authority's roles and responsibilities and to provide them with relevant information. The Principal Environmental Health Officer will normally take responsibility for conducting the meeting with the bereaved family and act as the Family Liaison Officer, supported if necessary, by another officer but not necessarily the investigating officer. This should take place as soon as possible, bearing in mind the convenience and wishes of the family. Officers should also keep relatives informed of the progress and outcome of the investigation. The policy on the disclosure of information to bereaved relatives will be in accordance with HELA LAC 45/19 'Contact With, and Disclosure of Information to, the Relatives of People Killed Through Work Activities'.

Where there has been a breach of the law leading to a work related death, consideration will be given whether the circumstances of the case might justify a charge of manslaughter. To this end, the investigating officer will liaise with the Police, Coroner and the Crown Prosecution Service (CPS) in accordance with 'Work-Related Deaths - A Protocol for Liaison'. If they find evidence suggesting manslaughter, this will be passed to the Police or where appropriate, the CPS. If the Police or CPS decides not to pursue a manslaughter case, the local authority should consider prosecution under health and safety legislation.

### 5.0 POLICY WITH RESPECT TO COMPLAINTS

#### 5.1 Background

Requests for service in respect of health and safety either relate to:

- i) Complaints received from employees or safety representatives concerning workplace issues;
- ii) complaints received from members of the public or visitors to businesses concerning the impact of a business' activity on others;
- iii) Requests for advice and information.

The purpose of investigating complaints is:

- i) to identify possible causes for and to resolve any problems which pose a risk to health and safety;

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- ii) to substantiate complaints and to provide a service to the public;
- iii) to provide information to the industry in order to raise and maintain standards;
- iv) to perform a duty of enforcement and;
- v) to prevent further complaints.

Complaints that relate to issues that may pose a serious and/or imminent risk to health and/or safety are considered of utmost importance and therefore require an immediate response upon notification in order to investigate as thoroughly as possible. In cases involving issues that do not pose a serious and/or imminent risk to health and/or safety, these will be investigated within the departmental response time of 3 working days. Officers will conduct their investigations and visits in accordance with previously detailed policies and guidance.

All investigations shall be performed in accordance with HELA guidance and Codes of Practice and the Primary Authority principles shall prevail throughout the investigation.

Where it is determined that the HSE is the responsible enforcing authority, then appropriate liaison and transfer of the complaint will take place.

Enforcement action will be in accordance with the Enforcement Policy.

## 6.0 POLICY WITH RESPECT TO ACCIDENT INVESTIGATION

Local authorities are under a duty to investigate accidents that are notified to them under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.

The purposes of investigating an accident are:

- i) To identify the cause of the accident, to make the situation safe and to prevent further accidents occurring;
- ii) To identify whether there have been any breaches of legislation;
- iii) To provide information to the industry in order to raise and maintain standards;
- iv) To inform local and national statistics and hence the planned inspection priorities.

### 6.1 Decision to Investigate

All accidents which occur at premises enforced by the local authority and involve one or more of the following shall be investigated by an authorised officer:

- i) The accident results in a fatality, except when the circumstances indicate that an investigation is inappropriate i.e. death from natural causes unrelated to a work activity;
- ii) The accident results in a serious injury or a case of ill health or a dangerous occurrence;
- iii) The accident results in a serious injury or a case of ill health to a

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- member of the public except accidents when it is clearly unrelated to a work activity;
- iv) There is a degree of public concern. This will often be linked to an actual or perceived risk of injury or ill health;
- v) The accident is related to local special surveys or campaigns or to the HSE key priority areas;
- vi) A complaint has been made regarding an accident that has occurred;
- vii) A serious breach of the law is involved;
- viii) An accident is a recurrence or is likely to recur;
- ix) A young person or child is involved (under the age of 18);
- x) The accident indicates a more general management failure.

The initial decision whether to investigate an accident or not and how far to carry that investigation will depend upon a number of factors. The following will be taken into consideration when deciding to investigate:

- i) severity and nature of the accident;
- ii) seriousness of the breach;
- iii) track record of the duty holder;
- iv) the relevance of event to a wider range of premises;
- v) practicality of achieving a satisfactory outcome;
- vi) legal considerations;
- vii) resource constraints.

In addition to informing the decision for the initial investigation, these factors will also determine the approach to be adopted and the extent of the investigation itself. This approach will ensure that resources are effectively targeted at the most serious accidents and which will result in the greatest effect on improving standards of health and safety.

## 7.0 POLICY WITH DISCLOSURE OF HEALTH AND SAFETY INFORMATION

### 7.1 Introduction

The purpose of this policy is to describe practices in dealing with the disclosure of information under legislation and good practice note 'Open Government: a Good Practice Note on Access to Local Authority Information'. The policy is intended to ensure consistency with the policy and practices of the Health and Safety Executive (HSE).

The good practice note requires local authorities to draw up and follow their own policy statements. This policy document seeks to fulfil that aim. It does not seek to replace any statutory requirements on disclosure where the law requires the local authority either to withhold or to disclose. Local authorities and the HSE must follow the same legislation on disclosure of health and safety information namely:

- i) Section 28 of the Health and Safety at Work etc Act 1974;
- ii) Environmental Information Regulations 2004;
- iii) Environment and Safety Information Act 1988;
- iv) Freedom of Information Act 2000.

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This policy is fully retrospective, i.e. it applies to information acquired by both Chiltern District Council and South Bucks District Council before it came into effect.

## 7.2 Freedom of Information Act 2000

On 1<sup>st</sup> January 2005 the Freedom of Information Act 2000 (FOI Act) created two important rights of access for any person making a request for information to a public authority:

- To be informed by the public authority whether it holds the **information** of the description specified in the request; and
- If that is the case, to have the **information** communicated to them.

The Councils have published a Freedom of Information Act Publication Scheme that will be followed should requests for information be made. These will be registered and responses monitored by the Councils' Data Protection Officer.

## 7.3 Section 28 of the Health and Safety at Work etc Act 1974

Section 28 of the Health and Safety at Work Act has been amended to bring restrictions on giving information into line with FOI Act.

HSWA section 28 deals with how we manage information that we have obtained using statutory powers. Until 1 January 2005, there were only limited circumstances in which this information could be disclosed.

The section 28 restrictions have now been removed and requests for this type of information can now be considered under the FOI Act.

Subject to the exemptions in the FOI Act (or EIR exemptions), the local authority can release information:

- proactively - because it is in the public interest for us to put that information into the public domain, or
- in response to a request under the FOI Act or the Environmental Information Regulations 2004

We are not required to disclose information when the public interest for making the information available is outweighed by a greater public interest in protecting it. However, applying the public interest requires us to exercise our skill and judgement and document our reasoning and decision making.

## 7.4 Environmental Information Regulations 2004

Chiltern District Council and South Bucks District Council recognise that these Regulations impose responsibilities in respect of the environment, environmental information held and the release of such information, subject to exempted classes of information.

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Chiltern District Council and South Bucks District Council further recognise that the Regulations disapply all other statutory provisions on disclosure where those other provisions conflict with the Regulations. Section 28 in accordance with this will not normally apply to requests made for environmental information as defined in the Regulations.

For the purposes of the policy, environmental information is regarded as information relating to:

- i) the state of any water, air, flora, fauna, soil, natural site or other land;
- ii) any activities or measures (including activities that give rise to noise or other nuisance) which adversely affect or are likely to adversely affect anything in i);
- iii) any activities or other measure (including environmental management programmes) which are designed to protect anything in i).

This policy will not require the release of information about human health and safety except where human health and safety have been, or could be, affected through environmental media (e.g. air, water or soil). For example, information that workers were directly harmed in the manufacture of a substance is not releasable under the Regulations as environmental media are not involved. However, if fish were harmed, or could have been harmed, because a substance got into the food chain, such information would have to be released on request as environmental media are involved.

Local Authorities are within scope of the Regulations as we have environmental responsibilities and hold environmental information. We may obtain environmental information in carrying out any of our functions or in any area of our responsibilities and such information is subject to the requirements of the Regulations. For example, information could be obtained on noise, Legionnaires' disease, ionising or non-ionising radiations and may be disclosable to the extent that it relates to the environment.

## 7.5 Environment and Safety Information Act 1988

In order to comply with the provisions of the Act Chiltern District Council and South Bucks District Council will maintain public registers of information on improvement or prohibition notices having public safety or environmental implications.

The register entries will include brief details of the breach of legislation and action required and will consist of the first page of the notices.

No charge will be raised for the inspection of the register.

## 7.6 Enforcement Notices, Inspection Reports and Convictions

### 7.6.1 Enforcement Notices

Information on only some notices is on the public registers kept under the Environment and Safety Information Act 1988. Under this policy Chiltern and South Bucks District Councils will also provide enquirers with information on any other health and safety notice it has served. The information provided will include the name and address of

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the premises, the date of the notice, the statutory breach and the date by which the breach must be remedied.

## 7.6.2 Inspection Reports

Requests for inspection reports will be considered in accordance with the Councils' FOI Publication Scheme and the Environmental Information Regulations 2004.

## 7.6.3 Convictions

Chiltern District Council and South Bucks District Council may hold on public registers the names and addresses of firms/individuals convicted of breaches of health and safety legislation.

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## Appendix 1. Service Standards

### Our Commitment

- We will give you verbal feedback at the end of each inspection and aim to give you written confirmation either at the time of the inspection or within 5 working days.
- If we receive a request for service we will investigate and respond within 10 working days.
- We will answer letters within 10 working days of receiving them and if we cannot give a full reply within that time, we will let you know when you can expect one and why there is a delay.
- We will answer emails within 10 working days of receiving them.
- We will answer the telephone within 20 seconds (6 rings).
- If we cannot give you a satisfactory reply when you telephone, we will call back at an agreed time.
- We will provide you with a contact name and number.

### What to do if you are unhappy with the service?

The Council has a Corporate Complaints Procedure which can be found at:

<http://www.chiltern.gov.uk/complaints>

<http://www.southbucks.gov.uk/complaints>

These pages explain how to make a complaint against any Council Service.

