

SHADOW EXECUTIVE

Date: Tuesday, 31st March, 2020
Time: 10.00 am
Venue: The Oculus, Aylesbury Vale District Council, Gatehouse Road,
HP19 8FF - Aylesbury

Membership: Councillors: M Tett (Chairman), K Wood (Vice-Chairman), S Bowles, B Chapple OBE, J Chilver, A Cranmer, I Darby, T Green, C Harriss, P Hogan, A Macpherson, D Martin, N Naylor, M Shaw, W Whyte, G Williams and F Wilson

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AGENDA

No	Item	Page No
1.	Apologies	
2.	Minutes	3 - 10
	To approve as a correct record the Minutes of the meeting held on 10 March 2020.	
3.	Declarations of interest	
4.	Question Time	
5.	Forward Plan (28 Day Notice)	11 - 24
6.	Buckinghamshire Permit Scheme	25 - 104
7.	Overarching Health & Safety Policy	105 - 114
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9.	Regulation of Investigatory Powers Act 2000 (RIPA) – Policy and Procedural Guidance	135 - 166
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12.	Finance Policies	207 - 264
13.	Risk Strategy	265 - 284
14.	Prevention and Befriending Grants	285 - 296

15. Exclusion of the Press and 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.

Paragraph 3 Information relating to the financial or business affairs of any particular person (including the authority holding information)

16. Confidential Minutes 297 - 298

To approve as a correct record the Confidential Minutes of the meeting held on 10 March 2020.

17. Prevention and Befriending Grants 299 - 324

18. Date of next meeting

21 April 2020, The Oculus.

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SHADOW EXECUTIVE

TUESDAY, 10TH MARCH, 2020

Present: Councillor Martin Tett in the Chair

Councillors K Wood (Vice-Chairman), S Bowles, B Chapple OBE, J Chilver, A Cranmer, I Darby, T Green, P Hogan, A Macpherson, D Martin, N Naylor, M Shaw, W Whyte, M Appleyard, D Dhillon and J Rush

1 Apologies

Apologies were received from Cllr Gareth Williams, Cllr Clive Harriss and Cllr Fred Wilson. Deputising were Cllr Mike Appleyard, Cllr Dev Dhillon and Cllr Jonathon Rush.

2 Minutes

RESOLVED: The minutes of the meeting held on 18 February 2020 were AGREED as an accurate record and signed by the Chairman.

3 Declarations of interest

Cllr Angela Macpherson declared an interest in relation to item 6, Registered Providers Charging Arrangements, as she was a member of the Vale of Aylesbury Housing Trust board. Following advice from the Monitoring Officer, Cllr Macpherson would leave the meeting while item 6 was discussed.

4 Question Time

Cllr Robin Stuchbury

'In the light of the fact both Buckinghamshire County Council and Aylesbury Vale District Council have both agreed motions challenging the Cambridge to Oxford Expressway, will there be an early item placed on the agenda of the new local authority to agree a policy of mitigation against any environmental impact from any proposed future route. Also, will the Shadow Authority be seeking a full understanding of the government's intentions in advance of the new authority coming into operation regarding the Cambridge to Oxford expressway, as this may be the most financially challenging and environmentally damaging project for the life of the new Buckinghamshire Council in the early years.'

Response provided by Martin Tett

Both AVDC and BCC had passed motions against the expressway. Buckinghamshire Council would come into existence on 1 April 2020 so there was not yet a policy and any policy would be decided by the new Leadership.

An announcement on whether the Oxford-Cambridge Expressway would proceed was expected as part of the Budget on March 11th 2020 (tomorrow). Depending on this decision will then depend on the mitigations that would be put in place.

5 Forward Plan (28 Day Notice)

RESOLVED: The Shadow Executive NOTED the forward plan.

6 Registered Providers Charging Arrangements

A Macpherson left the meeting.

I Darby introduced the report, which set out the status of charging arrangements that currently operated with each district and the options that had been reviewed for the arrangements that would be put in place from vesting day. It was stated that cross council arrangements would take some time to fully implement although any new registered provider would be harmonised. It was also stated that district zoned Bucks Home Choice charging arrangements would continue in the meantime and there was a clear timeline for harmonisation with 30 September 2020 as a completion date.

The report set out that it was recommended to continue the existing Aylesbury Vale Affordable Housing Partnership Agreement from vesting day on the basis that the new Buckinghamshire Council would review working arrangements with Registered Providers and may develop and implement a new countywide Affordable Housing Partnership Agreement as required.

Following a question from a member of the Shadow Executive it was confirmed that the officers that had formed the workstream as part of the unitary transition programme would continue to take forward the piece of work until completion in September.

It was highlighted that there was an opportunity to improve relationships with not only housing providers but also children leaving care.

RESOLVED:

- 1. To draft and implement a timetable for the development and introduction of a harmonised countywide system for charging Registered Providers to advertise tenancies via the Bucks Home Choice scheme with a target completion date of 30 September 2020.**
- 2. To Continue the existing district-zoned Bucks Home Choice charging arrangements in Aylesbury Vale and Wycombe post-vesting day until new countywide harmonised charging arrangements are introduced**
- 3. To continue the existing Aylesbury Vale Affordable Housing Partnership Agreement from vesting day on the basis that the new Buckinghamshire Council will review working arrangements with Registered Providers and may develop and implement a new countywide Affordable Housing Partnership Agreement as required.**

7 Street Naming & Numbering Policy

A Macpherson re-joined the meeting.

K Wood introduced the report that set out the proposed Street Naming and Numbering Policy which would come into effect on 1 April 2020. It was highlighted that all existing councils had their own policies in place which were now being brought together as one new policy for Buckinghamshire Council.

Members of the Shadow Executive raised the following points:

- All were in support of the new policy.
- Pleased to see that parish councils and the new Community Boards were in the new policy.
- Welcomed that the policy would promote names with historical local figures and events.

- It was suggested that street names put forward by developers for consideration should be recorded and officers agreed to look into that being done.
- Parish councils should still be given flexibility.

RESOLVED:

All four Authorities are to make provisions to adopt the proposed Street Naming and Numbering Policy prior to vesting day with the policy taking effect from 1 April 2020 MT read the recommendations.

8 MK Strategy 2050

M Tett and A Macpherson introduced the report that summarised the MK Strategy for 2050 that had been unanimously agreed by Milton Keynes Council and highlighted the negative impacts it would have on Buckinghamshire. The Strategy was not welcomed by councillors across the county and the poor timing of the consultation, as most of this would be during Purdah.

Members of the Shadow Executive raised the following points in discussion:

- The draft response from the Shadow Executive was attached to the report. It was agreed that individual letters would be sent from each of the existing 4 district councils.
- It was the shared view across all existing Buckinghamshire councils that the strategy saw MK Council housing growth spread over its own borders and into Buckinghamshire where there was already a high demand for housing.
- It was highlighted that not all MK councillors had voted in favour of the strategy.
- It was unacceptable that a local authority should spread outside of its own borders.
- The local members for Winslow highlighted that residents in that area were also opposed to the strategy.
- It was agreed that the wording of the response would be tightened up for greater impact.
- Town and parish councils would also be responding.
- Buckinghamshire and Milton Keynes MPs would be copied into the letter.

RESOLVED:

That the Shadow Executive submits a response to the Milton Keynes Strategy 2050 on behalf of Buckinghamshire Council as set out in Appendix 1.

9 Modern Day Slavery Statement

I Darby introduced the Modern Slavery Statement report and highlighted the legislation behind the statement and even though it was not a legal duty to have one, it would be a backward step not to. All local authorities were to support four key themes:

- Pursue - prosecuting and disrupting individuals and groups responsible for modern slavery
- Prevent - preventing people from engaging in modern slavery crime
- Protect - strengthening safeguards against modern slavery by protecting vulnerable people from exploitation and increasing awareness and resilience against this crime
- Prepare - reducing the harm caused by modern slavery through improved victim identification and enhanced support and protection.

It was highlighted that once the Statement was agreed it would be reviewed on an annual basis.

All Members of the Shadow Executive supported the introduction of the Statement and urged members of the public that if they suspected any exploitation happening locally, to report it.

RESOLVED:

- 1. To agree the Modern Slavery Statement for Buckinghamshire Council**
- 2. To agree the process for annual review and publication of the document**
- 3. To note the likely legal duties in relation to modern slavery and exploitation.**

10 Carers Strategy

A Macpherson and W Whyte introduced the report and outlined that the previous Carer's Strategy had expired in 2019 and the new strategy had been produced with the Clinical Commissioning Group to ensure a single approach. It was highlighted that it was recognised that carers were one of the most valued assets in the county with over 49,500 carers who all require the right support. It was a joint strategy for adults and children's and would come into effect on 1 April 2020.

In the development of the strategy key stakeholders and carers were involved and focused on five key areas:

- Services and systems that work for Carers
- Employment and Financial Wellbeing
- Supporting young Carers
- Recognising and supporting Carers in the wider community
- Building research and evidence to improve outcomes for Carers

The report also contained a measurable action plan that had been developed in collaboration with key stakeholders; which would be reviewed regularly.

Members of the Shadow Executive raised and discussed the following points:

- It was important to understand the different types of carers across the county, which was highlighted in the strategy.
- Officers highlighted that not only did carers support people to live independently but their contribution also had a massive economic benefit; unpaid carers saved a total of £132bn across the UK.
- The importance of keeping the strategy and action plan under review and it was suggested this was done annually.
- Members were pleased to see the recently developed website for carers giving, support, information and advice www.careadvicebuckinghamshire.org
- Buckinghamshire Council to set an example as a caring and compassionate employer for all staff that had caring responsibilities.
- Once the strategy was embedded there was a need to put resources into identifying those carers that were not known to the authority in order to be able to offer them the right support.

All members of the Shadow Executive gave their thanks to carers throughout the county.

RESOLVED:

To AGREE the All Age Carers Strategy.

11 Emergency Plan

K Wood introduced the report which set out the Emergency Plan for the new Buckinghamshire Council to be considered and agreed, which was a requirement to be published prior to vesting day and followed the agreement of the Civil Contingencies Policy by the Executive in October. The plan remained consistent with national guidance and the multi-agency plans of the Thames Valley Local Resilience Forum (TVLRF) and other organisations.

Members of the Executive raised and discussed the following points:

- Members would be expected to provide strategic direction and to make urgent decisions and provide communication, therefore bespoke training would be provided that would also include a live exercise.
- It was highlighted that with 147 members in the new council, providing the right training for the different member roles was important e.g. local member (to understand local issues i.e. flood areas), Cabinet Member and back bencher. It was also mentioned that some members may have specific skills that could be utilised as part of the role in an emergency. More detailed discussions of approach and risks would be an important part of the member induction process.
- Conversations had taken place with some parish councils about their own emergency plans and the support available to them to produce these. Officers confirmed that they wanted to engage with those parish councils to give them support and to also ensure their emergency plans were in line with the Buckinghamshire Council one. The agreed emergency plan would be shared with town and parish councils. It was suggested that this could also be communicated via the new community boards.
- There needed to be clarity in the roles between Leader and Deputy Leader and if the Deputy Leader was to take action only if the Leader was unavailable. This would be made clearer in the plan.

RESOLVED:

That the Emergency Plan for Buckinghamshire Council is considered and agreed.

12 Abbey Barn Lane Realignment (ABLR)

M Tett advised that that the item had a public and private report to consider and the meeting would move into a private session and would then provide a summary of the recommendations in public, once the private discussions had concluded.

M Shaw introduced the report that set out the requirement to build a road to enable around 700 homes to be built on the Abbey Barn North and Abbey Barn South Reserve sites which form part of the Wycombe District Local Plan reserve sites. It was important now that the ABL Realignment project moved to the next stage of procurement.

Members of the Executive raised and discussed the following points:

- The scheme was vital in order to providing housing as set out in the Wycombe District Local Plan.
- The current road could not currently deal with the expected level of traffic.
- Environmental mitigation would be part of the development of the planning application; at this stage the report is requesting agreement to enter into a contract and the planning application is expected to be ready to submit later in the year.

RESOLVED:

Delegation of authority to the Head of Highways Infrastructure Projects to enter into a NEC4 Option C (Target Cost) contract with Galliford Try through the Midlands Highways Alliance Framework for the Abbey Barn Lane Realignment (ABLR). This will initially only be for Early Contractor Involvement.

13 Managing the Care Market: Proposal for Fee Increases

M Tett advised that that the item had a public and private report to consider and the meeting would move into a private session and would then provide a summary of the recommendations in public, once the private discussions had concluded.

A Macpherson introduced the report that set out the options and proposals for fee increases to care market providers in 2020-21. It was highlighted that there was ongoing significant pressures on Adult Social Care (ASC) budgets due to the need to provide quality care while

under considerable staff pressure, increasing costs, national living wages and cost of properties, all having an impact.

The aim was to work closely in partnership with providers and carefully consider all options. There would be an increase of up to 2% and would be assessed on a case by case basis. It was stated there was a budget of up to £3m to accommodate the recommendations and providers would need to submit a robust business case.

It was also highlighted that costs had risen across the service due to the number of those being looked after had risen but also needs had become more complex.

RESOLVED:

- **That option 2 is adopted: Uplift of up to 2% based on evidence of increased cost. Contractually required uplifts awarded to Heritage and Freemantle block contracts.**
- **Utilisation of the following monies to meet fee uplift costs:**
 - **£1,142,000 earmarked for fee uplifts from the £9.5m demand growth monies.**
 - **Up to £750,000 from the corporate contingency budget set aside to fund increases in the NLW.**
 - **The balance from the additional £1m released to Adult Social Care from contingencies as part of the final approved budget.**

14 Programme Update

R Goodes, Programme Manager gave an update and highlighted the following additional information to the report provided:

- The number of 'must haves' to be completed for vesting day had gone from 115 to 114 as the Town and Parish Council Charter had moved to June.
- Tasks remain on track and the programme team remain confident that remain in a place to launch the new council.
- Sarah Murphy-Brookman had been appointed as interim Corporate Director for Resources and would take up the post during March.
- A lot of activity continued on social media to promote the new council and this would continue post 1 April 2020.
- In a good position with HR and customer services processes and response teams are in place for any help needed after 1 April 2020.
- Thanks were given to all staff and members that had supported the transition programme.

M Tett thanked all staff that had been involved in the programme and those that had indirectly supported the programme by back filling other posts. He stated that the programme had come an enormous distance and the biggest testament would be that residents did not notice a difference in the service provided to them. He also thanked members of the Shadow Executive for all their work.

RESOLVED:

To note the update report.

15 Exclusion of the Press and 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.

Paragraph 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).

16 Confidential Minutes

RESOLVED: The confidential minutes of the meeting held on 18 February 2020 were AGREED as an accurate record and signed by the Chairman.

17 Abbey Barn Lane Realignment

18 Managing the Care Market: Proposal for Fee Increases

19 Date of next meeting

31 March 2020, The Oculus, AVDC.

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**Shadow Authority
For delivering the Buckinghamshire Council**

**THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND)
REGULATIONS 2012**

**SHADOW EXECUTIVE
28 Day Notice**

This is a notice of an intention to make a key decision on behalf of the Shadow Authority for the Buckinghamshire Council (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 Shadow Executive meeting and will be available via the [Shadow Authority website](#)

Y = key decision *All reports will be open unless specified otherwise

Report title & summary	Key	Decision maker	*Private report (Y/N) and reason private	Lead Member / Officer(s) & Contact Officer(s)
TUESDAY 31 MARCH 2020				
Financial Strategy To consider the financial strategy	Y	Shadow Executive		Lead Member / Officer(s): Councillor Katrina Wood Richard Ambrose Contact Officer(s): Richard Ambrose

<p>Finance Policies To consider a report on finance policies</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Katrina Wood Richard Ambrose</p> <p>Contact Officer(s): Elspeth O'Neill</p>
<p>Risk Strategy To consider a report on the risk strategy</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Katrina Wood Maggie Gibb</p> <p>Contact Officer(s): Maggie Gibb</p>
<p>Regulatory Services Enforcement Policy To consider a report on the regulatory services enforcement policy</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Isobel Darby Nigel Dicker</p> <p>Contact Officer(s): Nigel Dicker</p>
<p>Regulation of Investigatory Powers Act 2000 (RIPA) – Policy and Procedural Guidance A report seeking approval for Buckinghamshire Council's policy and procedural guidance on the Regulation of Investigatory Powers Act 2000 to ensure compliance with legal requirements when carrying out any covert surveillance</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Martin Tett Joanna Swift</p> <p>Contact Officer(s): Joanna Swift</p>

<p>Overarching Health & Safety Policy To consider the Health and Safety policy</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Katrina Wood John Reed</p> <p>Contact Officer(s): John Reed</p>
<p>Equalities Approach and Policy To consider a report on equalities approach and policy</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Martin Tett Catherine Whitehead</p> <p>Contact Officer(s): Natalie Donhou-Morley</p>
<p>Buckinghamshire Permit Scheme Following public consultation, this report is to agree an amendment to the Buckinghamshire Permit Scheme in order that it will apply to all adopted roads throughout the Buckinghamshire highways network</p>	Y	Shadow Executive		<p>Lead Member / Officer(s): Councillor Mark Shaw Rob Smith</p> <p>Contact Officer(s): Syed Hussain</p>
<p>Prevention and Befriending Grants To consider a report on Prevention Grants</p>	Y	Shadow Executive	Part exempt (para 3)	<p>Lead Member / Officer(s): Councillor Angela Macpherson Jane Bowie</p> <p>Contact Officer(s): Marie-Claire Mickiewicz</p>
<p>Spending Protocol Items referred to the s151 officer from the five existing councils under the Spending Protocol and referred to the Shadow Executive in accordance with the protocol.</p>	Y	Shadow Executive	Part exempt (para 3)	<p>Lead Member / Officer(s): Richard Ambrose</p> <p>Contact Officer(s): Richard Ambrose</p>

TUESDAY 21 APRIL 2020 CABINET

<p>Internal Audit Plan To consider a report on the internal audit plan</p>	<p align="center">Y</p>	<p>Shadow Executive</p>		<p>Lead Member / Officer(s): Councillor Katrina Wood Maggie Gibb</p> <p>Contact Officer(s): Maggie Gibb</p>
<p>Fly Tipping Enforcement Policy To consider a report on the fly tipping enforcement policy</p>	<p align="center">Y</p>	<p>Shadow Executive</p>		<p>Lead Member / Officer(s): Councillor Bill Chapple OBE Martin Dickman</p> <p>Contact Officer(s): Gary Slee</p>
<p>Planning Enforcement To consider a report for a single planning enforcement and monitoring policy for Buckinghamshire Council</p>	<p align="center">Y</p>	<p>Shadow Executive</p>		<p>Lead Member / Officer(s): Councillor Nick Naylor Steve Bambrick</p> <p>Contact Officer(s): Darran Eggleton</p>
<p>Tatling End Housing Development, Denham To consider a report on Tatling End housing development, Denham</p>	<p align="center">Y</p>	<p>Shadow Executive</p>	<p>Part exempt (para 3)</p>	<p>Lead Member / Officer(s): Councillor Katrina Wood John Reed</p> <p>Contact Officer(s): Chris Marchant</p>

<p>Waste procurement strategy update - HRCs Contracts To consider a report on the waste procurement strategy update - HRCs Contracts</p>	Y	Shadow Executive	Part exempt (para 3)	<p>Lead Member / Officer(s): Councillor Clive Harriss Steve Bambrick</p> <p>Contact Officer(s): Darran Eggleton</p>
APRIL 2020 CABINET MEMBER DECISIONS				
<p>Adult Social Care Supervision Policy To agree a supervision policy for adult social care practitioners</p>	Y	Cabinet Member for Adult Social Care		<p>Lead Member / Officer(s): Councillor Angela Macpherson</p> <p>Contact Officer(s): Jennifer McAteer</p>
<p>Allocation of Grants for Children's Social Care purposes The government has provided grant funding for specific purposes to the Council but these were not ring-fenced grants. This decision report is to ring-fence these grants for the Children's Social Care Portfolio to use in the intended way.</p>	Y	Cabinet Member for Children		<p>Lead Member / Officer(s): Councillor Warren Whyte</p> <p>Contact Officer(s): Liz Williams</p>
<p>Allocation of Grants for Education purposes The government has provided grant funding for specific purposes to the Council but these were not ring-fenced grants. This decision report is to ring-fence these grants for the Education Portfolio to use in the intended way.</p>	Y	Cabinet Member for Education		<p>Lead Member / Officer(s): Councillor Anita Cranmer</p> <p>Contact Officer(s): Liz Williams</p>

<p>Buckinghamshire Network Tender Award contract for implementing a new data network for Buckinghamshire, in partnership with the Buckinghamshire NHS Trust and the CCG.</p>	Y	Deputy Leader & Cabinet Member for Resources	Part exempt (para 3)	<p>Lead Member / Officer(s): Councillor Katrina Wood</p> <p>Contact Officer(s): Prod Sarigianis</p>
<p>Budget Adjustments to the Approved Capital Programme To approve amendments to the approved budgets within the Capital Programme</p>	Y	Deputy Leader & Cabinet Member for Resources		<p>Lead Member / Officer(s): Councillor Katrina Wood</p> <p>Contact Officer(s): Sue Palmer</p>
<p>A412 Uxbridge Road junction with Black Park Road - Traffic Regulation Order (TRO) This is a Decision Report that highlights the recommendation to turn the current ETRO to a permanent TRO, which prohibits a 'right turn' manoeuvre from Black Park Road onto the A412 Uxbridge Road, and prohibit a 'U' turn on the A412 Uxbridge Road at the junction with Black Park Road</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Kirk Adams</p>
<p>Aston Clinton - Traffic Calming Vertical traffic calming and speed limit reduction</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Zunara Aslam</p>

<p>Court Lane and Marsh Lane, Dorney, Proposed Waiting and Loading Restrictions (Amendment 1030) This report summarises the results of the statutory consultation for formalising the “No Waiting at any time” restrictions on Court Lane and Marsh Lane, Dorney.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ryan Curtis</p>
<p>Dollicot Road, Haddenham - Proposed 20mph Speed Limit S106 Scheme for the provision of a speed limit TRO in Dollicott, Haddenham, and its adjoining roads. This is to mitigate concerns relating to road safety as a result of increased vehicular and pedestrian traffic, following residential development in the immediate vicinity. The proposal relates to an area wide 20mph speed limit being introduced in the residential streets.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Tom McCarthy</p>
<p>Grafton Street, High Wycombe, Proposed Waiting Restrictions (Amendment 1041) Results of statutory consultation exercise on proposals to introduce 'no waiting at any time' double yellow line restrictions at a number of places on Grafton Road to secure access to off-street parking and ensure visibility for traffic leaving the off-street parking to avoiding danger to persons or other traffic using the highway.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian Thomas</p>

<p>Knights Templar Way, Daws Hill - No Waiting and No Loading Parking Restrictions S106 Scheme for the provision of a parking TRO in Knights Templar Way / Daws Hill Lane in mitigation of parking related concerns as a result of residential development in the nearby vicinity. The proposal relates to the introduction of waiting and loading restrictions.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Tom McCarthy</p>
<p>Long Crendon - Traffic Calming Vertical traffic calming, Increase of a speed limit</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Zunara Aslam</p>
<p>Malthouse Way/Barley, Marlow - Waiting Parking Restrictions S106 Scheme for the provision of a parking TRO in Malthouse Way / Barley in mitigation of parking related concerns as a result of residential development in the immediate vicinity. The proposal relates to the introduction of waiting restrictions.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Tom McCarthy</p>
<p>Mary Macmanus Drive, Buckingham, Proposed Parking Restrictions Mary Macmanus Drive, Buckingham, Proposed Parking Restrictions</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian Thomas</p>

<p>New Road, Weston Turville - Proposed extension of 40mph Speed Limit S106 Scheme for the provision of a speed limit TRO on New Road, Weston Turville. This is to mitigate concerns relating to road safety following the development of new residential premises adjacent to New Road. The proposal relates to an extension of the existing 40mph speed limit covering the extent of the new residential development.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Cabinet Member for Transport</p> <p>Contact Officer(s): Tom McCarthy</p>
<p>Park Parade in Hazlemere, High Wycombe, Proposed Waiting & Parking Restrictions Park Parade in Hazlemere, High Wycombe, Proposed Waiting & Parking Restrictions</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian Thomas</p>
<p>Parkway, Marlow - Waiting Restrictions Introduction of waiting restrictions along Parkway, Marlow.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Daniel Pearson</p>
<p>Proposed 40 mph Speed Limit - A418 Scotsgrove Hill / Aylesbury Road Proposed 40 mph Speed Limit for A418 Scotsgrove Hill / Aylesbury Road, C70 Thame Road & Mill Lane, Haddenham.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Shane Thomas</p>

<p>Proposed Traffic Calming Scheme - Dadford Village, Buckinghamshire The developer of land at Silverstone Park, Dadford Road, Biddlesden, Buckinghamshire proposes to construct a raised Zebra Crossing, raised Table Junction, Gateways and a Road Narrowing in the publicly maintained section of Dadford Road, Dadford</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Christine Urry</p>
<p>Reclassification Order, Bellingdon Road and Townsend Road, Chesham A short section of Bellingdon Road and Townsend Road in Chesham are classified as B Roads. It seems that this is a historic issue which was not correctly dealt with at the time the A416 St Marys Way was constructed. This order resolves this historic issue</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Keith Carpenter</p>
<p>Sandelswood Waiting Restrictions Cabinet Member Decision for Sandelswood Waiting Restrictions, following Statutory Consultation and the objections received.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Shane Thomas</p>
<p>Stanbridge Road, Haddenham - Proposed extension of 30mph Speed Limit S106 Scheme for the provision of a speed limit TRO on Stanbridge Road, Haddenham. This is to mitigate concerns relating to road safety as a result of increased vehicular and pedestrian traffic, following residential development in the immediate vicinity. The proposal relates to an extension of the existing 30mph speed limit covering the extent of the new residential development.</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Tom McCarthy</p>

<p>The Broadway, Amersham, Proposed Waiting and Loading Restrictions (Amendment 1028) Proposed Waiting and Loading Restrictions out side the retirement development on The Broadway, Amersham</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian Thomas</p>
<p>Willow Road, Aylesbury, Proposed Waiting and Parking Restrictions Willow Road, Aylesbury, Proposed Waiting and Parking Restrictions</p>	Y	Cabinet Member for Transport		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian Thomas</p>
MAY 2020 CABINET MEMBER DECISIONS				
<p>Rights of Way Enforcement Policy To review and update the existing Rights of Way Enforcement Policy The document will outline the legislative powers available to the authority regarding enforcement, give details of what action our customers may expect the authority to take on illegalities found on the rights of way network.</p>	Y	Cabinet Member for Environment		<p>Lead Member / Officer(s): Councillor Bill Chapple OBE</p> <p>Contact Officer(s): David Sutherland</p>

JUNE 2020 CABINET MEMBER DECISIONS

<p>A4157 Douglas Road, Aylesbury - No Right Turn into Stocklake (Urban) Traffic Regulation Order Buckinghamshire Council as traffic authority intends to make the above ETRO. This will prohibit any vehicle (other than a vehicle in emergency use for police, fire brigade or ambulance purposes) proceeding in a south-easterly direction in A4157 Douglas Road to turn right into Stocklake (Urban)</p>	<p align="center">Y</p>	<p align="center">Cabinet Member for Transport</p>		<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): David Cairney</p>
<p>Aylesbury National Productivity Investment Fund Implementation (Phase 2) Junction Improvements</p>	<p align="center">Y</p>	<p align="center">Cabinet Member for Transport</p>		<p>Lead Member / Officer(s): Cabinet Member for Transport</p> <p>Contact Officer(s): Ian McGowan</p>
<p>Westhorpe Interchange - Globe Park access Decision to progress the Westhorpe junction improvement project from feasibility through to detailed design and construction. Purchase land required for the scheme.</p>	<p align="center">Y</p>	<p align="center">Cabinet Member for Transport, Deputy Leader & Cabinet Member for Resources</p>	<p align="center">Part exempt <i>(para 3)</i></p>	<p>Lead Member / Officer(s): Councillor Mark Shaw</p> <p>Contact Officer(s): Ian McGowan</p>

The Shadow Authority Constitution defines a 'key' decision as any decision taken in relation to a function that is the responsibility of the Shadow Executive and which is likely to:-

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or

- (b) 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 relevant local authority.”

In determining the meaning of “significant” for these purposes the Shadow Authority will have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000 Act and the value of any decision under consideration (e.g. £1 million or above could be regarded as significant but this has to be considered in the context of the particular decision).

As a matter of good practice, this notice may also include other items, in addition to key decisions, that are to be considered by the Shadow Executive.

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 website usually 5 working-days before the date of the meeting. Paper copies may be requested using the contact details below.

*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.

Democratic Services, Programme Management Office, Buckinghamshire County Council, Walton Street, Aylesbury, HP20 1UA
| 01296 382343 | demservices-shadow@buckscc.gov.uk

Report for:	Shadow Executive
Meeting Date:	31st March 2020

Title of Report:	MODIFICATION OF THE BUCKINGHAMSHIRE STREETWORKS PERMIT SCHEME
Shadow Portfolio Holder	Mark Shaw
Responsible Officer	Rob Smith
Report Author Officer Contact:	Dave Roberts Dave.Roberts@buckinghamshire.gov.uk 01296 383947
Recommendations:	That the Shadow Executive approves the proposal for the expansion of the existing Buckinghamshire Streetworks Permit Scheme to cover all roads in the County and agrees for a report recommending this be presented to the Shadow Executive.
Corporate Implications:	<p>The S151 Officer, Legal and Finance have been made aware of this project and any comments are included in the report.</p> <p>There is specific legislation governing the administration of Permit Schemes. It should be noted that income from the scheme must be ring-fenced for the administration and delivery of the scheme and is subject to an annual review, with any surplus either reinvested into the scheme or used to reduce the cost of permits to works promoters.</p> <p>This ring-fencing does not include any related income that might be generated from measures that encourage those working on the highway to adhere to quality and safety standards for the industry. This might include Fixed Penalty Notices for infringements or reinstatement defects and MTFP submissions have been made on this basis.</p> <p>If approved by the Shadow Executive, the Permit Scheme will be introduced by formal order, with a four week notice period given to works promoters.</p>
Options: (If any)	Continue as is, with existing the Streetworks Permit Scheme applying only to the most traffic sensitive roads.
Reason:	<p>Streetworks Permit Schemes are widely used by Highways Authorities to resource the management and coordination of street works and road works on the highway, and to ensure that their formal Network Management Duty under the Traffic Management Act is executed effectively.</p> <p>Well managed permit schemes are self-financing. They lead to less congestion and improved safety for both the public and those undertaking works on the highway. There are also a wide</p>

	<p>range of further societal benefits such as improved air quality, reduced carbon emissions and better journey time reliability.</p> <p>Experience of the current Buckinghamshire Permit Scheme, in place since 2013, has demonstrated a clear positive impact for Buckinghamshire’s road users and residents.</p> <p>However, the current Permit scheme is focussed only on the most traffic sensitive roads, around a third of the road network in Buckinghamshire. The remaining network uses a system of noticing, which does not attract a fee and therefore does not benefit from the same level of coordination and management because of the limited staff resource available for this.</p> <p>Expanding the scheme to cover all roads will fund an expanded Permit Team within TfB and would allow a step change in the management of works across the whole network.</p>
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1. Purpose of Report

- 1.1 To give the background information necessary for the Shadow Executive to formally instruct the implementation of the modified permit scheme should it be minded to do so.

2. Executive Summary

- 2.1 The Traffic Management Act 2004 makes provision for Highways Authorities to introduce a Permit Scheme to manage potentially disruptive street works on their highway network more effectively for all users. Buckinghamshire implemented a Permit Scheme in 2013 which provided an alternative to the old notification system. Rather than a works promoter notifying the Highway Authority of their intention to carry out works, a permit needs to be obtained in advance. There will be a charge to any external works promoter for the permit, which is aimed at allowing the Authority to adequately resource the administration of the scheme. A Permit Scheme is not intended to generate income but the Highway Authority may recover their full costs, with any surplus reinvested into the Permit Scheme. The original scheme was designed to require a permit for the most Traffic Sensitive roads only, with notices on the rest of the network.
- 2.2 It is now proposed to modify the existing Permit Scheme to require a permit application on all categories of road. This will enhance Buckinghamshire’s ability to manage its network and better uphold our statutory duty and is in line with DfT recommendations and the approach taken by many other authorities.
- 2.3 The scheme will be renamed the Buckinghamshire Permit Scheme (BuPS) and initial evaluation documents examining the costs and benefits of the proposal have been prepared that indicate that the proposal is financially beneficial to businesses, residents and visitors to Buckinghamshire when all factors are taken into consideration.

3. Background to Streetworks Permit Schemes

- 3.1 All highways authorities have a duty under the New Roads and Streetworks Act 1991 (NRSWA) and the Traffic Management Act 2004 (TMA) to effectively coordinate all activities on the highway to ensure the safe and expeditious movement of traffic, pedestrians and vulnerable road users.
- 3.2 Permit Schemes were introduced by Part 3 of the TMA to improve the Local Highway Authority's (LHA) ability to minimise disruption from both street and highway works. The TMA broadens the coordination and cooperation duties under NRSWA and is intended to give the LHA more powers over how and when activities are carried out.
- 3.3 All activities on the highway have a potential to cause disruption and delay, however the effect diminishes on lower category roads but still has the potential to cause congestion therefore that is why we are including non-traffic sensitive roads in the Permit Scheme.
- 3.4 It is not currently mandatory for Local Highway Authority (LHA) to run Permit Schemes. However the Secretary of State for the DfT has urged LHA's to give serious consideration to the benefits of introducing a Permit Scheme.
- 3.5 The statutory framework for the introduction of a permit scheme is the Traffic Management Act 2004 and associated regulations. Until recently it was a requirement for the Secretary of State to approve a scheme and make the associated order. Following consultation in 2012, the Government decided (for England only) to remove this requirement. This formed part of the Deregulation Act 2015, with the relevant part coming into force on 30 June 2015. The effect is that Authorities will be required to give effect to Permit Schemes and vary or revoke their Permit Schemes by their own Orders.
- 3.6 The modification of the Permit Scheme will provide a better way to manage all activities on the public highway, providing a powerful tool for effective co-ordination, minimising the inconvenience to the travelling public, businesses and local residents, whilst allowing works promoters the necessary time and space to complete their work.
- 3.7 Under NRSWA works promoters currently apply for a permit to work from the LHA for works on reinstatement categories 1 and 2 type roads and only inform the LHA of their intention to carry out works using the noticing system via Electronic Transfer of Notices (EToN) on lower category roads. If notices are not challenged the works promoters can proceed with the works without further consultation with the LHA.
- 3.8 The highway network within Buckinghamshire has recently been reviewed to identify the lengths of Traffic Sensitive Streets. There are currently 3261KM of highway in Buckinghamshire of which 908KM are Traffic Sensitive.
- 3.9 The Streetworks team receives, on average, 27 permits per day for works on traffic sensitive roads and 121 notices per day on non-traffic sensitive roads.
- 3.10 The proposed modification of the Permit Scheme will bring together Traffic Sensitive Streets (TSS) with non-Traffic Sensitive Streets giving the LHA the opportunity to better evaluate each proposed works and enable the LHA to reject incorrect or incomplete permit applications. Work promoters will effectively book occupation of the street for specific periods and purposes rather than the current system of informing the LHA of its intention to occupy the street.

- 3.11 All permit applications will need to be responded to within a given response time as per the regulations and should the time limit elapse without comment the Permit is deemed to have been approved and the works can proceed.
- 3.12 Permit Schemes differ from existing LHA powers for network management in a number of ways and will apply to their works as well as those of Utility Companies. Parity will be demonstrated through Key Performance Indicators that are discussed at the monthly coordination meetings with utility companies.
- 3.13 Works promoters will have to apply for a permit before commencing the work on the street, with the exception of emergency and urgent works.
- 3.14 Certain conditions can be attached to a permit, such as timing of activities and the way works are carried out, with more punitive fines for either working without a permit or in breach of permit conditions.
- 3.15 The Traffic Management Act, section 37 (7), enables fees for permits to be charged to Utilities as follows:
- Applications for permits
 - Issuing of permits
 - Applications for variations to permits or conditions attached
 - Variations to permits or conditions attached e.g. Extending the duration of works or changes to the Traffic Management.
- 3.16 The fees that will be applied to the Buckinghamshire's Permit Scheme (BuPS) have been calculated using the Department for Transport's template (DfT cost matrix) which is an essential part on the application for the scheme.
- 3.17 There are no charges applied to the current Noticing system. A Permit Scheme's primary function is to reduce disruption on the network and income must only be applied to the prescribed cost of operating the Scheme. The LHA may fully cover its costs
- 3.18 All other aspects of NRSWA remain unchanged and run in conjunction with Permit Schemes, including Section 74 overstay charges for unreasonable or prolonged occupation of the street.
- 3.19 The modification to the Permit Scheme will allow the LHA to better facilitate a reduction in congestion on the network and be better able to coordinate and manage all works, working together with utility companies.
- 3.20 The LHA can ensure works are being carried out wherever possible within school holidays and off-peak, particularly on busy roads, helping to keep the traffic moving. By improving co-ordination, Public and School Transport will suffer fewer delays. Carbon emissions will also be reduced through less vehicle idling time in queues.
- 3.21 The additional resource in place to operate the modified Permit Scheme will allow the inspection regime to ensure works are carried out to the correct standards to be significantly increase and that this will support the maintenance of the condition of the highway network.

4. Financial Implications

- 4.1 The overarching principle of any Streetworks Permit Scheme is that it is cost-neutral to the Authority.
- 4.2 The implementation of the modified Permit Scheme on the whole Buckinghamshire highway network will result in additional staffing within the Streetworks team in order to deliver the Scheme as proposed. The costs of this increase in staffing will be offset by the income generated from the charges associated with the issue of Permits. In addition the costs of setting up the modified Permit Scheme will be recovered through permit scheme charges over time.
- 4.3 The modification of the Permit Scheme supports the corporate priority to protect and enhance the condition of the Highway asset through the avoidance of congestion and through greater co-ordination of works on the Highway network to reduce the number of intrusions through the carriageway surface.
- 4.4 Transport for Buckinghamshire has recently invested in an innovative Robotic Process Automation solution to assist in the administration of its permit scheme. This process involves automation of some of the most basic administration checks involved in Permit Applications and it is anticipated that this technology will reduce the number of additional staff that would otherwise have been required to administer the permit scheme.
- 4.5 The ring-fencing of revenue from the Permit Scheme does not apply to other revenue sources associated with the management of Street Works such as Fixed Penalty Notices for infringements or reinstatement defects.

5. Value for Money

- 5.1 Whilst the overall management of the scheme is designed to be cost neutral in line with the DfT guidelines, and hence does not deliver financial savings, there are a number of improvements in efficiency and effectiveness including;
 - Reduced congestion and improved safety at road works
 - Greater scrutiny of proposals for works with more opportunities for coordination and better mitigation of impacts on the travelling public
 - The potential to minimise damage in the condition of the Network due to repeated works breaking the surface of the asset

6. Legal Implications

- 6.1 The legal framework for the implementation and administration of Permit Schemes is set out in part 3 of the Traffic Management Act 2004.

7. Other Key Risks

- 7.1 The key risk associated with the implementation of the modified Permit Scheme is that the activity of works promoters may not be at a level to generate sufficient income to cover the cost of administering the scheme. Experience in multiple authorities elsewhere, and through the calculations in the detailed Cost benefit Analysis that accompanies this report, together with analysis of the current level of activity on the network indicates this is a very low risk. It is also proposed that a phased introduction of new staff to administer the scheme.

8. Consultation

- 8.1 In accordance with the legal requirements for such a scheme, formal consultation has been undertaken that ran from 9 January to 20 February 2020. This included all statutory consultees, Utility Companies, Statutory Undertakers and works promoters.
- 8.2 Members were invited to comment on the permit scheme. In addition, a seminar was held on the 28th January to which all those with a potential interest in the scheme, including all Members, were invited. This was mainly attended by a small number of stakeholders, mostly public utility company representatives and BCC works promoters
- 8.3 A briefing note, in the form of a Network Bulletin, setting out the scheme proposals, was distributed to all TfB staff as well as Members.
- 8.4 Formal comments have been analysed. Our response will be compiled and sent to those raising comments. A small number of responses were received from utility companies. A summary of these is shown in the background paper to this report. There are no comments that alter the context of the BuPS, the scheme principles or the Cost Benefit Analysis, though some minor amendments to round fees to the nearest pound have been made.
- 8.5 A four week notice period is required to utility companies of the commencement date of the Permit Scheme once approved.

9. Communications Plan

- 9.1 Should the proposal to implement the modified scheme be agreed, a communications plan will be implemented. This will be led by the TfB Comms team, making use of the Corporate Comms resource, and will aim to inform utility companies the general public, key stakeholders and Members about the benefits of the modified scheme.
- 9.2 A number of teams within the new Authority undertake work on the Highway and are likely to be unfamiliar with the requirements of permit schemes. Information, and training where necessary, will be undertaken that targets these teams.

10. Equalities Implications

- 10.1 All road users will benefit from the permit scheme through the improvement to the overall highway efficiency as well as through better control of traffic management with the ability to add conditions on the permit to aid all road users including mobility and visually impaired people. All works promoters will be treated with parity. A detailed Equalities Impact Assessment is not required.

11. Data Privacy Implications

- 11.1 There are no data additional data privacy implications in the proposal.

12. Next Steps

- 12.1 Should the Shadow Executive be minded to make the decision that the modified permit scheme is to be implemented, then the formal Order will be made.
- 12.2 The communication plan will be drafted as implemented as described in section 9 above.

Background Papers	Appendix One: Permit Scheme Document Appendix Two: Consultation Report Appendix Three: Summary of Cost Benefit Analysis
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Buckinghamshire County Council

Proposed Modified Permit Scheme for Road Works and Street Works



Buckinghamshire County Council

Permit Scheme

For

Road Works and Street Works

(Traffic Management Act 2004)

Version 2.0 December 2019



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1 INTRODUCTION

1.1 Background

Permit Schemes provide a new way to manage activities on the public highway and were introduced by Part 3 of the Traffic Management Act 2004 (TMA) to improve authorities' ability to minimise disruption from street and road works.

1.2 The Permit Scheme

The Buckinghamshire County Council Permit Scheme is a Single Permit Scheme for the purposes of Part 3 of the Traffic Management Act 2004 (TMA) and the Traffic Management Permit Scheme (England) Regulations 2007 (the Permit Regulations).

The Permit Scheme has been prepared in accordance with the Regulations and having had regard to the Guidance.

In accordance with Regulation 4 (g) it is intended that the Permit Scheme is going to start operation in April 2020.

1.3 The Permit Authority

The Permit Scheme is operated by Buckinghamshire County Council as the Street Authority for Buckinghamshire (excluding Milton Keynes), hereinafter referred to as 'the Permit Authority'.

1.4 Relationship to the New Roads and Street Works Act 1991 (NRSWA)

Permit Schemes differ from existing powers for managing activities on the street in a number of key respects:

- They provide an alternative to parts of the notification system under NRSWA, whereby instead of informing a Street Authority about its intention to carry out works in its area, a statutory undertaker has to book time on the highway by obtaining a permit from the Permit Authority.
- Highway Authority own works are included in the scheme and are treated in exactly the same way as a statutory undertaker.
- Conditions which impose constraints on the dates and times of activities and the way that work is carried out can be attached to permits.
- The Permit Authority's control over variations to the permit conditions, particularly time extensions, gives a greater incentive to complete activities on time.

1.5 Changes to NRSWA Legislation

The Permit Scheme, when brought into effect, will replace parts of NRSWA, specifically notices relating to Section 54 (advanced notice of certain works), Section 55 (notice of starting date of works) and Section 57 (notice of emergency works). Other elements of NRSWA are also revoked or modified (Appendix A) to necessitate the Permit Scheme and NRSWA operating effectively together.

- Sections of NRSWA revoked: s.53; s.54; s.55; s.56; s.57; s.66
- Sections of NRSWA modified: s.58; s.73A; s.74; s.88; s.89; s.93; Schedule 105; Schedule 3A

- Regulations modified: The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951

Changes to Section 58 (restrictions on works following substantial road works) and Section 74 (charges of occupation of the highway where works are unreasonably prolonged) apply only to undertakers' activities. The Permit Scheme makes arrangements so that similar procedures are followed for Highway Authority promoter activities in relation to timing and duration, in order to facilitate the operation of the Permit Scheme and ensure parity of treatment for all promoters.

1.6 Activities

Within this document the term 'promoters' will be used for both utility and highway authorities and the term 'activities' will be used rather than 'works' despite the Permit Scheme applying only to street works and highway works.

1.7 Equivalent Definitions

As the Permit Scheme will operate alongside the NRSWA notice system, the same or equivalent definitions and requirements are used as in the NRSWA notice system, namely:

- Registerable activities/works
- Categories of activities/works, (major, standard, minor and immediate activities/works)
- Street gazetteers, including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD)
- Street reinstatement categories as defined in the NRSWA Reinstatement Specification
- The distinction between main roads and minor roads where such distinctions are relevant
- Streets designated as Protected Streets, streets having Special Engineering Difficulties, (SED), or Traffic Sensitive Streets.

1.8 Objectives

Buckinghamshire has numerous strategic links to the motorway and trunk road network, including the A5, A404, M1, M25, M40 and M4. Buckinghamshire's network also provides key strategic diversion routes for these motorways. Since Buckinghamshire is largely a rural county, one of the key objectives of the permit scheme is to ensure journey reliability on the road network with a focus on "Strategically Significant Streets" defined as traffic sensitive and type 0, 1 and 2 roads, that carry the greatest volume of traffic and provide important public transport routes.

All activities on the highways can reduce the width of the street available to traffic, pedestrians and other users, and can also inconvenience businesses and local residents. The scale of disruption caused is relative to the type of activities being undertaken and the capacity of the street. Activities where the traffic flow is close to, or exceeds, the physical capacity of the street will have the potential to cause congestion, disruption and delays.

The objective of the TMA is to enable the management of the traffic network to ensure expeditious movement of traffic (including pedestrians, cyclists and other vulnerable road users) as required under the TMA Network Management Duty.

Part 3 (Permit Schemes) of the TMA aims to empower the Local Highway Authority to minimise disruption from both street and highway works.

1.8.1 The Permit Scheme Objective

Manage and maintain the local highway network to maximise the safe and efficient use of road space and provide reliable journey times

This will result in:

- Reduced congestion on the road network
- Improvements to overall network management
- A reduction in delays to the travelling public
- A reduction in costs to businesses caused by delays
- Promotion of sustainable communities and businesses
- Promotion of a safer environment
- Reduced carbon emissions

1.8.2 Improving Performance

The Permit Scheme objective will be facilitated by improving performance in line with the Authority's Network Management Duty in relation to the following key factors:

- Enhanced coordination and cooperation
- Encouragement of partnership working between the Permit Authority, all Activity Promoters and key stakeholder groups identified within this document
- Provision of more accurate and timely information to be communicated between all stakeholders including members of the public
- Promotion and encouragement of collaborative working
- Improvement in timing and duration of activities, particularly in relation to the busiest streets within the network
- Promotion of dialogue with regard to the way activities are to be carried out
- Enhanced programming of activities and better forward planning by all Activity Promoters

1.8.3 Aligned Objectives

The Permit Scheme objectives align with the strategic objectives contained within the authorities' local area action plan

- The five priorities for Buckinghamshire in this long term strategic plan are:
- Enhancing accessibility
- Tackling congestion
- Improving the environment
- Improving road safety
- Maintaining and managing the transport asset

2 SCOPE OF THE BUCKINGHAMSHIRE PERMIT SCHEME

2.1 Specified Area

The area covered by the permit scheme is the geographical boundary covered by the Permit Authority.

2.2 Areas and Streets Covered by the Permit Scheme

All streets for which Buckinghamshire County Council is the highway authority, i.e. publicly maintained by or on behalf of Buckinghamshire County Council, are included in the Buckinghamshire County Council Permit Scheme; these are the “specified streets” as set out in regulations.

Trunk roads and motorways for which Highways England is the highway authority responsible are not included in the scheme.

Privately maintained streets are also not included in the scheme but will be added if they are subsequently adopted by Buckinghamshire County Council and shown as such in the street gazetteer.

2.3 Street Gazetteer

The Street Gazetteer will be produced and maintained by Buckinghamshire County Council as the Highway Authority and Permit Authority. Further information about the Street Gazetteer and additional street data can be found in Appendix B. The Permit Authority will create, maintain and publish the LSG to Level 3.

2.4 Areas and Streets Not Covered by the Permit Scheme

All activities in category 3 and 4 non-traffic sensitive streets are not subject to requiring a permit. These are subject to the current noticing regime under NRSWA 1991 and the TMA 2004.

All streets under the jurisdiction of Milton Keynes Council as included in their Local Street Gazetteer (LSG).

2.5 Definition of the Term ‘Street’

‘Street’ refers to that length of a road with a single unique Street Reference Number (USRN). Where a single street has more than one USRN, separate permits will be required for each USRN to which an activity relates.

2.6 Identification of Streets

Streets subject to the Permit Scheme will be identified as an Additional Street Data (ASD) record held on the National Street Gazetteer Concessionaire’s website alongside the NSG data.

2.7 Motorways and Trunk Roads

Motorways and trunk roads in Buckinghamshire for which the Highways Agency are the Highway Authority are excluded from the Permit Scheme.

2.8 Non Maintainable Highways

Private streets that are not maintainable highways, other than those that are expected to become a maintainable highway, are not included in the Permit Scheme.

2.9 Streets to be Adopted as Maintainable Highways

Where a street is expected to become a maintainable highway, controls on specified activities under the Permit Scheme will only apply after the street has become a maintainable highway.

2.10 Permit Validity

The permit will be granted for a period of calendar days. This will prevent ambiguity as to whether the permit is valid at weekends or on Bank Holidays. A permit will only be valid for the period between the start and end date.

2.11 Permit Variation

Changing circumstances for either the promoter or Permit Authority may require permit conditions to be modified. Variations to permits will be confirmed by the granting of an amended permit showing the revised details. If the Permit Authority initiates the variation then there will be no fee charged for the granting of this revised permit, however if the variation is initiated by the Activity Promoter then a permit variation fee will be applicable.

Applications for permit variations must contain the following information as applicable:

- The revised timescale.
- Any change to the description of the activity.
- Any change to the location within the same street
- A revised illustration.
- Any change to the method of excavation.
- Any variation to the depth of the excavation from less than 1.5m to more than 1.5m
- Any changes to the conditions.
- Any changes to Traffic Management.
- The need for a TTRO when not thought to be required initially

If a full permit has not yet been granted and the promoter needs to make a change, the promoter must inform the Permit Authority. For Major works, the promoter may also need to make a new Provisional Advance Authorisation (PAA) application as PAAs cannot be varied.

It is important that permit variations are sought whenever changes are needed as working without a permit or outside the permit conditions is a criminal offence.

For further information on permit variations refer to section 11.

2.12 Working without a Permit

If a permit is required, but has not been sought or granted, or the permit has been cancelled, activities cannot be carried out without committing a criminal offence.

3 SPECIFIED ACTIVITIES

3.1 Activities Requiring a Permit

The Permit Scheme controls the following activities undertaken on the public highway and as defined as Registerable Activities under NRSWA.

These include:

- Street works - work on plant and apparatus in the street by undertakers, except for works by licensees under Section 50 of NRSWA.
- Works for road purposes - maintenance and improvement works to the road itself carried out by, or on behalf of, the Highway Authority (under Section 86 of NRSWA).
- Major highway works (including Developer Activities under Section 278 of the Highways Act 1980).
- Other activities that may be introduced under future regulations.
- All activities that involve the breaking up or resurfacing of the street.
- All activities that involve the opening of the carriageway or cycleway on traffic sensitive streets, or streets with a reinstatement category of 0,1 or 2.
- All activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works.
- All activities that reduce the number of lanes available on a carriageway of three or more lanes.
- All activities that require a Temporary Traffic Regulation Order (TTRO) or notice, or the suspension of pedestrian crossing facilities.
- All activities that require a reduction in width of the existing carriageway of a traffic sensitive street, or street with a reinstatement category of 0,1 or 2.

The Permit Authority will be able to specify any required conditions to the permits and promoters **must** comply with the terms and conditions of the permits.

One permit can only cover one activity on one street as per Section 9.5.

3.2 Works for Road Purposes

The Permit Scheme rules, including permit conditions, will apply equally to both Highway Authority 'works for road purposes' and statutory undertaker activities. Fees will not be applied to the Highway Authority's own works. The Highway Authority and any promoter of 'works for road purposes' must ensure that they have followed the equivalent processes and declare that they have fulfilled these requirements in their permit applications.

Permit Authorities must demonstrate parity of treatment for all Activity Promoters, particularly between statutory undertakers and the Highway Authority's own work promoters, which will be measured through Key Performance Indicators.

Diversions works to accommodate works for road purposes shall not require the statutory undertaker to apply for a permit. The Highways Authorities activity promoter shall be responsible for the permit application to cover the diversionary works.

3.3 Activities Not Requiring a Permit Before They Start

Immediate activities **do** require a permit but because such works are concerned with emergency or urgent situations, a promoter can start work before applying for a permit provided they apply for a permit from the Permit Authority within 2 hours. If the works commence out of working hours then a permit must be applied for by 10am the next working day.

3.4 Works and Activities for Which a Permit is Not Required

Activities executed in a street pursuant to a street works licence issued under Section 50 of the NRSWA are not included in the Permit Scheme, but have to follow the normal NRSWA procedures through their respective councils. Further information regarding exempt activities can be found in section 4.2.

4 PERMIT GENERAL

4.1 Requirement to Obtain a Permit

Any promoter who wishes to carry out an activity on a specified street must obtain a permit from the Permit Authority.

This will allow the promoter to:

- Carry out the specified activity
- At the specified location
- Between the start and end dates shown
- Between the start and end times shown (if appropriate)
 - Subject to any conditions that may be attached or required.

All of this information will be included in the permit.

4.2 Exempt Activities

The following activities do not require a permit:

- Activities carried out following the granting of a street works licence issued under section 50 of NRSWA.
- Third Party Activities e.g. repair to private apparatus.
- Activities carried out by Parish, Town or District Councils where a Section 50 licence or licence to excavate has been applied for.
- Traffic census surveys.
- The maintenance of fire hydrants by fire service vehicles provided the activity is undertaken outside traffic sensitive periods.
- Pole testing not requiring excavation. All pole testing involving excavation requires registration and will need a permit before the works commence as would be the case with other excavations. However, in all circumstances the work must be registered using Section 70 (3) under NRSWA for the purpose of reinstatement inspections within 10 days of completion.

4.2.1 Continuity of Streetworks Register

For continuity of the register, promoters of activities not requiring a permit are nevertheless encouraged to apply for a permit to ensure that road space is available. This will ensure that their work will not be interrupted by other activities for which a permit has been granted. No fee will be charged in the granting of a permit for exempt activities. If, during the course of the activity, this situation changes, then all work must cease, the highway re-opened for all users and an application submitted to the Permit Authority for the appropriate permit. The application for an optional permit will be the same as for other permits and as detailed in Section 9.

4.3 One Application Per Street

Separate permits will be required for each USRN to which an activity relates.

4.4 Activities Covering Several Streets

Where a specified activity as part of the same project involves a number of specified streets, a separate PAA or permit will be required for each street, and all permits granted shall be cross-referenced to all related applications and, where streets not included in the scheme are involved, the appropriate notice will also be cross-referenced. Fees for specified activities which involve more than one PAA or permit will be subject to a discount, as per section 13.5.

4.5 Multiple Phase & Linked Activities

Each phase of an activity will require a separate permit. Each permit must relate to the original activity by using the original activity reference number used in the first and subsequent phases (e.g. interim to permanent reinstatement phases as well as any remedial works phases should they be required).

- A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works.
- A promoter must clarify that an activity is to be carried out in phases on the initial PAA or permit application.
- For a major activity, the activity reference number must be used within the PAA (as per section 6.2).
- Linked activities carried out at separate locations in a street must be treated as belonging to the same set of works. All works in these circumstances must be related and operationally dependant upon each other.
- Unconnected activities carried out by the same promoter in one street must not be treated as parts, or phases, of a single activity.
- Customer connections associated with the installation of a new main or cable run, or the replacement or renewal of existing assets, will be considered to be linked activities when the work is completed as a single occupancy of the street. If the installation of customer connections is undertaken at a later date then the promoter shall apply for a separate permit.
- Even if an activity involving more than one street forms part of one project in management and contractual terms, separate permits and PAAs must be obtained for each street or USRN.

4.6 Remedial Works

Remedial works are required to put right defects identified in accordance with the Specification for Reinstatement of Openings in the Highway (SROH), the Code of Practice for Inspections and NRSWA Regulations, and will require a new permit. This new activity phase must be cross-referenced to the permit for the original activity by using the original activity reference, as per section 4.5.

4.7 Interrupted Activities

If an activity is interrupted because, for example, the promoter needs some specialist plant or apparatus other than that originally planned, it is the promoter's responsibility to notify the Permit Authority and agree the appropriate action. If the Permit Authority is satisfied that the excavation can remain open whilst the equipment is obtained, then a variation will be required and an extension to the permit granted. However, where it is considered that the opening should be reinstated and the road returned to full traffic use then the promoter will need to apply for a further, chargeable, permit in order to complete the work at a later date.

4.8 Cross Boundary Activities

Where a project with activities in more than one street straddles the boundary between the Permit Authority and an adjacent Permit Authority, separate permit applications, including any PAA, should be submitted to both authorities.

Where a project with activities in more than one street straddles the boundary between the Permit Authority and an adjacent Street Authority, separate permit applications, including any PAA, should be submitted to the Permit Authority and prescribed notices should be submitted to the Street Authority in line with regulations.

A single project reference should be included on applications and all notices so that both authorities can consider the impact and co-ordinate the activities together.

4.9 Collaborative Working

The Permit Authority encourages collaborative working between promoters for street works and works for road purposes. Where two or more Activity Promoters decide to enter into such arrangements, one must take on the role of the primary promoter with overall responsibility for the activities, and will be the point of contact in communications with the Permit Authority. The secondary promoter(s) retain the same responsibility for submitting permit applications for work to be carried out by them, or on their behalf. The Permit Authority will grant permits to all the promoters involved, not just the primary promoter. The fees will be discounted, as per section 13.5, to reflect the collaborative approach, subject to all criteria being met. The secondary promoter(s) will install their apparatus in the same trench. The primary promoter will then backfill and reinstate the trench. The Registration notices must be submitted by the primary promoter and the primary promoter will be responsible for the reinstatement.

The primary promoter must detail the other promoters involved and the scope of the collaborative working in the initial application. The primary promoter must also ensure that estimates of works duration are agreed and/or confirmed with the secondary promoter(s) when submitting PAAs and/or permit applications. This is necessary in order to comply with the overrun charging requirements in the permit and NRSWA regulations.

Only those registration notices submitted by the promoter responsible for the reinstatement are required to show the actual inspection units attributable to the street works. The other promoters in these circumstances must indicate a 'No Excavation' status on the Section 74

Work Stop Notice. Notice text within the Work Stop notice must indicate that reinstatements have been registered by the promoter responsible for the reinstatement.

This process may vary in line with future amendments to the Electronic Management System.

4.9.1 Working Together

A similar approach to discounted permits will be followed for multi promoters sharing road space (e.g. road closures, shared traffic management), although each individual promoter should apply for a permit in the normal way.

4.10 Reinstatement

If a permanent reinstatement cannot be completed during the first phase, the activity shall be regarded as having two separate phases. Under the provisions of NRSWA, this will mean two separate works/activities for Section 74 charging. Each phase is from the start date in the relevant permit to the completion of either interim or permanent reinstatement and the removal of all surplus materials and equipment from site.

4.11 Charges for Overrunning Street Works / Activities

Charges for overrunning activities, under Section 74 of NRSWA, will be made alongside the Permit Scheme, as per Section 1.5. These regulations incorporate the process of setting and modifying the duration of the activity through the permit application, approval and variation processes, with the option to treat all or parts of an extension to the duration as a chargeable overrun.

4.12 Permit Duration and Validity

The permit will allow an activity to be carried out for a specified duration between the start and end date on the permit. A promoter working outside those dates will not have a valid permit and would be potentially committing an offence. If the activity cannot commence on the proposed start date and a variation is required, the promoter must inform the Permit Authority no later than the preceding day by telephone.

There is no automatic extension of the permit end date in these circumstances and if the promoter believes that the work could still be completed before the permit end date then they can begin the work on a subsequent day having submitted a start of works notice under Section 74 of NRSWA. Otherwise, the promoter must apply for a variation to the permit. If the Permit Authority has reason to believe the activity did not commence on the start date and has not been informed by telephone that the activity would not start on the agreed start date then a variation to the end date may be refused. The Permit Authority may or may not agree to a variation depending on the circumstances, and if not, the promoter may be subject to Section 74 overrun charges, fixed penalty notice or prosecution.

The permit will not be valid before the start date on the permit and will cease to be valid once the end date has passed unless a variation is granted.

4.13 Early start

A promoter may request an early start before or after applying for a PAA or a permit. Where a permit has been granted and an early start has been agreed by the Permit Authority, the promoter shall submit a variation to the permit, or in the case of a PAA, include the revised dates on the application for the subsequent permit. An early start reference number will be issued by the Permit Authority, and must be quoted on the permit application or permit variation application.

Where an early start has been agreed before the PAA or Permit is applied for, there will be no additional charges applied to the permit fee, however, where a variation application is made to request an early start after the permit has been granted or deemed, a variation charge will apply.

Requests for early starts may or may not be agreed by the Permit Authority at their discretion, and it is the responsibility of the promoter to satisfy the Permit Authority as to the necessity for any proposed early start.

4.14 Application Requirements

All applications for a permit must include the information indicated in Section 7.

5 PROVISIONAL ADVANCE AUTHORISATION AND PERMIT TYPES

There are two types of permit covered by the Permit Scheme.

5.1 Provisional Advance Authorisation (PAA)

Provisional Advance Authorisation (PAA) is effectively an early provisional permit granted before the final details of an activity have been finalised. PAAs are only for major activities, i.e. those which are large and/or likely to be more disruptive. It replaces the advanced notice under Section 54 of NRSWA.

Once a PAA has been granted or deemed, the promoter must serve a full permit application which must be granted or be deemed before activities can commence as defined in Section 5.2.

Once the PAA is granted, the promoter knows that the activities are approved and the affected road space is provisionally reserved. However, as it may be difficult to be certain of the start date three months before the event, the proposed start date is regarded as provisional and may be amended in the application for a final permit.

The granting of a PAA does not prevent the Permit Authority from subsequently refusing to grant a permit to which the PAA relates.

Unless otherwise agreed with the Permit Authority in advance, all PAAs must be served with a minimum application period of three months ahead of the proposed start date in line with Table 1 in Section 9.9.

5.2 Permits

Permits are full permit applications with final details for all registerable activities on the specified street. Permit applications are required for all classes of activities defined in Section 6.0. The timing of permit applications to the Permit Authority will depend on the proposed activity. A copy of each permit is to be provided by the applicant upon request made by a relevant authority and to any person having apparatus in the street to which the application relates.

All permit applications must be submitted in line with Table 1 in Section 9.9.

6 CLASSES OF ACTIVITY REQUIRING A PERMIT

6.1 Classes Covered by the Permit Scheme

There are four classes of Permit covered by the Permit Scheme. The classes and response times can be found in Table 1 in Section 9.9.

6.2 Permit for Major Activities

- Have been identified in an Activity Promoters' annual operating programme or are normally planned or known about at least six months in advance of the proposed start date for the activity (early engagement with the Permit Authority is strongly encouraged prior to the PAA application whilst the major activities are still in the planning stage).
- Require a Temporary Traffic Regulation Order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities other than immediate activities.
- Have a duration of 11 working days or more, other than immediate activities.

Major Activity Permits are required for the most significant activities on the highway which are likely to cause the most disruption, and will require the promoter to obtain a Provisional Advance Authorisation as part of the application process.

Minimum application periods for Major activities are defined in Table 1 of Section 9.9.

6.3 Permit for Standard Activities

Standard activities are those activities, other than immediate or major activities, that have a planned duration of between four and ten working days inclusive.

Minimum application periods for Standard activities are defined in Table 1 of Section 9.9.

6.4 Permit for Minor Activities

Minor activities are those activities, other than immediate or major activities, where the planned duration is three working days or less.

Minimum application periods for Minor activities are defined in Table 1 of Section 9.9.

6.5 Permit for Immediate Activities

Immediate Activities are either:

- Emergency activities, which are defined in Section 52 of NRSWA, are activities required to end, or prevent circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply. Remedial works to dangerous defective reinstatements are classed as emergency works (but there will be a need to cross reference these to the permit given for the parent activity).
- Urgent activities are defined in the regulations as activities:
 - (a) (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):
 - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
 - (ii) to avoid substantial loss to the promoter in relation to an existing service.
 - (iii) to reconnect supplies or services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and,
 - (b) includes works that cannot reasonably be severed from such works.

Promoters carrying out immediate activities must contact the Permit Authority by telephone immediately where the specified street is especially vulnerable to traffic disruption as indicated on the ASD. The call will be logged and a unique reference number provided. If the activities are identified out of working hours the promoter must leave a telephone message with contact details, time, location and reason for the immediate activities. The Permit Authority will return the call by 09.00am the next working day and provide the unique

reference number. This reference number must be submitted on the permit application in the form of an agreement as defined by the Technical Specification for the Electronic Management System.

Minimum application periods for immediate activities are defined in Table 1 of Section 9.9.

6.6 Burden of Proof

The activity description must justify why the activity is immediate.

If the Permit Authority disputes whether an activity, or part of an activity, is immediate, the promoter must demonstrate conclusively that it is.

Failure to do so may constitute an offence. Appropriate enforcement action may be taken by the Permit Authority. This may include the revocation of the permit, fixed penalty notices, and/or criminal proceedings against the statutory undertaker.

7 INFORMATION REQUIRED IN A PERMIT APPLICATION

(Including Provisional Advanced Authorisation Applications)

7.1 Permit Authority Requirements

Permit applications must contain the required level of information in order for the Permit Authorities to properly assess the application and if necessary request that the appropriate conditions be added.

To aid the application and co-ordination process, the quality of the information supplied within any application must be sufficient to allow the Permit Authority to make an efficient and informed decision in relation to the following:

- The overall objectives of the Permit Scheme as defined in Section 1.8.
- The full impact of the proposed activities on the highway and users of the highway.
- Identification of potential activity conflicts.
- The potential for collaborative working.
- Identification of any permit conditions that may be required.

7.2 Technical Specification for ELECTRONIC MANAGEMENT SYSTEM

Permit applications will always be served in accordance with the Technical Specification for the Electronic Management System.

7.3 Unique Street Reference Number (USRN)

An application shall relate to one proposed activity in only one street.

7.4 Description of Activity and Collaborative Promoters

A detailed description of the activity must be provided to allow the Permit Authority to assess the likely impact of the activities.

Descriptions must justify the proposed duration of the activity

In the case of collaborative working, a full description of the collaborative scheme of works must be provided and the Activity Promoters identified. Contact details for all Activity Promoters working in collaboration must be provided in all permit applications including out of hours details.

7.5 Location

Promoters must give an accurate activity location based on National Grid References (NGRs), in line with the Technical Specification for the Electronic Management System.

Polygons for all activity application types, as defined in Section 6, can be supplied.

If any NGR contained within a permit application is considered to be inaccurate or misleading, the application may be refused.

7.5.1 Locations for Major Works

Start and end National Grid References (NGRs) must be supplied as a minimum, however, a poly line (line centre of site) is desirable, particularly if proposed works areas or trenches deviate from a straight line, for example, following the curvature of a street or requiring a road crossing.

7.5.2 Locations for Standard, Minor and Immediate Works

A centre point NGR must be supplied as a minimum; however, as with major works, a line or a poly line (line centre of site) is desirable in the following circumstances:

- The activity area or trenches are expected to be more than 10 metres in length.
- Activity locations on the application in the same street are separated.
- Activity areas or trenches are to deviate from a straight line (for example, following the curvature of a street or requiring a road crossing).

7.5.3 Location Descriptions

NGRs must be supported by the notice location text facility defined in the Technical Specification for the Electronic Management System. This data must contain relevant and detailed information, specific to the application, to include the following:

- House names and numbers including where works are to start and finish.
- Proximity to fixed geographic points where house numbers or names cannot be obtained (for example, distance from a junction of another street).
- Where activities are affecting the verge, footway or carriageway (or a combination of the above).

If the activity location description of the proposed permit is considered to be inadequate the application may be refused.

7.6 Timing and Duration

Each permit application must include the proposed start and end dates of the activity. The duration is in consecutive calendar days not working days and should indicate if the activities are intended to be carried out over weekends, bank holidays or out of normal working hours.

Where activities are proposed in traffic sensitive streets, start and end times for each day should be specified within the conditions.

7.7 Illustration

Activity Promoters should provide an illustration of the activity, particularly where the activity is significant in terms of potential disruption due to its position and size.

This may include more than just major activities - a small excavation at a critical junction may be much more disruptive.

Illustrations, where provided, should be based on an extract of the plan held by the Activity Promoter showing the location of their apparatus at the site in question.

Illustrations should be sent via the Electronic Management System as an attachment wherever possible.

7.8 Techniques to be used for Underground Activities

Details of the planned techniques, such as open cut, trench share, minimum dig technique or no dig must be provided. Until such times as there is an Electronic Management System field specifically for this information, it should be included as a comment on the permit application.

7.9 Traffic Management Proposals

Details of traffic management proposals will be required within the permit application.

7.9.1 Portable Traffic Signals

Details of portable traffic signals must be contained within the permit application. If prior approval has been given this should be noted on the permit application.

7.9.2 Traffic Regulation Orders

Details of any Traffic Regulation Orders (TROs) and Temporary Traffic Regulation Orders (TTROs) will be required within the application, including any requirement for action by the Highway Authority, such as the need for, and approval of temporary road closures.

In the case of, for example, the suspension of a parking bay, bus lanes, one way systems or pedestrian crossings, the Activity Promoter should make an application to the appropriate authority.

Applicants requiring a TTRO should be aware that additional costs will be levied and the Activity Promoters should familiarise themselves with the timescales relating to TTRO applications.

A PAA must specify that an application has been made to the relevant authority for a TTRO where required.

The follow-up major works PA must confirm that a TTRO has been made by the relevant authority.

7.10 Depth

Activity Promoters must indicate if they anticipate the excavation will exceed 1.5m at the time of application. This can be added as a comment until such time that an Electronic Management System field is available specifically for this information. See Section 11.7 for Permit Variation requirements on Depth.

7.11 Inspection units

The Activity Promoter is required to indicate the estimated number of inspection units appropriate to the activity in accordance with the rules laid down in the Inspections Code of Practice and in The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.

7.12 Contact Person

The application must include the name and contact details of the person appointed by the Activity Promoter to deal with any problems that may occur during the activity, including any provision made for out-of-hours contact by the promoter.

7.13 Conditions on Permit Applications

The conditions imposed are those set out in the Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions, or subsequent statutory guidance. Where a condition or conditions are applied to permits the wording and numbering set out in the Statutory Guidance, which may be updated from time to time, must be used.

7.13.1 Specific Conditions

- There may be an exceptional circumstance where a specific circumstance means that an additional condition needs to be added to a permit that is not covered by the text of the conditions set in the statutory guidance.
- Any such condition should:-
- First be agreed with the work promoter (in line with the respective duties imposed by s59 and s60 of the 1991 Act);
- Be specific to both the circumstances of the particular activity and the locality; falls within regulation 10 (2) (a – h);
- Comply with all primary and secondary legislation regulations and that the application of any constraint within a condition does not conflict with the activity promoter's obligations under separate legislation;
- Follow this and any further DfT statutory guidance;
- Have regard to the advice provided as the Highway Authorities and Utilities Committee (England);
- Be labelled under reference 13.

7.14 Failure to Comply

Failure to comply with the above requirements may affect the response time and ultimately the success of the permit application, which may be refused.

8 PERMIT CONDITIONS

8.1 Conditions

The Permit Scheme allows for the Permit Authority to specify conditions, in line with the statutory guidance, that will be applied to permits. Any permit granted will specify in detail the activity and will reflect any conditions on the original application. If the activity strays outside

the scope of the permit it becomes subject to a variation agreement. If an agreement is not sought by the Activity Promoter, or not agreed by the Permit Authority, then the authority will be able to take appropriate enforcement action.

8.2 Breaching of Conditions

Regulation 20 of the permit regulations provides that it is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to breach a permit condition.

If the Permit Authority considers that a promoter is failing to comply with the conditions of a permit then it may revoke the permit. The Permit Authority will contact the promoter to warn them of its intention to revoke a permit, and allow the situation to be discussed.

Where it appears to the Permit Authority that a condition has been breached and that the promoter or a person contracted to act on its behalf has committed an offence, the Permit Authority will take appropriate action as described in Section 14.

8.3 Condition Types

The conditions imposed are those set out in the Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions, or subsequent statutory guidance. Where conditions are applied to permits the wording and numbering set out in the Statutory Guidance must be used.

8.4 Works for Road Purposes Conditions

- The Highway Authority is to consult with any person who has apparatus likely to be affected by the permit activities.
- The Highway Authority is to take all reasonably practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

8.5 Avoidance of Conflict with Other Legislation

The Permit Authority should try to ensure that any conditions applied to a permit do not conflict with the Activity Promoter's obligations under separate legislation. The Activity Promoter should bring such conflicts to the attention of the Permit Authority, who will then be responsible for resolving the issue with the other body and amending the permit conditions accordingly.

All parties should promote safe working practices and act reasonably and responsibly.

If the Activity Promoter has safety concerns about conditions set by the Permit Authority, it should raise these concerns with the Permit Authority, and if necessary challenge the condition.

8.6 Permit Authority Imposed Conditions

The Permit Authority may impose further conditions prior to the granting of a permit where this is deemed necessary. The imposition of such conditions will be after discussion with the promoter of the activity, and the conditions will be included in a modified application and the subsequent permit.

8.7 revisions to conditions

The statutory permit conditions have been developed and consulted on by the sector (the Highways Authority and Utilities Committee (England)). The conditions contained within the statutory guidance, or subsequent statutory guidance may be amended from time to time.

9 PERMIT APPLICATIONS

9.1 Timing of Applications

The timing of applications for permits and PAAs, and the Permit Authority's response time, will vary according to the proposed activity. The minimum times are given in Table 1 below. Activity Promoters should give as much notice as possible, so as to facilitate the coordination process. Where the activity is dependent on a Temporary Traffic Regulation Order, temporary traffic signal approval or the suspension of parking regulations, the relevant timescales should be taken in to account and applicants are advised to submit their requests for TTROs and/or temporary traffic signal approval when applying for a PAA. The application process will begin when the Permit Authority receives the applications, as defined in the Electronic Management System Specifications, not when the permit was sent.

9.2 Submitting an Application

Permit and PAA applications should be made electronically, as set down in the Technical Specification for the Electronic Management System, however if there is a failure in the electronic system, or the promoter does not have access to electronic systems, paper application will be acceptable.

9.3 System Failure

In the event of a system failure, promoters shall adopt the following procedure:

- Where, after three attempts to give an application or a notice by the Electronic Management System (duly recorded by the person serving the application or notice), the application or notice cannot be given, notification should be given by telephone or fax for immediate activities with formal Electronic Management System application or notice following as soon as reasonably practicable. Other applications or notices may be given by other electronic means (e.g. email or fax), or may be sent by post or delivered by any other method agreed with the Permit Authority.
- Where applications or notices are sent by first class post, promoters should take into account that there is no guarantee that they will be delivered to the Permit Authority the next day.
- Audit trails and systems must be set up to demonstrate proof of writing and to record delivery of permit applications.
- In the event of complete system failure, any permit variation application or information or discussion should be made by telephone to the appropriate contact given in Appendix C. The officer concerned will issue an individual reference number. This reference number must be displayed on the electronic application through the Electronic Management System following recovery of service to ensure correct cross-referencing.
- Following recovery of the service, a copy of the application or notice should be sent through the Electronic Management System to ensure information on the activities is correctly recorded in the register.
- Fixed Penalty Notices (FPNs), Section 74 charges and any other penalties that result due to system failures may be waived provided that the Activity Promoter informs the Permit Authority about the system failure.

9.4 Compliance with THE ELECTRONIC MANAGEMENT SYSTEM

All applications must comply with the definitive format and content given in the current Technical Specification for the Electronic Management System.

9.5 One Application Per Street

Each application shall refer to one activity in only one street as per Section 4.3. Where a project covers more than one street, all related applications must be cross-referenced and the project reference included on each application. Single applications containing activities in more than one street will not be accepted by the Permit Authority.

9.6 Use of Plain English

The description of activities must be in plain English, avoiding industry jargon, and standard descriptions be consistently used.

9.7 Notification to Interested Parties

Where the Additional Street Data (ASD) indicates other interested parties, the Permit Authority will check whether any parties have registered an interest prior to an application for a permit or PAA being granted, and will notify the interested party.

9.8 Communication and Publicity Requirements

- Activity Promoters must carry out necessary consultations as set down in Sections 88, 89 and 93 (as amended) and Sections 90 and 91 of the NRSWA, dealing with notification to bridge, transport and sewer authorities.
- Consultations with Network Rail are the same as with NRSWA.
- Reference must be made to the regulations current at the time.

9.9 Application and Response Times

The Permit Scheme sets down the application and response times for dealing with permit applications and variation applications in the table below. In all cases given in Table 1, the time period is measured from the time of receipt of the application by the Permit Authority, in accordance with the application and response time rules defined in the relevant section of the "Technical Specification for the Electronic Transfer of Notifications". A "response" means a decision to grant or refuse a permit, but where there are reasons why the permit cannot be granted on the terms applied for, the response indicating that a permit will not be granted on those terms will explain the reasons to the applicant.

TABLE 1: Application and Response Times

Application and response times						
ACTIVITY TYPE	Minimum application periods ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response times for issuing a permit or seeking further information or discussion		Response times to applications for permit variations
	Application for provisional advance authorisation	Application for permit		Application for provisional advance authorisation	Application for permit	
Major	3 months	10 days	2 days or 20% of the original duration whichever is longest	1 calendar month	5 days	2 days
Standard	n/a	10 days		n/a	5 days	
Minor	n/a	3 days		n/a	2 days	
Immediate	n/a	Within 2 hours		n/a	2 days	

The term “days” in the table above refer to working days as defined in NRSWA and the Regulations.

9.10 Approval of Permit Applications

If the Permit Authority is content with the proposal, it will grant a permit within the response times detailed in Table 1. The permit will be based solely on the details provided in the application that is being granted, including associated documentation, for example drawings

and any conditions imposed by the Permit Authority. A permit shall be granted in accordance with the Technical Specification for the Electronic Management System.

9.11 Refusal of Permit Applications

A Permit Authority cannot refuse legitimate activities, but does reserves the right to refuse an application for a permit or PAA where it considers elements of the application to be unacceptable, for example timing, location or conditions.

9.12 Restrictions on Activities Due to Embargoes

Where a promoter wishes to apply for a permit to carry out specified activities on a specified street where a notice has been published under Sections 58 or 58A of NRSWA, and the activities are not covered by the specific exemptions of that notice, the promoter must make an application for the Permit Authority's consent specifying the grounds on which the consent is sought. If the consent is given, the Permit Authority will provide an agreement reference number. This agreement reference number must be included in the specific Electronic Management System field for agreement details with the permit application for the permit to be approved.

9.13 Error Correction

Where the Permit Authority identifies an error in data recorded in, or submitted for recording in, the permit register, it will contact the Activity Promoter to discuss and agree the corrections to be made. Where the promoter identifies an error, they should contact the Permit Authority to discuss and agree the corrections to be made. If an error has been identified on an application, the promoter shall submit a permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the name of the person in the Permit Authority who agreed that the correction should be made. The Works Data Variation process is described in the Technical Specification for the Electronic Management System.

This procedure cannot be used without the prior agreement of both parties. A variation fee will not be applicable if the error correction is requested prior to the permit being granted by the Permit Authority. If the permit has been granted, a variation fee may be applicable.

10 APPROVAL OF PERMITS

10.1 Timing of Permit Approval

Where the Permit Authority is content with the proposal, it will grant a permit within the response times detailed in Table 1 above via the Electronic Management System.

10.2 Method of Permit Granting

A permit will be granted electronically in accordance with the formats given in the Technical Specification for the Electronic Management System with the details placed on the permit register and copies supplied to any promoter, authority or other relevant body that has asked to be informed about activities on a particular street. The permit will specify in detail the activity it allows and its duration. Once the Permit Authority has been notified of a promoter's system failure, the Permit Authority will contact the Activity Promoter and agree an alternative method by which permit should be sent.

10.3 Inclusion of Conditions

A permit will be sent electronically to the promoter for every permit that is granted and will include all the conditions identified in the application that is being granted.

10.4 Days of Work

To prevent ambiguity as to whether the permit is valid, even at weekends or on Bank Holidays, the start and end dates should be in calendar days. This is important for the operation and enforcement of Permit Schemes given the penalties for working without a permit.

If the permit allows working at weekends or on Bank Holidays, the permit start and end dates should accommodate that, even if those days do not count towards the reasonable period for Section 74 of NRSWA or the starting window.

It should be noted that if the permit states that the works should start on Monday and finish on Friday, the weekend cannot be used as additional days without the express approval of the Permit Authority by means of a permit variation.

10.5 Permit Unique Reference Number

All permits will be given a unique reference number in line with the Electronic Management System Technical Specifications and permits granted for linked activities will include the common project reference to enable them to be cross-referenced.

10.6 Remedial Work

In the event of remedial activities being required after the expiry of the permit, an application must be made for a new permit. The new permit must be cross-referenced to the permit for the original activity, always using the original Electronic Management System activity reference used in the first and subsequent phases.

10.7 Notification of Refusal

If, having considered an application for a permit or PAA, the Permit Authority decides to refuse the application, the permit refusal will be sent electronically in accordance with the formats given in the Technical Specification for the Electronic Management System. It will explain precisely why the application is unsatisfactory and which aspects need modification.

10.8 Right of Appeal

The Activity Promoter has a right of appeal, in accordance with the dispute resolution process set down in the Code of Practice for Permits. If it is not possible for the Activity Promoter to reach a satisfactory resolution in discussions with the Permit Authority, it may be necessary for the activity to stop until the issues are resolved. In the case of immediate activities, stopping the activity may be subject to safety and legal considerations.

10.9 Permit Application Deemed to be Approved

If the Permit Authority fails to reply to an application for a permit or PAA within the designated response times, the permit or PAA is deemed to be granted on the terms of the application. The proposed start and end dates, description, location, duration, traffic management etc. will be included in the permit and associated conditions for the activity and will then be binding on the Activity Promoter in the same manner as if the permit had been granted within the

timescale. Breaching the conditions will constitute an offence. In cases of deemed permits, no permit fee will be applicable.

10.10 Amendment to the Original Application

Where the Permit Authority discusses its intention with the Activity Promoter to impose further conditions, which effectively amend the details of the original application, the Activity Promoter shall modify and resubmit the application. There will be no charge for the variation if instigated by the Permit Authority. If the variation is instigated by the promoter, permit variation charges will apply if the preceding application has already been granted. A fee will not be charged for a varied application that is submitted before the preceding application has been granted.

11 REVIEW, VARIATION AND REVOCATION OF PERMITS AND PERMIT CONDITIONS

11.1 Permit Authority Powers

Within the Permit Scheme, the Permit Authority has the power, under Regulation 15 of The Traffic Management Permit Scheme (England) Regulations 2007, to review, vary or revoke permits and permit conditions on its own or a promoter's initiative. However, the Permit Authority is under no obligation to let activities run beyond the permitted period and any activities which exceed the allowable duration will potentially be subject to overrun charges under Section 74 of NRSWA.

11.2 General Principles

Changing circumstance, for either a promoter or for the Permit Authority may require permits and/or conditions attached to them to be modified.

The promoter might request a change if new information comes to light, an unexpected event occurs or discoveries are made on site meaning that they need to alter their original plans or duration of the activity. The promoter must submit an application for a permit variation and, if approved, the Permit Authority will grant a new permit incorporating the variation.

The Permit Authority may take the initiative if, for example, an unexpected event on the network occurs so that planned activities, or those activities already under way, have to be reconsidered. The Permit Authority will discuss with a promoter whether the promoter will submit a permit variation application or whether the Permit Authority will grant a new permit based on an authority imposed variation, incorporating any changes. No fee will be charged for a variation imposed by the Permit Authority.

11.3 Avoidance of Criminal Offence

It is important that variations are sought when changes are needed as working without a permit or outside the conditions imposed is a criminal offence.

11.4 Changes to a Provisional Advance Authorisation

A Provisional Advance Authorisation cannot be varied, however, the Permit Authority will allow for a reasonable adjustment of start and end dates when the Permit Application is made. If a full permit has not yet been granted, the promoter should discuss the proposed changes with the Permit Authority to ascertain whether a revised PAA is required or whether the changes are acceptable for a Permit to be applied for.

11.5 Timing of Variation

Applications for variations may be made at any time after the permit has been granted and any time before or during the activity. Application for variations cannot be made after the end date has passed.

11.5.1 Electronic Application for a Variation

Where the existing permit has more than 20% of its duration or more than two working days to run, whichever is the longer, the promoter must apply for a variation electronically via the Electronic Management System. Promoters are strongly encouraged to telephone the Permit Authority prior to submitting an electronic variation regardless of the remaining duration on the existing permit.

11.5.2 Telephone Application for a Variation

Where the criteria in Section 11.5.1 is not met, the promoter must first telephone the Permit Authority to determine whether the authority is prepared to grant a variation and then must apply electronically via the Electronic Management System, if the authority agrees. In any case, a permit variation will not be granted if the end date has already passed.

11.5.3 Electronic Systems Failure

In the event of an electronic systems failure, applications must be sent another way, for example fax or post. These alternatives are the same as with the NRSWA notification systems as specified in the Technical Specification of the Electronic Management System. Promoters are strongly encouraged to email wherever possible and must notify the Permit Authority of the electronic system failure within one working day. Should the promoter fail to inform the Permit Authority of such systems failures within the specified timescale the permit/variation applications may be subject to a fixed penalty notice.

11.6 Variations for Multiple Excavations and Immediate Activities

Activities can be particularly subject to change where a promoter has to make several excavations or registerable openings in the street to locate a fault. An example is where gas has migrated along a duct to emerge from the ground some distance from the actual leak. A series of excavations or openings have to be made from where the symptoms are apparent to trace the point of the fault. In normal circumstances every new excavation would require a permit variation. The arrangements below aim to avoid a succession of variations as each hole is dug. Nonetheless it is important that the Permit Authority knows what is going on so that it can coordinate and manage these and other activities in the area. As immediate activities, the promoter will submit the first permit application containing the location of the initial excavation or opening within two hours of starting work.

- The promoter will have to apply for a permit variation for the first excavation in each further 50 metre band away from the original hole in the same street, i.e. 50-100 metres, 100-150 metres etc. Standard variation charges can be applied, although the Permit Authority may opt to waive such charges as a general rule, or for particular cases. Separate variations would be required for bands going in opposite directions.
- If the search carries into a different street, or a new USRN (including if the street changes to a different authority), then a separate permit application is needed.
- If the promoter cannot contact the authority by telephone it should record that and send the message electronically.

11.7 Information Required for Variation Application

Applications for permit variations must contain the following information as applicable:

- Any agreement reference number provided by the Permit Authority.
- The revised timescale.
- Any change to the description of the activity.
- A revised scope of works.
- Any change to the method of excavation.
- Any variation to the depth of the excavation from less than 1.5m to more than 1.5 m
- Any changes to the conditions, if applicable.
- Change to Traffic Management
- Need for a TTRO when not thought to be required
- Any change to the location of the actual excavation to that stated on the original application.

11.8 Variation/Review of Permit by Permit Authority Due to Unforeseen Circumstances

The Permit Authority may review the permit and associated conditions in the event of unforeseen circumstances having a significant disruptive effect at the location of the activity. The Permit Authority's policy regarding the circumstances in which it will review, vary or revoke permits on its own initiative is given in Appendix D. No fee will apply for permit variations initiated by the Permit Authority unless, at the same time, the Activity Promoter applies for permit variations which are not the result of the circumstances causing the Permit Authority's action.

11.9 Reaching Agreement

If the promoter initiates a permit variation the promoter must first telephone the Permit Authority to determine whether the authority is prepared to grant a variation as per Section 11.5.

If the Permit Authority considers a variation necessary then it should contact the Activity Promoter to discuss the best way of dealing with the situation whilst meeting the coordination duties and other statutory requirements of those involved.

Good coordination and cooperation between promoters and the Permit Authority will minimise the times that the authority needs to vary permits or their conditions. This will be in the interests of all parties.

11.10 If an Agreement Cannot be Reached

If agreement cannot be reached, the Permit Authority may issue an authority imposed variation on the terms it considers reasonable, but the promoter would have the option to invoke the dispute resolution procedure.

11.11 Review of Permit Due to Non-compliance by the Promoter

If the Permit Authority considers that an Activity Promoter is failing to comply with the conditions of a permit, it may issue an FPN or revoke the permit. Before revoking a permit, the Permit Authority will contact the Activity Promoter to inform them of its intention and initiate a discussion.

11.12 Working after Permit has been revoked

An Activity Promoter will be committing an offence if it continues an activity when a permit has been revoked.

12 SUSPENSION, POSTPONEMENT OR CANCELLATION OF A PERMIT

12.1 Suspending or Postponing an Activity

There is no mechanism for formally suspending or postponing a permit. Should the activity need to occur at a later date once a permit has already been approved then the promoter must cancel the permit and reapply for a new permit. Permit fees apply to the new permit application.

12.2 Cancelling a Permit

If a promoter wishes to cancel a permit for which it has no further use, or to cancel or withdraw an application that has been submitted but for which a permit has not yet been granted, it should use the cancellation notice containing the relevant permit number – see Technical Specification for the Electronic Management System. No fee is payable for cancellations, however, permits already granted will still be charged.

12.3 Continuing to Work Following Cancellation of a Permit

An Activity Promoter will be committing an offence if it continues to work after a permit has been cancelled.

13 FEES

13.1 Permit Authority's Power to Charge Fees

The Traffic Management Act, Section 37 (7) and Regulation 30 of The Traffic Management Permit Scheme (England) Regulations 2007 give the Permit Authority the power to charge a fee in respect of the following:

- The application for a PAA in respect of major activities.
- The granting of a permit.
- Each occasion where there is a variation of a permit or the conditions attached.
- Where a permit variation would move an activity into a higher category, the promoter will be required to pay the difference between the permit fee for the two categories as well as the permit variation fee.

The current approved fee level for permits and permit variations, including variation fees, are given in Annex 1 and reflect costs over and above the cost of running the current noticing system.

13.2 Allowable costs and fees

The income from fees shall not exceed the total allowable costs prescribed in the permit regulations. The allowable costs of the complete scheme and its overall income have to be balanced. This balance can be achieved over several years.

Allowable costs are limited to:

- the proportion of direct costs and overheads attributable to operating the scheme for undertakers
- the element of those costs that are over and above the cost of the authority's co-ordination duty under NRSWA

This includes the costs of dealing with:

- activities which required a permit but for which no permit was sought
- proposed activities which would be subject to a permit but which do not lead to an application, for example, activity planning involving the authority which is later abandoned

Overheads can include:

- non-salary staff-related costs such as pensions and benefits
- appropriate allocation of accommodation costs
- appropriate allocation of central services costs
- appropriate share of IT costs (software and hardware)
- general administration and management
- monitoring the permit system and the production of KPIs
- invoicing

13.3 Fee Policy

The Permit Authority will charge undertakers for the above actions, as per Section 13.9 below.

13.4 Where Fees Will Not be Payable

Fees will not be payable in the following circumstances:

- If the promoter is a Highway Authority in respect of its own works for road purposes, but records of all permits granted and the fees that could have been charged will be kept in order to assist in the review of fees referred to in Section 13.8.
- Where a permit is deemed to be granted because the Permit Authority failed to respond to an application within the time set down in Section 9.9.
- If a permit variation is initiated by the Permit Authority, an Authority Imposed Variation, or the authority has to revoke a permit through no fault of the promoter.
- Where the promoter has applied for an optional permit (as described in Section 4.2.1).
- Where the Activity Promoter has sent a cancellation before the permit has been approved by the Permit Authority.

13.5 Reduced Fees

Fee discounts will be given in the following circumstances:

- Where the promoter submits more than one separate PAA or permit application at the same time (or within 3 working days) for activities that are part of the same project but are carried out on more than one street, a discount will be applied to each PAA or permit. The term 'project' does not cover area-wide activities but activities of a scale that could be carried out in one street, but happen to cover two or more streets.
- Where works are undertaken in collaboration with other works promoters and several promoters are working within the same site submit applications at the same time. The primary promoter will require a permit with full information about the activities, and the other promoters will require a permit so that the authority knows who is working there.
- Where the Highway Authority promoter is collaborating with undertakers, those undertakers will be eligible for the discount.
- Where any Activity on traffic sensitive streets is carried out wholly outside of traffic sensitive times

13.6 Rate of Discount`

A discount of 30% will be applied to each permit in the above circumstances.

13.7 Option to Waive or Reduce Fees

The Permit Authority has the power to waive or reduce fees at its discretion in other circumstances.

13.8 Review of Fees

The Permit Authority will review its scale of fees annually to ensure that the overall fee income does not exceed the allowable costs. The outcome of the annual fee reviews will be published and open to public scrutiny.

13.9 Permit Fees Level

The current approved fee level for permits is contained in a separate Permit Scheme Fees Table document available on the Permit Authority's website.

Fees for permit variation, including variations to conditions, are given

is contained in a separate Permit Scheme Fees Table document available on the Permit Authority's website.

- If a permit variation moves an activity into a higher fee category, the promoter must pay the difference in permit fee as well as the permit variation fee.
- The full fee will be charged following a variation and/or if activities are found to be working at traffic sensitive times in a traffic sensitive street.
- No fee is payable if a permit variation is initiated by the Permit Authority.

13.10 Processing of Fees

- Monthly invoices will be issued to each Activity Promoter, with all permits referenced.

- A summary will be issued to each promoter every two weeks so that amounts can be confirmed before the invoice is raised so as to avoid late payments.
- Each promoter is required to provide an email contact to where the summary can be sent.

13.11 Use of Income

It is not the intention of the Permit Authority to generate surplus from this Permit Scheme. Income will only be used to cover the cost of administration and operation of the scheme.

The administration of permits obtained on behalf of the Highway Authority do not form part of the fee structure calculation for this Permit Scheme.

13.12 Fees Review

The permit fees are based on Officer time and additional operating costs involved in processing street works permit applications and the Permit Authority will review permit and variation fees annually to satisfy themselves that there is no significant variation between the expected income and expenditure. Following a fees review the fees may be adjusted where either a surplus or deficit exists to ensure that a balance of cost and income is achieved over a number of years.

The outcome of annual fee reviews will be published and open to public scrutiny.

14 SANCTIONS

14.1 Permit Authority's Policy

Appendix E sets out how the Permit Authority will employ sanctions, and should be read in conjunction with this section, together with current NRSWA legislation and the Code of Practice for Permits.

14.2 Undertaking Activities Without a Permit

It is a criminal offence for a statutory undertaker, or a person contracted to act on its behalf, to undertake specified activities in a specified street in the absence of a permit, except as set down in Section 4.2.

Any person found guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

14.3 Breaching a Permit Condition

It is a criminal offence for a statutory undertaker, or a person contracted to act on its behalf, to breach a permit condition.

Any person found guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

14.4 Action by Permit Authority

The regulations empower the authority to issue a notice requiring remedial action within a set timeframe if the promoter is working without a permit or in breach of any conditions. This replaces the power under Section 66 of NRSWA.

The remedial action could include removing the activity, remedying the breach of conditions or discontinuing any obstruction.

Where a statutory undertaker, or a person contracted to act on its behalf, undertakes activities for which a permit is required, without a permit, or breaches a permit condition, the Permit Authority may take one of the following courses of action depending on the seriousness and persistence of the offences:

- Serve a notice requiring that statutory undertaker to take such reasonable steps as detailed in the notice to remedy the situation within a specified timescale. Where a statutory undertaker fails to comply with the requirements of such a notice within the timescale the Permit Authority may undertake any steps as it considers appropriate to achieve the outcome in the notice, and may recover any costs that are reasonably incurred from the statutory undertaker **OR**
- Issue a Fixed Penalty Notice, (FPN), against the statutory undertaker **OR**
- Prosecute the statutory undertaker.

Prosecution and Fixed Penalty Notices

The Permit Authority may prosecute any offence through the courts. Normally the decision as to whether an offence will be dealt with by FPN or through the courts will be taken at the outset, however prosecution should not necessarily be the preferred option as the process is time-consuming and even FPNs do not offer an immediate solution. Other remedial options should be considered in the first instance, depending on the seriousness and persistence of offences.

14.5 Other NRSWA Offences

Any offences relating to other sections of NRSWA, which run in parallel to Permit Schemes will continue to apply. These include offences relating to reinstatements, overrunning and failure to send appropriate notices.

15 OVERRUN CHARGING REGIME

15.1 Section 74

Section 74 of NRSWA enables Highway Authorities to charge undertakers if their activities in the publicly maintained highway are unreasonably prolonged. Buckinghamshire County Council intends to run a scheme for overrun charges under Section 74 of NRSWA to operate alongside the Permit Scheme.

The requirements for overrun charges are set out in the regulations made under Section 74 of NRSWA (the Section 74 regulations). The Section 74 regulations may be subject to change from time to time in which case the amended or replacement regulations will apply. For details of the Section 74 operation, reference must be made to the regulations current at the time.

The Section 74 regulations current at the time will continue to apply but the operation of the overstaying regime is modified under the Buckinghamshire County Council Permit Scheme to incorporate the process of setting and modifying the duration of the activity (or “works” in Section 74 terms) through the permit application, approval and variation processes.

Activities carried out by an Activity Promoter on behalf of a Highway Authority, or by the Highway Authority themselves, are not subject to Section 74 overrun charges. However, under the Buckinghamshire County Council Permit Scheme, promoters of such activities will be required to follow the same procedures as promoters who are undertakers.

15.2 Charging Regime

The charges are set in Section 74 of the Regulations and any other Regulations or Codes of Practice that apply at the time

The Highway Authority will endeavour to ensure that the facts used for proposing charges are accurate and in line with the current regulations.

Where the works promoter can provide evidence that the dates given in Section 74 notices are incorrect, the charges applied will be based on the evidence. If incorrect information has been given in a notice and proven by the works promoter, the Highway Authority may issue an FPN if it considers that an offence has been committed. The burden of proof is with the works promoter to prove that a physical overrun has not occurred in these circumstances. If no evidence can be provided, Section 74 charges will be applied in relation to the information provided in the notice.

15.3 Remedial Works

Remedial works to rectify defective reinstatements will be dealt with as a new activity with its own permit, following the full procedures accordingly.

Any overrun on remedial works will be charged at the rate appropriate as set out in the Section 74 regulations

15.4 Separation of Permit Fee Accounts

Section 74 overrun charges and Permit Scheme fees will be kept in separate accounts for audit purposes.

16 FIXED PENALTY NOTICES

The permit regulations provide for certain offences under Part 3 of the TMA to become fixed penalty offences. This means that they can be dealt with by FPNs. Fixed Penalty Notices offer the offender an opportunity to discharge criminal liability for an offence by paying a penalty amount, although prosecution through the Magistrates' Courts remains an option for Permit Authorities. Reference should be made to regulations current at the time.

17 REGISTERS

17.1 Register of Permits

The Permit Authority will maintain a register of permits in connection with the Permit Scheme and in accordance with Regulation 33 and 34, Part 7 of the Regulations.

The Permit Scheme requires each Permit Authority to maintain a register of each street covered by their Permit Scheme. The register should contain information about all registerable activities on those streets and forward planning information about activities and other events, which could potentially affect users of the streets.

Permit Authorities will still need a register under Section 53 of NRSWA for street information.

This will cover those streets that are not part of the Permit Scheme, including non-maintainable streets.

A local register will be maintained by each of the Street Authorities for its own geographic area. It will include information on all streets other than those streets that are the responsibility of another authority.

17.2 Referencing of Information

All information held in the register of permits will be referenced to the USRN and the permit register will be Geographic Information System (GIS) based.

18 KEY PERFORMANCE INDICATORS

18.1 Monitoring and Evaluating the Permit Scheme

The Permit Authority must demonstrate parity of treatment for all Activity Promoters, particularly statutory undertakers and the Highway Authority's own promoters. Equality will be measured through Key Performance Indicators (KPIs).

18.2 Use of Key Performance Indicators

The following KPIs will be used to measure parity - KPI1 and KPI2 are mandatory and KPI3 and KPI7 are the additional ones that will be measured.

- KPI 1 - The number of permits and permit variation applications received, the number granted and the number refused.
- KPI 2 - The number of conditions applied by condition type.
- KPI 3 - The number of approved permit variations (extensions).
- KPI 7 - The number of inspections carried out to monitor conditions.

Further KPIs may be introduced depending upon national guidance.

18.3 Mandatory KPIs

KPI 1: The number of permit and permit variation applications received, the number granted and the number refused

This will be measured by promoter and shown as:

- The total number of permit and permit variation applications received, excluding any applications that are subsequently withdrawn.
- The number granted as a percentage of the total applications made.
- The number refused as a percentage of the total applications made.
- This will be a core indicator of the operation of the permit system.

KPI 2: The number of conditions applied by condition type

This will be measured by promoter and shown as:

- The number of permits granted
- The number of conditions applied, broken down into condition types. The number of each type being shown as a percentage of the total permits granted.

This KPI is dependent upon the use of standard conditions. Local or specific conditions should be grouped into a single category that may be analysed more fully if required.

The number and types of condition applied are likely to be determined by the specific location, scale and category of the activities. There will be a need to separate the data to get down to reasonably equivalent situations. For example, if for minor activities on category 2 streets, one promoter had an average of four conditions and another had an average of seven conditions, then that would suggest an imbalance. Similarly, if one promoter had conditions for restricted hours of working on traffic-sensitive streets in 90% of cases and another had such conditions in only 60% of cases, then that would raise a question.

18.4 Presentation of KPIs to Coordination Meetings & Evaluating the Permit Scheme

The KPIs will be discussed at the quarterly Local and County HAUC coordination meetings as appropriate and will be made available to any other person on request, or the authority may wish to publish them on their website.

The Permit Authority shall evaluate the scheme following the first, second and third anniversary respectively of the date it came into effect and every third year thereafter

The evaluation shall include consideration of the following;

- Whether the fees structure needs to be changes in light of any surplus or deficit
- The cost and benefit (whether or not financial) of operating a permit scheme
- Whether the permit scheme is meeting its key performance indicators where these are set out in the Guidance
- The outcome of each evaluation shall be made available to persons referred to in regulation 3 (1) within three months of the relevant anniversary.

19 APPENDIX A DISAPPLICATION AND MODIFICATION OF NRSWA

Disapplication of NRSWA

The permit regulations disapply or modify certain sections of NRSWA. In permit areas the duties of Activity Promoters and Street Authorities under the following sections of NRSWA are replaced by equivalent duties imposed under Part 3 of the TMA and the Regulations.

Promoters' duties - disapplied sections of NRSWA			
NRSWA Section		Change	Permit Regulations – Revised Arrangements
S 53	The street works register	Disapplied	Permit regulations prescribe similar provisions for permit registers.
S 54	Advance notice of certain works	Disapplied	Replaced by applications for provisional advance authorisation.
S 55	Notice of starting date	Disapplied	Replaced by applications for permits.
S 56	Power to direct timing of street works	Disapplied	Replaced by permit conditions and variations, including those initiated by the Permit Authority.
S 57	Notice of emergency works	Disapplied	Replaced by applications for immediate activities.
S 66	Avoidance of unnecessary delay or obstruction	Disapplied	Replaced by equivalent provisions for permit authorities to require promoters in breach of the permit requirements to take remedial action and failing that for the

Buckinghamshire County Council

Proposed Modified Permit Scheme for Road Works and Street Works

			Permit Authority to act. 24-hour compliance period to be replaced with a requirement for promoters to comply within a reasonable specified period determined by the circumstances.
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Modifications to NRSWA

The Permit Regulations modify the following sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices:

Promoters' duties – modifications to NRSWA			
NRSWA Section	Change	Permit Regulations - Revised Arrangements	
S 58	Restriction on works following substantial road works	Modified	The authority's ability to grant permits with start and end dates replaces directions to start work covered in S 58 (5) to (78). The regulations provide the equivalent of S 58A powers by allowing authorities to take into account whether promoters responded to the S 58 notice by submitting an application for their planned activities.
S 58A	Restriction on works following substantial street works	Modified	Schedule 3A is modified to work in conjunction with permits.
S 64	Traffic-sensitive streets	Modified	Permit regulations provide that permit applicant are notified of proposals to designate streets as traffic-sensitive streets.
S 69	Works likely to affect other apparatus in the street	Effectively extended	Permit regulations create an equivalent requirement on Highway Authority promoters.
S 74	Charge for occupation of the highway where	Modified	Permit regulations make provision to operate in parallel with permits.

	works are unreasonably prolonged		
S 88	Bridge, bridge authorities and related matters	Modified	Modified to work in conjunction with permits.
S 89	Public sewers, sewer authorities and related matters	Modified	Modified to work in conjunction with permits.
S 90	Provisions as to reinstatement of sewers, drains or tunnels	Modified	Modified to work in conjunction with permits.
S 93	Works affecting level crossings or tramways	Modified	Modified to work in conjunction with permits.
S 105	Minor Definitions	Modified	Modified to work in conjunction with permits
Schedule 3A	Restrictions following substantial street works	Modified	Modified to work in conjunction with permits

Other Restrictions

NRSWA imposes various restrictions on all undertakers, such as procedures for working on streets with special engineering difficulties or near to level crossings. To maintain equal treatment for all promoters under Permit Schemes, authorities should apply equivalent requirements to Highway Authority promoters, even though they may be part of the same local authority, as they do to utilities and other promoters.

The TMA aims to mandate the *Safety Code of Practice*, issued under Section 65 of NRSWA, in the longer term. Section 71 of the TMA makes provision for this but until it is implemented authority Activity Promoters are encouraged to comply with the safety code within the permit regime. It is suggested that Permit Authorities attach a condition, to this effect, to permits for highway activities.

20 APPENDIX B THE STREET GAZETTEER AND ADDITIONAL STREET DATA

The Street Gazetteer and Additional Street Data

Introduction

The Permit Authority will produce a Local Street Gazetteer (LSG) and a copy is held centrally by the NSG Concessionaire. The gazetteer contains the information about the streets in Permit Authorities' geographical area. The Permit Authority will create, maintain and publish the LSG to Level 3.

Identification of Permit Street

Systems used by Activity Promoters will need to define if a particular activity is subject to the existing NRSWA noticing rules or this Permit Scheme. To achieve this, the Permit Authority has defined a specific operational district as the Permit Authority. The OD file for this district is set in accordance with current procedures as defined within the Electronic Management System Technical Specification and by the National Street Gazetteer Concessionaire.

NRSWA notices should continue to be sent to the primary notice authority for the street until the Permit Scheme goes live.

Additional Street Data

Additional Street Data (ASD) refers to other information about streets held on the NSG Concessionaire's website alongside the NSG data. The Permit Authority shall provide the following information for the ASD:

- a) The Street Authority responsible for maintaining the street;
- b) Whether the street is publicly maintainable, prospectively publicly maintainable, or private;
- c) Whether the street is covered by this Permit Scheme or the NRSWA notification regime;
- d) Any other authorities and Activity Promoters with an interest in the street;
- e) The street reinstatement category;
- f) Designations of protected streets;
- g) Designations of streets with special engineering difficulty;
- h) Designations of traffic sensitive streets;
- i) Whether the street is subject to early notification of immediate activities;
- j) Where possible, streets on which it might be expected that Section 56A directions may be used (conditions relating to the non use of that street for new apparatus, but not the maintenance of existing apparatus);
- k) Other features of the street. This may include information about structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc;
- l) Designations may cover only part of a street or may vary along a street. The relevant detail will be recorded in the ASD.

Items (a) to (h) are mandatory and (i) to (l) are optional.

21 APPENDIX C INFORMATION AND CONTACT DETAILS

PERMIT AUTHORITY INFORMATION AND CONTACT DETAILS

Buckinghamshire County Council is the local authority for the county of Buckinghamshire. Its area of control does not include Milton Keynes, which is a unitary authority.

For up-to-date information on the Buckinghamshire Permit Scheme and a full list of contact information and mandatory and standardised permit conditions and related matters go to <http://www.buckscc.gov.uk> and follow the links to the Buckinghamshire Scheme.

22 APPENDIX D POLICY STATEMENT

Policy Statement – Circumstances, in which the Permit Authority will review, vary or revoke permits on its own initiative

Once a permit has been granted, the Activity Promoter should have reasonable confidence that the road space will be available for them. However, circumstances beyond the Permit Authority's control may occur which may cause the Permit Authority to review the permit and, as a result, may lead to the conclusion that the permit or its conditions need to be varied or revoked.

The Permit Authority's policy is to avoid making such variations other than in exceptional circumstances which could not reasonably have been predicted or where the impact is significant. Such events may include floods and other adverse weather conditions, burst mains, dangerous buildings, etc., which may result in traffic being diverted on to the road where the activity was underway or about to start.

If the consequent disruption of such events cannot be mitigated in a way other than by changing or revoking the permit, the Permit Authority will adopt the following procedure:

- (i) As soon as the Permit Authority is aware that it may be necessary to vary or revoke a permit, it will contact the Activity Promoter to discuss the best way of dealing with the situation.
- (ii) If these discussions lead to an acceptable solution for both the Permit Authority and the promoter, the authority will either grant an Authority Imposed Variation incorporating the agreed changes or the promoter can apply for a permit variation from which the authority will grant the new permit.
- (iii) In the event that agreement cannot be reached, the Permit Authority will grant an Authority Imposed Variation on the terms it considers reasonable but the promoter would have the option of invoking the dispute resolution procedure
- (iv) No fee will be charged for variations or the revoking of a permit where it is initiated by the Permit Authority unless, at the same time, the promoter seeks variations which are not the result of the circumstances causing the Permit Authority's action.

The above policy does not restrict the Permit Authority from revoking a permit if the Activity Promoter is considered to be acting unreasonably and causing unnecessary disruption to the flow of traffic or pedestrians.

23 APPENDIX E SANCTIONS

Employment of Sanctions.

Failure to obtain a permit, where one is required to undertake specified activities in a specified street, or to commit a breach of a permit condition, constitutes a criminal offence under the Regulations. The Permit Authority is empowered to employ three courses of action to achieve compliance with the Permit Scheme.

- An intervention power (remedial action)
- Fixed Penalty Notices
- Prosecution

Before resorting to these courses of action, the Permit Authority will always endeavour to resolve problems and achieve the necessary compliance within the Permit Scheme by informal negotiation with the Activity Promoter concerned.

Where it is not possible to informally resolve the situation with the Activity Promoter, the Permit Authority will initially serve a notice on the promoter in respect of the non-compliance setting down the action that is to be taken within a set timescale.

Failure of the promoter to positively respond to such a notice may result in the Permit Authority carrying out the required action and recovering all reasonably incurred costs from the promoter.

As a last resort, and dependant on the seriousness and persistence of the offence, the Permit Authority may either issue a Fixed Penalty Notice or commence legal proceedings against the promoter.

24 APPENDIX F GLOSSARY

GLOSSARY OF TERMS

Term	Explanation
Activity	Any works undertaken by statutory undertakers and the Highway Authority, and any other works that may be covered in future regulations. An activity is defined, within the scope of this scheme, as one project which may involve multiple excavations in the same street as pre-defined by the works promoter in the permit application. Activities not related to this project are to be classified as a separate activity and will require a separate permit.
Activity Promoter	See promoter
Additional street data	Additional Street Data (ASD) refers to other information about streets held on the NSG concessionaire's website alongside the NSG
Apparatus	As defined in Section 105(1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus"
Appeal	If there is an unresolved disagreement between the Activity Promoter and the Permit Authority about the terms and conditions of the permit or PAA, the promoter may appeal against the Permit Authority's decision.
Bank holiday	As defined in Section 98(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated"
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)
Bridge	As it says in Section 88(1)(a) of NRSWA, "references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street"
Bridge Authority	As defined in Section 88(1)(b) of NRSWA, "bridge authority means the authority, body or person in whom a bridge is vested"
Carriageway	As defined in Section 329 of HA 1980, "carriageway means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles"

Code of Practice for Permits	As published by the Department for Transport March 2008
Collaborative working	Includes trench sharing, multi-utility working, utility/works for road purposes situations and compliance testing.
Cycle track	As defined in Section 329 of the HA 1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot"
Day	A working day, unless explicitly stated otherwise
Emergency works	As defined in Section 52 of NRSWA, "emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property"
Electronic Management System	The system for passing notices. Permit applications, permits and other information between promoters and the Permit Authority.
Excavation	"Breaking up" (as defined above)
Fixed Penalty Notice	As defined in Schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty"
Footway	As defined in Section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only"
Geographical Information System (GIS)	A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface
Guidance	Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions dated March 2015 issued by the Secretary of State pursuant to section 33(5)(b) of the 2004 Act.
HA 1980	The Highways Act 1980
Highway	As defined in Section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway"
Highway Authority	As defined in Sections 1 and 329 of the HA 1980
Highway works	"Works for road purposes" or "major highway works"

Immediate activities	As stated in Section 9.2.4, immediate activities are either emergency works as defined in Section 52 of NRSWA or urgent works as defined in <i>The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007</i>
In	As defined in Section 105(1) of NRSWA, "in, in a context referring to works, apparatus or other property in a street or other place includes a reference to works, apparatus or other property under, over, along or upon it"
Local Authority	As defined in Section 270(1) of the Local Government Act 1972(a) and includes the Common Council of the City of London.
Local Highway Authority	As defined in Section 329 of HA 1980, "local highway authority means a highway authority other than the Minister"
Main roads	All streets in reinstatement categories 0, 1 and 2 and those streets in categories 3 and 4 which are traffic sensitive for all or part of the time
Maintainable highway	As defined in Section 329 of HA 1980, a "highway maintainable at the public expense means a highway which by virtue of Section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense"
Maintenance	As defined in Section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly"
Major activities	As stated in Section 9.2.1 of the Code of Practice for Permits, major activities are activities which have been identified in a promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; <i>or</i> activities, other than immediate activities, where (i) the authority has indicated to the promoter, or (ii) the promoter considers, that an order under section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; <i>or</i> activities, other than immediate activities, which have a planned duration of 11 days or more"
Major highway works	As defined in Section 86(3) of NRSWA, "major highway works means works of any of the following descriptions executed by the Highway Authority in relation to a highway which consists of or includes a carriageway - (a) a reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by Section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of Section 90F of the Highways Act 1980; (f) works

	carried out in exercise of the powers conferred by Section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway"
Minor activities	As stated in Section 9.2.3, minor activities are those activities other than immediate activities where the planned duration is 3 days or less.
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
National grid reference)	Location reference using nationally defined eastings and northings.
Nationally consistent Street gazetteer (NSG)	A database defined as an "index of streets and their Street gazetteer (NSG) geographical locations created and maintained by the local highway authorities" based on BS 7666 standard.
NRSWA	New Roads and Street Works Act 1991.
NSG Concessionaire	The body appointed to manage the NSG on behalf of the local highway authorities.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Order	A document signed by a person authorised by the Permit Authority to give effect to , vary or revoke a permit scheme
Permit	The approval of a Permit Authority for an Activity Promoter to carry out activity in the highway subject to conditions.
Permit application	See Section 9. The application that is made by a promoter to the authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (Section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	'Permit Authority' in relation to a permit scheme, means the relevant local highway authority or strategic highway company which has prepared a permit scheme under section 33(1) or (2) of the 2004 Act.
Permit Scheme	An approved scheme by Order under which permits for activities are sought and given
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the Permit Scheme. The promoter will usually be a statutory undertaker or the highway or traffic authority.

Protected Street	Any street that serves a specific strategic major traffic need and therefore needs to be protected from unnecessary excavation and works and providing there is a reasonable alternative route in which undertakers can place the equipment that would otherwise lawfully have been placed in the protected street.
Provisional Advance Authorisation	See Section 5.1. The early approval of activities in the highway, equivalent to the advance notice given under Section 54 of NRSWA.
Registerable	Registerable activities correspond to specified works in the regulations.
Reinstatement	As defined in Section 105(1) of NRSWA, "reinstatement includes making good".
Relevant authority	As defined in Section 49(6) of NRSWA, "references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority"
Remedial work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and regulations.
Road	See "highway".
Road works	Works for road purposes.
Special Engineering Difficulties (SED)	By virtue of Section 63 of NRSWA, the term special engineering difficulties relates to streets or, more commonly, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.
Specified Area	That geographical area to which the Permit Scheme applies.
Specified Street	Those streets to which the Permit Scheme applies.
SROH	Specification for Reinstatement of Openings in the Highway
Standard activities	Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive.
Statutory undertaker	A person entitled by virtue of a statutory right to carry out street works.

Strategically significant streets	Defined as including traffic sensitive streets as defined under Regulation 16 of The Street Works (Registers, Notices, Directions and Designations)(England) Regulations 2007 as well as streets which fall into reinstatement categories 0,1,or 2 as defined in Section 1.3 of the Statutory Reinstatement on Highways 2010.
Street	As defined in Section 48(1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not".
Street Authority	As defined in Section 49(1) of NRSWA, "the street authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the highway authority, and (b) if the street is not a maintainable highway, the street managers".
Street works	As defined in Section 48(3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".
Street works licence	As stated in Section 50(1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
TMA	The Traffic Management Act 2004.
Traffic	As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals"
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works"
Traffic regulation order	This means an order made under Section 1, 6 or 9 of the Road Traffic Regulation Act 1984.
Traffic sensitive street	A street designated as traffic- sensitive under section 64 of the New Roads and Streetworks Act 1991(a)
Traffic sensitive time	(a) the times or dates specified in the case of a limited

	designation; and (b) any time in any other case.
Transport Authority	As defined in Section 91(1) (a) of NRSWA, "transport authority means the authority, body or person having the control or management of a transport undertaking".
Trunk road	As defined in Section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of Section 10(1) or section 19 above or by virtue of an order or direction under section 10 above or under any other enactment".
Undertaker	As defined in Section 48(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666.
Urgent activities	Urgent activities are (a) activities (not being emergency activities) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; (ii) to avoid substantial loss to the undertaker in relation to an existing service; or (iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) includes activity that cannot reasonably be severed from such activities.
Working day	As defined in section 98(2) of NRSWA, "for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day".
Works	Street works or works for road purposes.
Works for road purposes	As defined in Section 86(2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway: (a) works for the maintenance of the highway; (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles".

25 APPENDIX G TRANSITIONAL ARRANGEMENTS.

Once a Local Permit Scheme Order has been made, the Authority will provide at least four weeks notice of its intention to operate or vary the Permit Scheme.

The Permit Scheme will apply to all activities where the administrative processes, such as an application for a Permit or Provisional Advance Authorisation, start after the commencement date of the Permit Scheme stated in the Order.

Activities which are planned to start on site more than one month after the changeover date, (for standard, minor and immediate activities), or three months after the changeover date, (for major activities), shall operate under the Permit Scheme. This means that even if the relevant Section 54, 55 or 57 NRSWA notice has been sent before the changeover, the Promoter will have to apply for a Permit.

If the Promoter has not substantially begun the activity (or phase of activity) one month after the changeover date (for standard, minor and immediate activities) or three months after the changeover date (for major activities), then the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a Permit.

Any Phase which started under the Notices regime will continue under that regime until completed.

This period is sufficient as much of the Permit Scheme operation is run alongside NRSWA and extensive testing of systems between the Permit Authority and Promoters will have taken place and will continue on the run up to the implementation of the Permit Scheme.

Appendix Two - Buckinghamshire Permit Scheme Modification Proposals Consultation Report

Date: 20th February 2020

Author: Jason Setford-Smith, Consultant

Introduction

The formal consultation regarding the proposed modification to the Buckinghamshire Permit Scheme ('BuPS') ran for a period of 6 weeks days beginning on the 10th January 2020. The deadline for receipt of responses was no later than 5pm on 20th February 2020.

It was stated in the consultation documents that 'all responses received by the 20th January 2020 will be taken into consideration and, if Buckinghamshire County Council consider it to be appropriate, amendments will be made to the proposals.

Documentation and an accompanying covering letter was issued to key stakeholder organisations, including local neighbouring Highway Authorities, Utilities, road user representative groups, current IT suppliers and non-government organisations. Some organisations had a number of consultees within them and if known those individuals were contacted directly.

A drop-in session was held on the 28th January 2020 for consultees to attend and discuss the proposals. This session was well received and 11 representatives attended.

29 comments on the proposals from 4 organisations were received by the deadline.

Any additional comments from consultants or legal representatives etc. have been added to the comment list so there is transparency regarding all changes to the scheme document.

A list of comments received, and responses or amendments are provided in this document.

List of Consultees who responded by the deadline

1. Openreach
2. SSE
3. Virgin Media
4. Thames Water

No responses were received after the deadline.

Consultees

Internal Contacts

Central Government

Emergency Services

Passenger Transport

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IT System Suppliers

Representative and Interest Groups

Surrounding Local Authorities	

Bus Operators	

Utility Companies	

Section 50s	

Comments from Consultees

Org	Section	Suggested amendment / clarification / comment / question	Response / reply / recommendation
General Comments			
SSE		Your cover letter states Robotic Process Automation but there is no explanation or guidance to how this will work.	This is an internal process that was referenced in the covering letter and will be reviewed and reported on at the end of the first year. The proposals included the introduction of Robotic Process Automation to some of the basic Permit administration checks. These automated processes are limited to data validation checks and have reduced the identified costs of operating the modified scheme.
Openreach		We support Buckinghamshire's decision to increase the fee's on 0,1 & 2 streets if this required to prevent deficit. However we do not support the decision to increase fees on non-traffic sensitive 3 & 4 streets and do not believe the documentation supports this proposal.	These proposals include detailed analysis of the societal benefits of introducing these fees and employing additional resources to better co-ordinate all works on all streets. The Permit scheme benefit at 5% is £1.332b with costs of £22.2m and a Net Present Value (NPV) of £1.309b giving a Benefit:Cost Ratio of 59.98:1. The benefits were also broken down by network user.
Openreach		Openreach's annual spend on permit costs is significant. Cash spent covering the administration cost of permit schemes is cash not available to support further infrastructure investment. As such, we need to ensure that any spend is proportionate and necessary.	Noted and we acknowledge this applies across all Highway Authority areas in England. However, permit schemes have been shown to be very beneficial to society and are now required by the DfT.
SSE		There is no proposed implementation date of the extended scheme.	Section 1.2 of the proposed scheme document states an implementation in April

			2020. All stakeholder will receive a formal 4 week notification of the specific start date.
SSE		Whilst we agree moving to all permits is required we are disappointed you are charging for permits on non- traffic sensitive streets especially as you state you are going to use an automated process. The reduction in fees is minimal.	We feel this is the most appropriate way to share the benefit. It is unfortunate that you do not feel the fee discount is valuable.
Cost Benefit Analysis			
Virgin Media		The cost benefit analysis states that to implement a permit scheme will have a £1,331,582,682 saving in various areas some such as greenhouse gasses would lessen the authority liability and hence save money, is this saving included in the permit fee calculation.	This is not included in the permit fee calculation as the fees align to operational costs. These calculations are included in the CBA and are a societal benefit.
Virgin Media		With regards to the CBA Could you please clarify and provide evidence that the cost of permit officers time when agreeing and co-ordinating permits for your own highways works are not being paid for by any utility.	Co-ordination of 'own' works are not paid for from Utility fees.
SSE		There is no justification in the CBA to prove permit increase costs are required and no data on scheme staffing and operating costs.	These proposals include detailed analysis of the societal benefits of introducing these fees and employing additional resources to better co-ordinate all works on all streets. The Permit scheme benefit at 5% is £1.332b with costs of £22.2m and a Net Present Value (NPV) of £1.309b giving a Benefit:Cost Ratio of 59.98:1.
SSE		There should be more than year 1 operating costs and annual delay for utility works as £1bn cannot be quantified in any shape or form.	A 25 year appraisal length is assumed in accordance with DfT guidance. Using a DfT approved and widely recognised methodology the annual delay cost for Utility works undertaken in Buckinghamshire was £1.065b including a 20% uplift in time reliability costs for urban roads.

SSE		The CBA is not based on actual scheme costs and should be based on real data from the 6 previous year's permit scheme reports. No reports have been attached to the consultation.	The CBA is based on anticipated costs and work volumes, which is standard practice for proposals and the required approach detailed in the methodology.
Thames Water		Within the cost benefit analysis summary, the costs sections indicates that Buckinghamshire's permit fee income will be over and above the costs by over £160k annually – this does not seem like a cost neutral scheme.	The scheme is designed to be balanced. Buckinghamshire County Council will incur the capital and operating expenditure with the capital cost for the first year only. Revenue is derived from the Permit fees charged to Utility companies. Please see the detailed CBA for confirmation of this.
Fees and Discounts			
Thames Water		Thames Water strongly objects to the introduction of a third level of charging for permits other than that included in the Statutory Guidance for Highway Authority Permit Schemes 2015 on the basis of S64 NRSWA, where works are only classified as traffic sensitive if they take place within the designated times. Therefore, if works take place wholly outside of traffic sensitive times, they are on a non traffic sensitive street and the fee for a non sensitive street applies.	There is not a third level of charging. There are two. There are 0, 1, 2, 3 and 4 roads Traffic Sensitive at all or some times or locations. These are discounted for working wholly within non traffic sensitive times / locations. 3 and 4 roads non traffic sensitive at any time or location.
Openreach		The DfT statutory guidance states 'Unless there is a very strong benefit case otherwise, it is strongly recommended that permit fees are only applied to the more strategically significant roads: Category 1, 2 roads and Traffic Sensitive Street roads. This will mean that although permits would still be required for works on non-strategic routes, it should be very unlikely that these works would attract a permit fee. These permit applications would receive only 'notice' equivalent treatment by the authority. The application for and the issuing of a permit provides for additional overall improved network management.'	There is a clear benefit for requiring permits of 3 and 4 roads and charging a fee to cover the costs of additional resources to co-ordinate these activities. The Permit scheme benefit at 5% is £1.332b with costs of £22.2m and a Net Present Value (NPV) of £1.309b giving a Benefit:Cost Ratio of 59.98:1.
Openreach		We would like Buckinghamshire to demonstrate the benefits for Cat 3 & 4	There is a clear benefit for requiring

		non traffic streets to justify a permit charge. What will new Permit co-ordinators be doing for Cat 3 & 4 non traffic sensitive streets to justify an over inflated increase on duty under NRSWA?	permits of 3 and 4 roads and charging a fee to cover the costs of additional resources to co-ordinate these activities. The Permit scheme benefit at 5% is £1.332b with costs of £22.2m and a Net Present Value (NPV) of £1.309b giving a Benefit:Cost Ratio of 59.98:1.
Openreach		An increase in fees may lead to Openreach choosing to build our fibre network in more cost effective areas.	Noted. It would be unfortunate if this is the case as the modified permit scheme will have additional resources to work with your team to help roll out your work programme.
SSE		Your fees do not appear to be in line with maximum fees allowed (see below). You're proposing to charge £168 for works wholly within a non-traffic sensitive times/ location. Surely the maximum fee should be £150 . The same applies for Major works 4-10 days . You are proposing £91 but the maximum below states the charge is £75 as for standard activity.	This is the discounted rate for a Traffic Sensitive Street.
SSE		The charges for non- traffic sensitive Immediate activity and Minor at £42 and £45.50 are above the allowed limit.	This is the discounted rate for a Traffic Sensitive Street.
SSE		We are disappointed you have increased all fees to the maximum for 0, 1 and 2 and traffic sensitive.	Noted.
SSE		Adding 50p to the permit fee is not agreeable as this can causes issues when paying invoices and is best to round up or down.	Fees will be rounded to nearest £1.
Scheme Document			
Virgin Media	2.4	2.4 still states that that:- Areas and Streets Not Covered by the Permit Scheme All activities in category 3 and 4 non-traffic sensitive streets are not subject to requiring a permit. These are subject to the current noticing regime under NRSWA 1991 and the TMA 2004.	Noted thank you. Section 2.4 will be deleted.

Virgin Media	3.2	3.2 Permit Authorities must demonstrate parity of treatment for all Activity Promoters, particularly between statutory undertakers and the Highway Authority's own work promoters, which will be measured through Key Performance Indicators. Will these be available for full vision, will there be any contractual penalties in line with parity to utilities.	Annual Evaluations will be prepared and published showing parity measures. The contractual arrangements with Buckinghamshire County Council contractors is commercially confidential.
Virgin Media	3.1	3.1 All activities that involve the breaking up or resurfacing of the street please clarify if you intend to include surface dressing as a registerable activity, that may not require a permit if completed in ways that wouldn't normally require a permit.	Section 3.1 is clear on activities requiring a permit. Please raise this for discussion at the Local HAUC meeting.
Thames Water	6.2	Section 6.2 still includes reference to 'Have been identified in an Activity Promoters' annual operating programme or are normally planned or known about at least six months in advance of the proposed start date for the activity' which has changed as per SI 2020 number 122 (The Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020).	Noted, thank you. An edit will be made.
Thames Water	9.9	In section 9.9 the application response table includes details regarding response times, as these may change with the implementation of Street Manager, a sentence at the bottom of the table to futureproof the table similar to that in 8.7 would be prudent.	Noted, thank you. An edit will be made.
Thames Water	9.11	Section 9.11 does not meet the requirements in regulation 9 of SI 2015 No. 958 (The Traffic Management Permit Scheme (England) (Amendment) Regulations 2015)	Noted, thank you. An edit will be made Where an application for a permit meets the relevant requirements of the permit scheme, the Permit Authority shall grant the permit.
Thames Water		There are some references to information fields which are in EToN but not necessarily in the next electronic application. For instance, in section 4.9 there is a mention of a 'no excavation status on the section 74 works stop notice'. Please clarify that after the new system is implemented that Buckinghamshire will not penalise promoters for not being able to meet these requirements.	Please raise this for discussion at the Local HAUC meeting.
SSE		The scheme document is still rather long compared to some and feel some	Noted and agreed. The DfT have been

		of the glossary is not relevant to the scheme document.	suggesting this as well and at an appropriate time in the future we will look to adopt a new simplified and focused scheme document.
Thames Water		There are several mentions of a technical specification of the electronic application. There will not be a technical specification for Street Manager per se due to it's design and proposed regular iterative amendments. We would suggest that it may well be prudent to remove the references to technical specification and just refer to the electronic system instead.	There have been various suggested terms to use across the industry regarding electronic systems and Street Manager. The final document will have the best approach at the time incorporated. Edits will be made.
SSE		There is no mention of Street Manager or the recent Statutory Instrument changes which will come into play on the 1 st April 2020	There have been various suggested terms to use across the industry regarding electronic systems and Street Manager. The final document will have the best approach at the time incorporated. Edits will be made.

END OF DOCUMENT

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Appendix Three

Buckinghamshire Modified Permit Scheme Cost Benefit Analysis Summary

November 2019

Costs

The costs associated with the scheme include the following capital, operating and revenue expenditure in 2010 prices in accordance with the Department for Transport's WebTAG.

- Total Capital Expenditure **£320,000**
- Year 1 Operating Expenditure **£1,099,438**
- Annual Operating Expenditure (After Year 1) **£1,084,313**
- Year 1 Revenue Expenditure **£1,254,556**
- Annual Revenue Expenditure (After Year 1) **£1,251,881**

Buckinghamshire Council will incur the capital and operating expenditure with the capital cost for the first year only. Revenue is derived from the Permit fees charged to Utility companies.

Business Case

The development of a detailed Cost Benefit Analysis (CBA) is a requirement for making a Permit Scheme Local Order.

The analysis assesses the impact of Permits over the full range of required social and economic variables that have been specifically agreed in consultation with the UK Department for Transport (DfT).

An effective CBA is a mechanism to assess the benefits and costs of an investment both in terms of its overall viability and in relation to other options.

The legislative guidance used for the study is contained within:

- Statutory Guidance for Highway Authority Permit Schemes October 2015
- The Traffic Management Permit Scheme (England) (Amendment) Regulations 2015
- WebTAG user and provider impacts (TAG Unit A1-3 May 2019).
- Department of Transport's (DfT) Halcrow study "Assessing the Extent of Streetworks and Monitoring Effectiveness of Section 74 in Reducing Disruption Volume 3 – Estimation of Cost of the Delay from Utilities' Street Works, June 2004"
- Chapter 8 of the Traffic Signs Manual DfT 2009
- Quadro User Manual October 2018
- DfT Advice Note for Local Highway Authorities Developing New or Varying Existing Permit Schemes June 2016

QUADRO software is able to appraise individual works that are planned in the future on different types of road by modelling the delay experienced by road users, quantify the delay and estimate the cost of the delay.

The software is able to calculate and convert delays in to monetary figures as detailed in WebTAG Unit A1-3. with assumptions in regard to valuation of time, operating costs and accidents.

Users are required to input base link specific details including network classification, traffic flows, road type characteristics and any diversion routes. Street work details including site length, works type such as lane closures and shuttle working. The latest version released in 18th October 2018 Version 4 release 16 was used for the CBA. The QUADRO Manual was included in the Design Manual for Roads and Bridges Volume 14 Economic Assessment of Road Maintenance DfT 2002.

The central assumption of the analysis is that the introduction of the Permit Scheme will cause a 5% fall in Permit applications, and have a commensurate effect on roadwork activity and all associated aspects of the analysis. This 5% reduction is known as the Permit Scheme reduction factor.

The key general economic assumptions included with the CBA are as follows:

- The scheme is anticipated to open in Early 2020
- A **25** year appraisal length is assumed in accordance with DfT guidance
- A Discount Rate of **3.5%**, Combined Risk and Optimism Bias Factor **38%** in accordance with DfT guidance

Summary of Appraisal

The CBA determined the following key impacts of the Buckinghamshire Permit Scheme:

- The total number of Noticed works impacted by the scheme amounted to **18,459** of various length and duration.
- The annual delay cost for Utility works undertaken in Buckinghamshire was **£1.065b** including a **20%** uplift in time reliability costs for urban roads.
- The number of Permits including an allowance of **20%** for phased works and reduction factor of **5%** amounted to **20,561**.
- The Permit scheme benefit at 5% is **£1.332b** with costs of **£22.2m** and a Net Present Value (NPV) of **£1.309b** giving a Benefit:Cost Ratio of **59.98:1**. A breakdown of benefits is shown on Table 1 below.
- A summary of the CBA consistent with WebTAG is shown on Table 2 below.

Table 1 Benefits Summary Values and Percentage 5% reduction in works impact 25 Years

Benefits	Value	Percentage of Total Benefit
Consumer Travel Time	£723,653,306	54%
Consumer Vehicle Operating Costs	£105,017,401	8%
Business Travel Time	£481,884,780	36%
Business Vehicle Operating Costs	£71,775,863	5%
Private Sector Provider Operating Costs	£9,495,585	1%
Reduction in Fuel Revenue	£59,865,469	4%
Greenhouse Gases	-£468,723	0%
Accidents	£89,940	0%
Net Present Value of Benefits	£1,331,582,682	

Table 2: Summary of CBA

Analysis of Monetised Costs and Benefits (5% Work Saving) 25 Years

Noise	-	-12
Local Air Quality	-	-13
Greenhouse Gases	-468,723	-14
Journey Quality	-	-15
Physical Activity	-	-16
Accidents	89,940	-17
Economic Efficiency: Consumer Users (Commuting)	828,670,707	(1a)
Economic Efficiency: Consumer Users (Other)	-	(1b)
Economic Efficiency: Business Users and Providers	563,156,227	-5
Wider Public Finances (Indirect Taxation Revenues)	59,865,469	- (11) - sign changed from PA table, as PA table represents costs, not benefits
Present Value of Benefits (see notes) (PVB)	1,331,582,682	(PVB) = (12) + (13) + (14) + (15) + (16) + (17) + (1a) + (1b) + (5) - (11)
Broad Transport Budget	22,200,636	-10
Present Value of Costs (see notes) (PVC)	22,200,636	(PVC) = (10)
OVERALL IMPACTS		
Net Present Value (NPV)	1,309,382,046	NPV=PVB-PVC
Benefit to Cost Ratio (BCR)	59.98	BCR=PVB/PVC

Note : This table includes costs and benefits which are regularly or occasionally presented in monetised form in transport appraisals, together with some where monetisation is in prospect. There may also be other significant costs and benefits, some of which cannot be presented in monetised form. Where this is the case, the analysis presented above does NOT provide a good measure of value for money and should not be used as the sole basis for decisions. All values in £s.

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Report for:	Shadow Executive
Meeting Date:	31st March 2020

Title of Report:	Buckinghamshire Council Health and Safety Policy
Shadow Portfolio Holder	Cllr Katrina Wood
Responsible Officer	John Reed
Report Author Officer Contact:	Caron Owens, 01296674412, carowens@buckscc.gov.uk
Recommendations:	That the Shadow Executive considers the report; approves the adoption of the new Safety Policy and appoints an interim Member from the Planning, Growth and Sustainability Portfolio to be the Health and Safety Champion.
Corporate Implications:	The draft policy has been sent to the Legal Officer to address any legal concerns. There are not any direct financial implications as a result of implementation of the Policy
Options: (If any)	To adopt the Safety Policy.
Reason:	It is a legal (statutory) requirement under the Health and Safety at Work etc. Act for the employer to have a written Safety Policy in place. Health and Safety Executive guidance also recommends that there is; a statement of intent from the most senior officer in the new Council (Chief Executive) and responsibilities and arrangements for health and safety.

1. Purpose of Report

- 1.1 Further to a report that was taken to the Chief Executive Implementation Group on 8th January and the Resources programme Board on 26th June it was identified that there is a legal requirement to have a new health and safety policy statement in place for Buckinghamshire Council, to be effective from 1st April 2020.
- 1.2 To consider and approve the Draft Buckinghamshire Safety Policy.

2. Content of Report

- 2.1 The legal requirement to write a policy is included in the Health and Safety at Work etc. Act 1974.

- 2.2 Each existing council currently has its own existing health and safety policies however one overarching Corporate Safety Policy is required for the new Council prior to vesting day.
- 2.3 In developing the Policy the Property Health and Safety Group have focused on the need to have: a Statement of intent from the Chief Executive, outlining how responsibilities will be discharged and arrangements put in place in manage health and safety. Further down the line there will be Statement of Governance for Corporate Directors to sign which will be cascaded down through each tier to ensure organisational compliance. There will also be a structure and tools of reference detailing consultation arrangements to meet the requirement to consult on health and safety matters.
- 2.4 Existing reporting systems, policies and methods are likely to remain in place and the vast majority of operational health and safety arrangements will remain valid and continue after vesting.

3. Financial Implications

- 3.1 No direct financial implications.

4. Legal Implications

- 4.1 As a corporate body, the Council will have a legal duty to ensure, so far as is reasonably practicable:-
 - 4.1.1 The health, safety and welfare at work of its employees; and
 - 4.1.2 The health and safety of other persons so far as they may be affected by either the activities of the Council workforce or the condition of premises and/or facilities made available for use by any organisation or individual member of the public.
- 4.2 The Management of Health and Safety at Work Regulations 1999 places a duty on employers to assess and manage risks to their employees and others arising from work activities.
- 4.3 Health and Safety Committees' are generally established under the Safety Representatives and Safety Committees Regulations 1977 (as amended). Section 2(6) of the Act requires employers to consult with safety representatives with a view to the making and maintenance of arrangements which will enable the organisation and employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

5. Other Key Risks

- 5.1 Legal – There is a legal requirement to have a written policy for managing health and safety. Without a Health and Safety Policy we are exposing Buckinghamshire Council to enforcement action.
- 5.2 Financial – There is a financial risk if we do not have a Safety Policy as our ability to defend insurance claims and meet our requirements as an employer will be reduced.
- 5.3 Moral- We have a social and moral responsibility towards our employees and anyone else affected by our undertakings to ensure that we run our activities in a

safe manner. An effective health and safety culture is led from the top of the organisation and without a formal commitment to health and safety from the Chief Executive and Directors a positive safety culture integral to the success of the organisation will not be established.

6. Dependencies

- Programme Board Monitoring Officer
- Programme Board S151 Officer
- Programme Lead

7. Consultation

7.1 The policy has been formulated by the Corporate Health and Safety Work-stream.

The advice of the Legal officer was sought from Catherine Herries-Smith who has confirmed that the policy is sound and in line with the law and good practice.

8. Communications Plan

8.1 The policy will be communicated to all employees in conjunction with the PMO Communications Team.

9. Equalities Implications

9.1 Advice has been sought from Maria Damigos Specialist Project Lawyer (MDamigos@aylesburyvaledc.gov.uk) who confirmed that an Equalities Impact Assessment was not needed at this time.

10. Data Implications

10.1 Advice has been sought from Jennifer Griffin the Information, Strategy and Governance Manager.

11. Next Steps

11.1 If agreed by ISE the draft Policy will be adopted and signed by the Chief Executive in April 2020.

11.2 Recognised Trade Unions have been consulted on the policy when it was taken to the monthly HR Services trade union meeting and the Corporate Health, Safety and Wellbeing meeting on 10th December. The policy will be communicated to all employees in conjunction with the PMO Communications Team.

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INTRODUCTION

The health and safety policy sets out Buckinghamshire Council's commitment to maintaining a safe and healthy working environment for our employees, and for others who may be affected by the Council's undertakings. As we develop new services and upgrade other practices to meet rising standards, health and safety issues will permeate through all of the Council's activities.

This document sets out the roles and responsibilities of each and every one of us. We all have a part to play and a responsibility to ensure that the arrangements set out in this policy document are followed. We must ensure we support each other in promoting safety, reducing accidents and addressing the issues of ill health.

Through the way we work and behave, all our employees will be protected from risks of occupational injury or ill health, so far as is reasonably practicable. Our commitment to health and safety is a key priority.

If you have any doubts about your responsibilities, please speak to your Line Manager. Remember that we have a responsibility to ourselves and our colleagues to understand and implement this important policy.

DRAFT

BUCKINGHAMSHIRE COUNCIL CORPORATE HEALTH AND SAFETY POLICY

This Health and Safety Policy Statement is the lead document for Health and Safety for Buckinghamshire Council. All other health and safety documents at a corporate or directorate level will reflect the principles outlined within this document.

Everybody working in or with the Council must read this policy and consider how they can contribute to achieving its aims.

GENERAL STATEMENT OF HEALTH AND SAFETY POLICY

The Council recognises that good health and safety management is integral to the successful delivery of our services to the people of Buckinghamshire.

Buckinghamshire Council is committed to providing and maintaining a healthy and safe working environment for all of its employees, ensuring that their work does not adversely affect the health and safety of other people such as service users, visitors and contractors.

- In order to achieve this aim the Council has the following key objectives: to comply with the requirements of the Health and Safety at Work etc. Act 1974 and all other relevant legislation;
- to identify hazards (the potential for harm), assess risks (the likelihood of that harm being realised) and manage those risks in a proportionate manner;
- to ensure that employees (and others as appropriate) are adequately informed of the identified risks and receive management instruction, training and supervision;
- to consult with employees' representatives on health and safety matters;
- to provide and maintain safe and healthy premises and work equipment;
- to ensure that employees are competent to do their tasks, providing training where necessary;
- to ensure that contractors are competent to manage the health and safety aspects of their work;
- to maintain appropriate health and safety management systems and arrangements;
- to monitor and review the effectiveness of the safety management systems and arrangements and where appropriate implement improvements.

Rachael Shimmin

Chief Executive Buckinghamshire Council

ORGANISATION AND REPOSIBILITIES

Buckinghamshire Council, through the Corporate Management Team has overall responsibility for implementation of the Council's Health and Safety Policy, within which individual Service Areas and their Officers will operate.

It will ensure that the Council complies with its legal responsibilities and that suitable and sufficient resources are available to meet health and safety objectives and statutory requirements.

An Executive Member from the Planning, Growth and Sustainability portfolio has been designated to act as Health and Safety Champion at member level.

The Chief Executive has overall accountability for health and safety within Buckinghamshire Council; with responsibilities being delegated operationally to the Corporate Director of Planning, Growth and Sustainability who will ensure that the Council's Health and Safety Policy is implemented effectively by the Corporate Directors.

Corporate Directors shall:

- support the Chief Executive in meeting their safety responsibilities for the Council as a whole;
- provide strategic direction and endorse corporate health and safety strategies;
- ensure that health and safety policies, standards and objectives are set;
- ensure that appropriate monitoring arrangements are in place for monitoring health and safety;
- take action in the event of any shortcomings identified;
- lead by personal example and ensure all decisions reflect health and safety intentions;
- report annually on health and safety matters to the Corporate Management Team.

Service Directors are responsible for:

- supporting their Corporate Director in setting and implementing the policy within their service area;
- establishing written health and safety procedures and protocols for their Services that support the Corporate Health and Safety policy and objectives; bringing this to the attention of employees and revising as necessary to ensure that it remains valid;
- preparing objectives and plans for implementing the Health and Safety policy in their Service;
- identifying the hazards that are applicable to activities that are undertaken within their Service areas and ensuring risk assessments are carried out and that all relevant legislation is complied with;
- planning and implementing arrangements to eliminate or control significant risks and to comply with the relevant legislation;
- monitoring the above arrangements to ensure that they are working effectively;
- ensuring their managers are competent in health and safety and that designated persons are appointed to assist in discharging health and safety responsibilities;

- ensuring that staff are involved and consulted on relevant health and safety matters in good time and ensure that their views are considered;
- ensuring that staff are informed of hazards and the preventative and protective measures in place to avoid those hazards;
- ensuring that training is provided; on the appointment of staff; where they are exposed to new or increased risks arising out of a change in responsibilities and/or when there is a change in equipment or working systems;
- obtaining assistance from the Corporate Health and Safety Team where necessary ;
- reviewing the performance of their services on a quarterly basis and reporting the results through to the Directorate via the quarterly Health, Safety and Welfare meetings;
- reporting to the Corporate Director where the arrangements set out in this policy cannot be implemented.

Managers and Supervisors are responsible for delivering their service in a safe manner by:

- monitoring and complying with the requirements of their Service's health and safety documentation;
- ensuring that all work related hazards are identified and that suitable and sufficient risk assessments are undertaken, recorded, signed and dated;
- developing local procedures and safe working practice in line with service documentation;
- ensuring that only competent contractors are engaged and that their safety performance is regularly monitored and reviewed;
- ensuring that they and their staff are trained and competent to complete their work tasks safely;
- carrying out monitoring to ensure that health and safety standards are maintained;
- reporting and investigating accidents, incidents and near misses, and putting in place preventive measures.

All employees are responsible for:

- taking reasonable care of their own health and safety and that of others affected by their acts and omissions;
- co-operating with the management of their service so far as is necessary to enable the risks to be controlled and achieve compliance with legislation;
- using all work equipment and substances in accordance with the instruction and training received;
- reporting to their supervisor or manager any health and safety concern, including hazards which they cannot deal with themselves or any shortcoming they consider to be in the health, safety and welfare arrangements;
- not intentionally misusing anything provided in the interests of health, safety and welfare; and reporting to their supervisor or manager any health and safety concern, including hazards which they cannot deal with themselves or any shortcoming they consider to be in the health, safety and welfare arrangements;
- failure to comply with any written procedures or codes of practice, misuse of equipment or failure to co-operate on health and safety matters is a disciplinary matter.

Governing Bodies of Maintained and Voluntary Controlled Schools:

- The Governing Body has a statutory duty to comply with this Policy, so far as it is within their power to do so, in accordance with the Health and Safety at Work etc Act 1974. They may however develop their own localised arrangements to meet their responsibilities.

Competent Source of Advice:

Buckinghamshire Council employs a competent source of advice through the Corporate Health and Safety Team to support Corporate and Service Directors in discharging their health and safety responsibilities. Acting in an advisory and monitoring capacity, Officer's will:

- ensure that competent technical advice is provided to assist the Chief Executive, Corporate Directors, Service Directors, Managers and employees to fulfil their responsibilities for health, safety and welfare matters within each Service;
- ensure the provision of health and safety training and instruction;
- receive accident and incident reports, identifying corporate trends where appropriate;
- liaise with recognised trade unions and their appointed workplace representatives on issues relating to the health and safety of their members.

Employee Consultation:

- Active involvement of both managers and employees is essential for successful implementation of this policy.
- Employees or their representatives will therefore be consulted with regard to the arrangements to control the significant risks and to comply with relevant legislation.
- This will be done informally by managers and Supervisors in the workplace and formally through Safety Committees. Safety Representatives will be provided with reasonable training and paid time off for standing as a candidate or as a representative. They will also be provided with the necessary information, facilities and assistance to carry out their functions under the Safety Representatives and Safety Committees Regulations 1977 (as amended by the Management of Health and Safety at Work Regulations 1999) and the Health and Safety (Consultation with Employees) Regulations 1996.

Monitoring and Review of Buckinghamshire Council's Health and Safety Performance:

A quarterly report is presented to the Corporate Management Team and includes; details of updated legislation, emerging trends in Services; review of accidents/incidents/near misses reported and recommendations for improving performance.

It is the responsibility of the Corporate Director of Planning, Growth and Sustainability to ensure that this policy is reviewed on an annual basis.

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Report for:	Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	Considerations for Equality & Inclusion
Shadow Portfolio Holder	Councillor Martin Tett
Responsible Officer	Roger Goodes Tel: 07747 486750 Email: rgoodes@buckscc.gov.uk
Report Author Officer Contact:	Natalie Donhou-Morley (AVDC) Tel: 01296 585233 Email: ndonhou-morley@aylesburyvaledc.gov.uk Lizzie Wright (BCC) Tel: 01296 382376 Email: lizziewright@buckscc.gov.uk
Recommendations:	The Shadow Executive is asked to <ul style="list-style-type: none"> • Agree the draft Equality Policy (Appendix 1) • Agree to continue using the Equality Impact Assessment template and guidance developed for the shadow authority (rebranded versions provided in Appendices 2 & 3) • Note the requirement to publish workforce monitoring and gender pay gap data annually • Note the approach to memberships and accreditations
Corporate Implications:	The Equality Policy and Equality Impact Assessments guidance apply across all service areas.
Options: (If any)	N/A. The key recommendations are a 'Must Have' based on legal requirements. Some additional considerations are included for post vesting day.
Reason:	The Public Sector Equality Duty (PSED) sets out how local authorities should show due regard to equalities throughout decision making. This is a legal obligation and would have implications on the Council if there is not sufficient evidence available to demonstrate compliance.

1. Purpose of Report

1.1 This report provides a suggested approach to equalities for the new authority, including the legal 'must have' of an Equality Policy by vesting day, as well as some additional considerations for a later date.

2. Executive Summary

2.1 To meet the legal obligations of equality, diversity and inclusion, set out in the Public Sector Equality Duty, **the new council must:**

- Show due regard toward equalities prior to any decisions being made that would have an impact to any of the nine protected characteristic groups. The recommended approach is to complete Equality Impact Assessments: templates and guidance already in place for transition can continue into the new Council.
- Have a policy/strategy with agreed equality objectives in place from day one; a draft Equality Policy is included for approval.
- Publish Gender Pay Gap and Workforce Monitoring data on an annual basis, starting from March 2021.

3. Content of Report

Equality Policy / framework

3.1 It is a legal requirement to have published equality objectives. A draft Equality Policy for the new Council has been developed, primarily based on the Wycombe District Council Equality Framework, with other good practice built in from the existing councils.

3.2 A copy of the draft policy is attached at Appendix 1 for agreement.

Equality Impact Assessments (EqIAs) and corporate oversight

3.3 An Equality Impact Assessment (EqIA) template and guidance have been developed and approved as an interim approach for the shadow authority (see background papers).

3.4 The recommendation is for Buckinghamshire Council to adopt these going forward as they are robust and demonstrate best practice. Rebranded versions are attached in appendices 2 & 3 which also include minor changes to the format to meet new accessibility legislation.

Workforce Monitoring and Gender Pay Gap

3.5 Councils are also required to publish Equalities Workforce Monitoring Reports and Gender Pay Gap Reports annually. The deadline for reporting is 30 March each year; therefore the first reports for the new authority will not be required until March 2021. The current five councils will publish individual reports in March 2020 relating to the 2019-20 year. A combined report will be produced (but not published) to provide an indication of the new Council's position on these metrics.

3.6 The Shadow Executive is asked to note that the new authority will need to continue to publish workforce monitoring and gender pay gap data on an annual basis.

Accreditations:

3.7 It is recommended that we continue with current memberships and accreditations and review these during the first year of the new council:

- Membership of the Employers Network for Equality & Inclusion (enei) was renewed in January 2020 by the County Council - this membership will transfer into the new council, giving opportunity to review arrangements over the summer in advance of the next annual renewal date.
- All five councils are members of the Disability Confident scheme. It is possible for the new authority to retain one of these existing memberships (the scheme owners have confirmed that this accreditation can be transferred across as and when required with no cost implications).

3.8 The Shadow Executive is asked to note the approach to memberships and accreditations.

Considerations post-vesting day

3.9 Post vesting-day considerations could include:

- Staff Equality Forums and/or consideration of external forums with partners to aid with consultation.
- Training opportunities, for example for officers involved with service change/commissioning and with a responsibility to undertake Equality Analysis or to make decisions where 'due regard' is needed.
- Additional documentation: BCC and WDC have internal documents (an Equality Statement) which provide staff with an overview of how the council values Equality, Diversity and Inclusion as well as being useful as a single point of referral to relevant policies and procedures.

4. Financial Implications

4.1 Costs associated with the current enei membership can be met within the existing budgets transferring into the new authority. The usual discounted rate for local authorities of this size is £3,600 + VAT per annum. BCC have recently enjoyed a further discount bringing the current membership fee to £2,900 + VAT for 2020. Thereafter, the published local authority rates (£3,600 + VAT) will apply.

5. Legal Implications

5.1 As set out in the report, the legal requirements for the new authority are to:

- Show due regard toward equalities prior to any decisions being made that would have an impact to any of the nine protected characteristic groups. The recommended approach is to complete Equality Impact Assessments: templates and guidance already in place for transition can continue into the new Council.
- Have a policy/strategy with agreed equality objectives in place from day one; a draft Equality Policy is included for approval.
- Publish Gender Pay Gap and Workforce Monitoring data on an annual basis, starting from March 2021.

6. Other Key Risks - Not Applicable

7. Dependencies

7.1 **Comms:** The Communications Workstream are aware of equalities requirements for consultations. They will be leading on the work to update staff/residents on any changes prior to and post 1 April 2020.

7.2 **Website:** The new Buckinghamshire Council Website must be developed to meet the Public Sector Bodies (Website and mobile) Accessibility Regulations 2018. This means that the technology platform and content on the website need to be designed in a way that is accessible for all of our users. All content published to the new website will go through a design process to make sure it meets the accessibility guidance where possible. For example, as a part of this process we will be reducing the number of PDF documents published to the web as the PDF format makes content harder to find, use and maintain.

7.3 **Procurement:** The Equalities working group have liaised with the procurement workstream to ensure that contract and procurement processes in the new authority incorporate relevant equality impact screening questions.

8. Consultation - Not Applicable.

9. Communications Plan - Not Applicable.

10. Equalities Implications

10.1 The approach to be taken by Buckinghamshire Council will have overarching implications as detailed within the body of this report.

11. Data Implications – Not Applicable

12. Next Steps

11.1 Following approval of the new policy and post vesting day, an action plan will need to be developed to monitor progress based on the objectives and to produce required reporting.

Background Papers	Appendix 1: Draft Equality Policy Appendices 2 & 3: Equalities Impact Assessment Template and Guidance
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Buckinghamshire Council *[hold for branding]*

DRAFT

Equality Policy April 2020 - April 2023

1. Introduction

1.1 Buckinghamshire Council is committed to ensuring compliance with the Equality Act 2010 and to advancing equality of opportunity, fostering good relations, and eliminating discrimination, harassment and victimisation. This Equality Policy sets out the Council's approach to equality and diversity in employment and in service delivery.

2. Equalities Principles

2.1 The Public Sector Equality Duty came into force in April 2011 (s.149 of the Equality Act 2010). It outlines the requirements of public authorities to have due regard to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.2 To ensure transparency, and to assist in the performance of this duty, the Equality Act 2010 (Specific Duties) Regulations 2011 require public authorities to publish:

- a) Equality objectives, at least every four years (from 6 April 2012)
- b) Information to demonstrate their compliance with the Public Sector Equality Duty (from 31 January 2012).

2.3 Protection from unlawful discrimination is provided by the Equality Act in relation to the following nine protected characteristics:

- age
- disability
- gender reassignment
- *marriage and civil partnership
- pregnancy and maternity (which includes breastfeeding)
- race
- religion and belief
- sex
- sexual orientation

*(*Although marriage and civil partnership is a protected characteristic under the Equality Act, it is not covered by the second two objectives of the Public Sector Equality Duty)*

2.4 Buckinghamshire Council also has policies which consider the impact of services on specific groups/themes including carers, looked after children, foster carers, single parent families, the Armed Forces, gender identity and customers at risk of social isolation.

2.5 The Public Sector Bodies (Website and mobile applications) Accessibility Regulations 2018 set out that all new public sector websites will need to meet accessibility standards and publish an accessibility statement. All content published to the Buckinghamshire Council website will go through a design process to comply with accessibility guidance.

3. Equalities Objectives and Delivery

3.1 Our communities and our workforce are made up of a diverse range of individuals and groups with differing needs. We want our county to be a place everyone can be proud of, with excellent services, thriving businesses and outstanding public spaces for everyone. We want all our residents, regardless of background, to have access to great life opportunities, living healthy successful lives, doing business with ease, ageing well independently, and working towards achieving their goals in life.

3.2 In line with our ambitions to make Buckinghamshire the best possible place to live, raise a family, work and do business, our main objective is that all of our work is completed within the context of the Equality Duty - tackling discrimination, advancing opportunity and fostering good relations within our communities.

3.3 To do this, we aim to achieve the following objectives, which support the Council's strategic priorities (as identified in our corporate plan):

- a) Develop, commission and deliver inclusive and responsive services
- b) Foster strong relationships within our communities so everyone feels safe, supported to live independently, and residents are encouraged to get involved in improving local services;
- c) Develop and support a highly skilled workforce who are collaborative and ambitious in the work they do, whilst valuing diverse perspectives; and
- d) Ensure leadership and organisational commitment to equalities.

3.4 To support the delivery of these objectives the Council will:

- Gather information about our local communities and their protected characteristics in order to assess local needs, impacts to services and priorities.
- Integrate equality analysis/impact assessment systematically into planning and decision making across the organisation.
- Engage with local communities when making decisions, including those with protected characteristics.
- Engage in planning and delivering activities that foster good relations.
- Seek to ensure services are accessible to local people and communities.
- Monitor, analyse and publish employment data in accordance with statutory duties.
- Provide a range of accessible learning and development opportunities to support councillors and officers in achieving equality objectives and outcomes.
- Meet legal requirements to make reasonable workplace adjustments for disabled people.

4. Responsibility and Accountability

4.1 We are committed to developing a culture that embeds the effective management of equality, diversity and inclusion both in our day-to-day practices and in our policies and procedures. Implementing the equality objectives is the responsibility of all members of staff across the organisation:

- The Cabinet Member for [.....] is the lead for the policy's development.
- The Corporate Management Team is ultimately accountable for the implementation and monitoring of this policy. They will consider and approve the annual report and corporate equality action plan.
- Service Directors have an essential role in delivering this policy. They need to be proactive in developing a service-led approach to achieving equalities and ensure their staff are adequately trained to meet the requirements of this policy.
- Officers in the Deputy Chief Executive's Directorate will take a lead in monitoring the delivery of the equalities objectives and coordinating production of the annual report.

4.2 Working with partners in the statutory, voluntary and business sector is a key feature of the Council's work. It is also an essential part of promoting the general wellbeing of Buckinghamshire's citizens. The Council has a number of strategic partnerships and it will act as an equality champion and promote equality matters in partnership work.

4.3 Buckinghamshire Council remains responsible for meeting our statutory equality duties and complying with legislation even where functions are carried out all, or in part, by external suppliers. Procurement therefore must be carried out in a way that promotes equality of opportunity, ensuring that services provided through contracts meet the needs of all users through the development of good practice. We therefore expect everyone completing our tender/contract awarding process to demonstrate that they take reasonable steps to ensure access and equal treatment in employment and service delivery. Buckinghamshire Council is also committed to tackling Modern Slavery within the public sector supply chain.

5. Training

5.1 Diversity training aims to increase the cultural awareness, knowledge, and skills of participants with the intention of increasing inclusion and service relevance. The Council provides training for all new staff via an induction programme covering equality and diversity and targeted programmes on disability awareness and other areas. E-learning modules on diversity and equality are also available. Training on equalities will also be provided for councillors through the member development programme.

5.2 Both in-house and external providers can be used where appropriate. Courses will be assessed before being made available to staff to ensure that they are accessible to all. Where this is not possible, suitable training will be provided in an alternative format.

6. Monitoring

6.1 Monitoring is an ongoing process of analysis, questioning, investigating and learning. We will monitor progress against our equalities objectives to benchmark performance, gain greater knowledge and understanding of who uses services, what barriers they may experience in trying to take up services and what needs to change to better meet residents' needs.

6.2 A corporate equality action plan will be developed within the first six months of adoption of this policy. Thereafter it will be reviewed annually, and learning and development in this area will be shared via an annual equalities report.

6.3 Equality Impact Assessments (EqIAs) will be used to ensure that the Council considers equalities issues and assesses the likely impact of its services, policies and decisions. It is possible to carry out an Equality Impact Assessment when there is a change or review to any aspect of the Council's work and the focus may be policy; strategy; service; major project; or a

group of services/policies. The completion of an initial screening template will determine if a full assessment is needed. This approach allows us to:

- Consider equality issues where it is relevant to do so. Where it is clear from the initial assessment that a policy or function will not have any effect on equality for any of the protected characteristics, no further action or analysis is required.
- Take a proportionate approach to comply with our duty. We give greater consideration where there is potential for substantial impact on discrimination or equality of opportunity for the public or our employees.

6.4 Sometimes this process is integrated into another process such as a service review or project implementation document, and sometimes the assessments are standalone documents. If an assessment demonstrates an impact (adverse or otherwise) then the service will consider any possible actions to remedy the situation.

6.5 In line with the Public Sector Equality Duty, all EqlAs are published on the corporate website at the point of consultation and following the adoption of a policy or strategic change.

[Link to Equalities Impact Assessment Guidance and Screening Templates](#)

7. Additional information

7.1 The following strategies are relevant to and/or support the achievement of our equalities objectives: [\(to be completed\)](#)

[Corporate Plan and Directorate Plans](#)
[Joint Health and Wellbeing Strategy](#)
[Children and Young People's Partnership Plan](#)
[Better Lives Strategy](#)
[Modern Slavery Statement](#)

Officer contact:

Tel:

Email:

If you would like this information in a different format or language, please let us know what your particular needs are and we will do our best to help.

Appendix: Useful contacts

[Action against homophobia](#)

[Action against transphobia](#)

[Age UK Buckinghamshire](#) call 01296 431911; email: age@ageukbucks.org.uk

[Beaconsfield Advisory Centre](#) call 01494 672987

[Benefits Information – Department for Work and Pensions](#)

[Buckinghamshire Mind](#), call 01494 463364; email: info@bucksmind.org.uk

[Bucks Voice](#)

[BuDS – Buckinghamshire Disability Service](#) call 07811 142935; email: info@buds.org.uk

[Citizens Advice Bureau \(Aylesbury Vale\)](#) call 0344 4111444

[Carers Bucks](#) call 0300 777 2722; email: mail@carersbucks.org

[Citizens Advice \(Chiltern\)](#) call 01494 545991

[Citizens Advice Service \(South Bucks\)](#) call 0344 2451289 (or 01895 837 551 for South Bucks district residents)

[Citizens Advice Bureau \(Wycombe\)](#) call 0344 2451289

[Equality and human rights commission](#)

[Lesbian gay, bi-sexual and trans-sexual consortium](#) call 020 7064 6500; email: admin@lgbtconsortium.org.uk

[LGBT Bucks](#)

[Q:alliance \(LGBT charity\)](#)

[Samaritans \(Chilterns\)](#) call 01494 432000; email: jo@samaritans.org

[SARI \(Stand Against Racism & Inequality\)](#) call 0117 942 0060

[Thames Valley Police](#) call 101 non-emergency, 999 emergency, 18000 textphone users

[Youth Concern](#) call 01296 431183; email: admin@youthconcern.org.uk

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April 2020

EqIA – Screening Questions

Proposal/Brief Title:

Date:

Type of strategy, policy, project or service:

Please tick one of the following:

- Existing
- New or proposed
- Changing, update or revision
- Other (please explain)

This report was created by

Name:

Job Title:

Email address:

Briefly describe the aims and objectives of the proposal below:

What outcomes do we want to achieve?

1) Screening Questions

1.1 Does this proposal plan to withdraw a service, activity or presence? Yes/No

Please explain your answer:

1.2 Does this proposal plan to reduce a service, activity or presence? Yes/No

Please explain your answer:

1.3 Does this proposal plan to introduce, review or change a policy, strategy or procedure? Yes/No

Please explain your answer:

1.4 Does this proposal affect service users and/or customers, or the wider community? Yes/No

Please explain your answer:

1.5 Does this proposal affect employees? Yes/No

Please explain your answer:

1.6 Will employees require training to deliver this proposal? Yes/No

Please explain your answer:

1.7 Has any engagement /consultation been carried out? Yes/No

Please explain your answer:

2) Are there any concerns at this stage which indicate that this proposal could have negative or unclear impacts on any of the group (s) below? (*protected characteristics). Please include any additional comments.

- A) Age* Yes/No
- B) Disability* Yes/No
- C) Gender Reassignment* Yes/No
- D) Pregnancy & maternity* Yes/No
- E) Race & Ethnicity* Yes/No
- F) Religion & Belief* Yes/No
- G) Sex* Yes/No
- H) Sexual Orientation* Yes/No
- I) Marriage & Civil Partnership* Yes/No

Additional comments (please indicate which of the protected groups you are commenting on):

As a result of this screening, is an EqIA required?

(If you have answered yes to any of the screening questions or any of the group (above), a full EqIA should be undertaken)

- Yes
- No

Briefly explain your answer:

EqIA Screening Sign off

Officer completing this Screening Template: (Please insert Name) Date: (Please insert Date)

Equality Lead: (Please insert name) Date: (Please insert Date)

Shadow Buckinghamshire Corporate Board sign off (Please insert name) Date: (Please insert Date)

Please continue to the next page to complete a full EqIA.

EqIA – Full Equality Impact Assessment

Step 1: Introduction

Policy or Service to be assessed:

Service and lead officer:

Officers involved in the EqIA:

What are you impact assessing?

- Existing
- New/proposed
- Changing/Update revision

Other, please list:

Step 2: Scoping – what are you assessing?

What is the title of your service/strategy/policy/project?

What is the aim of your service/strategy/policy/project?

Who does/will it have an impact on? E.g. public, visitors, staff, members, partners?

Will there be an impact on any other functions, services or policies? If so, please provide more detail

Are there any potential barriers to implementing changes to your service/strategy/policy/project?

Step 3: Information gathering – what do you need to know about your customers and making a judgement about impacts

What data do you already have about your service users, or the people your policy or strategy will have an impact on, that is broken down by equality strand? Please also include a judgement on the potential impact:

Age:

Disability:

Gender re-assignment:

Race:

Religion or belief:

Sex:

Sexual orientation:

Pregnancy and maternity:

Marriage & Civil Partnership:

Do you need any further information broken down by equality strand to inform this EqIA?

- Yes
- No

If yes, list here with actions to help you gather data for the improvement plan in Step 5

Is there any potential for direct or indirect discrimination?

- Yes
- No

If yes, please provide more detail on how you will monitor/overcome this

Conclusion:

Step 4: Improvement plan – what are you going to change?

Issue	Action	Performance target (what difference will it make)	Lead Officer	Date to be Achieved
Please insert txt	Please insert txt	Please insert txt	Please insert txt	Please insert txt
Please insert txt	Please insert txt	Please insert txt	Please insert txt	Please insert txt
Please insert txt	Please insert txt	Please insert txt	Please insert txt	Please insert txt
Please insert txt	Please insert txt	Please insert txt	Please insert txt	Please insert txt
Please insert txt	Please insert txt	Please insert txt	Please insert txt	Please insert txt

EqIA approved by:

Date:

Next review date:



April 2020

Introduction

The purpose of this document is to provide clear guidance for officers preparing to complete an Equality Impact Assessment (EqIA)

The public sector equality duty (the PSED) requires public authorities to have “due regard” to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010 (section 149(1)(a)).
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(b)). This involves having due regard to the needs to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it ; and
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Section 149(6) makes it clear that compliance with the PSED in section 149(1) may involve treating some people more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Equality Act 2010 (this includes breach of an equality clause or rule or breach of a non-discrimination rule.

- The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it (section 149(1)(c)). (This includes having due regard to the need to tackle prejudice and to promote understanding (section 149(5)).

What is an Equality Impact Assessment?

An Equality Impact Assessment is a way to formally investigate the effects on equality of particular decisions. The exercise enables a systematic assessment of the adverse impact of any change in policy, practice or procedure to be carried out.

An EqIA enables us to check the potential impacts on residents and employees of our policies, services and projects. It's an opportunity to challenge how we currently do things.

EqIAs help us meet our public sector equality duty as laid out in the Equality Act 2010. They also help us in our progression towards 'Excellence' of the Equality Framework for Local Government.

Why carry out an EqIA?

EqIAs help to improve the services we provide so that they meet the different needs of people that use them. As a public body we have a legal duty pay due regard and this can be demonstrated by carrying out an EqIA.

Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. The 'protection' relates to protection from discrimination. The relevant protected characteristics covered by sections 149(1)(a)-149(1)(c) include:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race – this includes ethnic or national origins, colour and nationality
- Religion or belief
- Sex (gender)
- Sexual orientation

The relevant protected characteristics referred to in sections 149(1)(b) and 149(1)(c) do not include the protected characteristic of marriage/civil partnership. In relation to this protected characteristic a public authority subject to the PSED need only comply with the first strand of the duty that is the duty to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010.

Key features of an EqIA

- Identify decisions, policies and procedures formal and informal that may have an effect on the equality of those with protected characteristics
- First level screening
- Second level scoping – look at any available data, establish equality relevance, prioritise
- Data gathering & consultation
- Assess level of impact on equality relevance
- Further consultation
- Mitigate or Eliminate
- Action Plans & Review
- Publish data

Who should carry out an EqIA?

The officer leading the project is responsible for completing the EqIA, but may require assistance or expertise from colleagues.

All EqIAs must be approved and signed off by the relevant Director or Head of Service.

Carrying out an EqIA should not create extra work; it should be part of your normal service planning process. Most of the information required should already be available to you through other work already undertaken e.g. service user monitoring, analysis of complaints and national research.

All approved and signed EqIAs are recorded in a central register. Please email your completed draft EqIA to MDamigos@aylesburyvaledc.gov.uk. Please allow up to 21 days for a response regarding your draft. EqIAs can be made available for information upon request.

If you have any queries, please email MDamigos@aylesburyvaledc.gov.uk.

When should an EqIA be carried out?

The purpose of an EqIA is to take account of equality as plans develop. Just 'doing it at the end' will not enable you to properly involve the relevant people and opportunities for picking up issues and making adjustments will be missed. Therefore an EqIA should be started at the outset and develop until a final proposal is adopted. There are legal cases that show why EqIAs should be carried out at the start see '[Southall Black Sisters vs Ealing Council](#)'.

Carrying out EqIAs should be an integral part of policy or service development/change (this includes budget changes), not just a form filling exercise. Larger projects may need more than one EqIA if different areas are impacted by the change.

The Screening Exercise

This first stage of an EqIA should include asking:

What is the purpose of the proposed function or policy?

Who is affected by it?

Is there any evidence that groups have different needs, experiences and priorities in relation to this policy?

Example 1: Payroll

- What is the purpose of the policy? To pay employees for hours worked.
- Are there concurrent objectives? Regular monthly payments through BACS
- Who created the policy? Finance Department.
- Who is responsible for implementing the policy? Finance department.
- Who is affected by the policy? All staff.
- Is there any evidence that different groups have different needs in relation to this policy? No
- Does the policy have the potential to meet or hinder the equality and diversity policies or objectives of the authority? As this policy is about the operation of the payroll (not the setting of pay) it does not affect equality and diversity because the method of payment, the way it is administered and its aims could not be affected by the race, gender, sexuality etc. of an individual. It also does not seem to have the potential to affect the equality and diversity aims of the authority. Therefore this policy would not require a full assessment.

If you answered yes or unsure to any of these questions you should carry out an EqIA. If you are unsure of the requirement you can contact MDamigos@aylesburyvaledc.gov.uk.

Remember – If you are not going to carry out a full EqIA, you must give a reason for this decision, and record this decision formally so you can provide it if challenged.

Involvement of Target Equality Groups

One of the most significant elements of the Equality Act 2010 is its emphasis on involvement of equality target groups at all stages. This will include staff, service users and external organisations.

Full Impact Assessments

Step 1 – Introduction

Provide names and contact details of the officers involved in the Policy/Service being assessed.

Step 2 – Scoping

Describe what you are assessing. This information is available from the screening exercise.

Step 3 – Information gathering

Impact assessments are not possible without adequate data. Internal and external data can be analysed for differential impacts on equality groups.

a) Consider Existing Data

National data and research can be useful in identifying barriers, issues and areas where equality is likely to be a priority. For example:

Research undertaken by the Equality & Human Rights Commission

Research undertaken by trades unions

Commissioned research and reports

Census data

Labour force surveys

Institutional data can also be used to identify local barriers. These include:

- Ethnic monitoring data

- Surveys and consultation

Any project that requires consultation will automatically require an EqlA.

More information about how to conduct a consultation in line with our Consultation Process, Policy and

Guidance can be found on the intranet. For advice on consultations please email

consultations@buckscc.gov.uk.

- Complaints and grievances

b) Consider 'missing data'

When assessing the impact of the policies and procedures it is essential that we also consider 'missing data'. On the surface a policy may indicate that it does not have an adverse impact of a particular group, however, the lack of data may be indicative of discriminatory practice.

Making a judgement about impacts

Once all available data has been gathered, it should be examined to check whether there is evidence:

- Lower take up/participation rates by disadvantaged groups generally
- Lower take up/participation by certain groups
- Eligibility criteria which disadvantages groups
- Access to services being reduced or denied to people
- People facing increased difficulty as a result of a policy/practice
- A policy/practice resulting in reduced benefits for equality groups

Step 4 – Improvement Plan - Finding ways of mitigating or eliminating any adverse impact

Where a potential impact has been identified an assessment should be made of the severity of the impact. Where the policy or practice would result in practice which is potentially unlawful changes should clearly be made. The objectives of the policy or practice should be re-examined to find out if there is an alternative way of meeting the

desired objectives without the adverse impact. If the adverse impact is potentially unlawful and alternatives cannot be found the policy or practice may need to be completely redesigned. The opportunity should be taken to consider whether there are ways, not just of removing the adverse impact, but of creating a positive one.

One of the key aspects of the equality legislation is that information gathering is not an end in itself. Buckinghamshire Council will need to demonstrate that it has used this information to help it make decisions about what actions would best improve equality. It will also have to demonstrate that these actions have been prioritised and implemented and justify where actions has not been taken.

Individuals from the equality target group should have been involved in the impact assessment process and any changes to policies and practices where resulted. The amended policy or practice should therefore reflect many of their concerns. However, it is important to consult widely before the implementation.

Step 6 – Publish data

Buckinghamshire Council is required by law to publish the findings and action plan outcomes of the EqIA. This information must be accessible to both staff and the public. The information must convey clearly the priority that Buckinghamshire Council has allocated to the Impact Assessment outcomes; the data must be updated on a regular basis to indicate what work has been undertaken to meet these outcomes.

All approved and signed EqIAs are recorded in a central register. Please email your completed EqIA to MDamigos@aylesburyvaledc.gov.uk. EqIAs can be made available for information upon request.

Further information and advice

For advice please contact Maria Damigos MDamigos@aylesburyvaledc.gov.uk.

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Report for:	Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	Regulation of Investigatory Powers Act 2000 (RIPA) – Policy and Procedural Guidance
Shadow Portfolio Holder	Martin Tett
Responsible Officer	Sarah Ashmead
Report Author Officer Contact:	Joanna Swift, 01296 732761; joanna.swift@chilternandsouthbucks.gov.uk.
Recommendations:	That Buckinghamshire Council adopts the Regulation of Investigatory Powers Act 2000 (RIPA) – Policy and Procedure Guidance attached as an appendix to this report with effect from 1 April 2020 .
Corporate Implications:	The adoption of a RIPA Policy and Procedure Guidance will ensure that Buckinghamshire Council complies with the law, relevant statutory guidance and best practice when undertaking enforcement functions.
Options: (If any)	As the adoption of a policy and procedure for any covert surveillance carried out by Buckinghamshire Council is a legal requirement there are no other options available
Reason:	Under the Regulation of Investigatory Powers Act 2000 (“RIPA”) Buckinghamshire Council must have in place processes for authorising, recording and reviewing any covert surveillance that it carries out that it is regulated by the Act. The processes must comply with the Act, Regulations and any statutory codes of practice; the latter being admissible as evidence in court and may be taken into account by the Investigatory Powers Commissioner when carrying out an inspection. In accordance with the statutory code of practice a local authority must have a policy covering its use of covert surveillance approved by elected members.

1. Purpose of Report

- 1.1 This report seeks approval to a Policy and Procedures document setting out how Buckinghamshire Council will carry out its RIPA powers

2. Content of Report

- 2.1 RIPA regulates the use of covert surveillance by public authorities. The essence of which is that before any covert surveillance or the use of any covert human intelligence source is undertaken, this must be authorised by a senior officer and in the case of local authorities wanting to use covert surveillance, approved by a Magistrate.
- 2.2 RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised. RIPA is underpinned by a number of statutory codes of practice. These codes of practice are admissible as evidence in court and may be taken into account by the Investigatory Powers Commissioner when carrying out an inspection.
- 2.3 The Investigatory Powers Commissioner, Lord Justice Fulford and his Judicial Commissioners are responsible for providing independent oversight of the use of investigatory powers by intelligence agencies, police forces, local authorities and other public authorities. Local authorities are required to submit statistics to the Investigatory Powers Commissioner's Office (IPCO) annually on their use of directed surveillance and covert human intelligence source and inspections of local authorities are typically undertaken every 3 years.
- 2.4 The Revised Code of Practice on Covert Surveillance and Property Interference (August 2018) provides that a local authority must have a policy covering its use of covert surveillance. Elected members, although not involved in the decisions to grant authorisations, are required to approve the policy annually.
- 2.5 Each of the 5 authorities in Buckinghamshire have adopted RIPA policy and procedure documents which are very similar in content and wording. The authorities have been subject to triennial inspections by the IPCO and importantly their respective authorising and investigating officers have undertaken the necessary training to ensure that any enforcement activities undertaken comply with the statutory requirements. In the past 3 years only one authorisation has been sought and granted across the 5 authorities. The small number of RIPA applications reflects the fact that nearly all enforcement activity by Council Officers is overt and does not require prior authorisation.
- 2.6 The draft policy and procedure document attached as an Appendix is based on the version currently adopted by Buckinghamshire County Council which has been subject to a favourable assessment during a recent IPCO inspection. In the unitary structure the RIPA function sits under Legal and Democratic Services in the Deputy Chief Executive's directorate. It is recommended that the Service Director Legal and Democratic Services is the Senior Responsible Officer (SRO) for RIPA. The SRO has overall responsibility for the RIPA process and dealing with inspections by the IPCO. It is recommended that the SRO has authority to delegate day to day administration tasks to a senior legal officer who would act as a RIPA co-ordinating officer and would also organise any necessary training for authorising and investigating officers and liaise with the Magistrates Court to obtain judicial approval as and when necessary. It is recommended that there are 3 authorising officers; the Chief Executive Officer (this is statutory requirement for authorisations where confidential information is likely to be acquired and for use of juvenile or vulnerable covert human intelligence source) and the Corporate Director Adults, Health & Housing, who has responsibility for regulatory services and trading standards functions where most of the relevant enforcement activities are undertaken and the Corporate Director Communities who has responsibility for the operation of CCTV and other forms of electronic surveillance.

3. Financial Implications

- 3.1 There will be a small cost attached to provision of training for the three authorising officers in readiness for vesting day. All investigating officers at the current councils have attended a relevant RIPA training course or received refresher training within the last 2 years. After vesting both authorising and investigating officers will require refresher training on a periodic basis. This can be delivered at minimal cost using on-line training materials developed by Bucks County Council. Any other costs would be met from within annual training budgets for the relevant enforcement teams across the Council.

4. Legal Implications

- 4.1 Under the Regulation of Investigatory Powers Act 2000 public authorities must have in place processes for authorising, recording and reviewing any covert surveillance that it carries out that it is regulated by the Act. The processes must comply with the Act, Regulations and any statutory codes of practice; the latter being admissible as evidence in court and may be taken into account by the Investigatory Powers Commissioner when carrying out an inspection. In accordance with the statutory code of practice a local authority must have a policy covering its use of covert surveillance approved by elected members.

5. Other Key Risks

- 5.1 Failure to comply with the policy and procedural guidance could result in evidence being inadmissible in court proceedings and potential claims that an individual's right to privacy has been breached. However, each of the current councils have RIPA policies and procedures in place which are similar in content and officers have received the necessary training to ensure compliance. Information on the new Buckinghamshire Council policy and procedures will be disseminated to relevant officers to ensure that they understand the legal requirements and training provided as necessary.

6. Dependencies

- 6.1 None

7. Consultation

- 7.1 Not applicable.

8. Communications Plan

- 8.1 No plan is required.

9. Equalities Implications

- 9.1 The policy and procedure document provides guidance on use of the statutory powers linked to the investigation of criminal offences. It accords with statutory guidance issued by the Home Office and Investigatory Powers Commissioner. It includes specific provisions for dealing with covert surveillance and use of covert human intelligence sources in relation to young or vulnerable adults. In these cases, authorisations must be approved by the Chief Executive Officer.

10. Data Privacy Implications

- 10.1 By requiring directed covert surveillance operations or the proposed use of a covert human intelligence source to be authorised in advance and kept under review by a limited number of senior officers, RIPA seeks to ensure that any interference with an individual's right to privacy under Article 8 of the Convention on Human Rights and Fundamental Freedoms, is both necessary and proportionate.
- 10.2 RIPA, as amended by the Protection of Freedom Act 2012 also imposes three further important restrictions on the Council. Firstly, it provides that the Council cannot under any circumstances engage in the most intrusive form of covert surveillance (called 'intrusive surveillance') - operations which involve the presence of a person or a listening device in residential premises or a private vehicle. Therefore, by definition, the Council can only carry out covert, non-intrusive surveillance (called 'directed surveillance').
- 10.3 Secondly, the only lawful basis on which the Council can conduct a surveillance operation is for the prevention or detection of a criminal offence that attracts a sentence of imprisonment of six months or more or a criminal offence that relates to the underage sale of alcohol or tobacco.
- 10.4 Thirdly, every authorisation given pursuant to RIPA to carry out directed surveillance or for the use of covert human intelligence source must also be approved by the Magistrates Court before it can be acted on - as must any renewal of an authorisation

11. Next Steps

- 11.1 Information about the adopted policy and procedure will be disseminated to authorising and investigating officers and training provided to authorising officers, in readiness for vesting day.

Background Papers	None other than referred to in this report
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BUCKINGHAMSHIRE COUNCIL

Covert Surveillance Policy and Procedure

REGULATION OF INVESTIGATORY POWERS ACT 2000 – PART 2

VERSION CONTROL

Version No	Reviewer	Key Changes	Date Amended
1	Joanna Swift	Adoption	1 April 2020

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COVERT SURVEILLANCE POLICY STATEMENT

Introduction

1. Buckinghamshire Council is committed to building a fair and safe community for all by ensuring the effectiveness of laws designed to protect individuals, businesses, the environment and public resources.
2. Buckinghamshire Council recognises that most organisations and individuals appreciate the importance of these laws. The Council will, therefore, use its best endeavours to help them meet their legal obligations without unnecessary expense and bureaucracy.
3. At the same time the Council has a legal responsibility to ensure that those who seek to flout the law are the subject of firm but fair enforcement action. Before taking such action, the Council may need to undertake covert surveillance of individuals and/or premises. The purpose of this covert surveillance will be to obtain evidence of criminal offences and anti-social behaviour.

Procedure

4. All covert surveillance shall be undertaken in accordance with the procedures set out in this policy.
5. Buckinghamshire Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws, in particular the following:
 - Regulation of Investigatory Powers Act 2000
 - Human Rights Act 1998
 - Data Protection Act 2018 and General Data Protection Regulation 2016/679
 - Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000
6. The Council shall, in addition, have due regard to all official guidance and codes of practice particularly that issued by the Home Office, the Investigatory Powers Commissioner's Office (IPCO) and the Information Commissioner.
7. In particular, the following guiding principles shall form the basis of all covert surveillance activity undertaken by the Council:
 - All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers.
 - Authorisations for the use of directed surveillance, acquisition of communications data and the use of a CHIS under RIPA will need an order approving the grant or renewal of an authorisation or notice from a JP (a District Judge or lay magistrate) before they can take effect.

- Covert surveillance shall only be undertaken where it is necessary to achieve the desired aims.
- Covert surveillance shall only be undertaken where it is proportionate to do so and in a manner that is proportionate.
- Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance.

Training and Review

8. All Council officers undertaking covert surveillance shall be appropriately trained to ensure that they understand their legal and moral obligations.
9. The Senior Responsible Officer shall provide a report on the Council's use of RIPA to the Audit and Governance Committee on a regular basis as deemed appropriate. Annually, the report shall include a review of the effectiveness of this policy and any recommendation for changes to be made, including in the light of the latest legal developments and changes to official guidance and codes of practice.

Senior Responsible Officer

10. The Service Director Legal and Democratic Services is the designated Senior Responsible Officer who with the support of the RIPA Co-ordinator is responsible for the integrity of the process within Buckinghamshire Council and maintaining oversight and quality control in relation to RIPA functions and processes.
11. The RIPA Co-ordinator will have day to day responsibility for RIPA management including the following:
 - Maintaining the Central Record of Authorisations together with collating submitted RIPA documentation;
 - Day to day oversight of the submitted documents and the RIPA process;
 - Organising a training programme and ensuring that relevant officers are fully RIPA trained;
 - Raising RIPA awareness within the Council; and
 - Liaising with the administration team at the magistrates' court to arrange a hearing and provide the necessary supporting documents and judicial application to obtain approval from a Justice of the Peace.
12. The Senior Responsible Officer is responsible for engagement with the Commissioners and Inspectors when they conduct their inspections and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

Conclusions

13. All citizens will reap the benefits of this policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.

14. At the same time, adherence to this policy, when undertaking covert surveillance, will minimise intrusion into peoples' private lives and will avoid any legal challenge to the Council's activities or evidence.

GENERAL BACKGROUND

Legislation

15. The Regulation of Investigatory Powers Act 2000 (RIPA) provides the legislative framework within which covert surveillance operations must be conducted in order to ensure that investigatory powers are used lawfully and in accordance with human rights.
16. This document takes into account guidance issued by the Home Office under s71 of the 2000 Act and pursuant to the following statutory instruments.
 - The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, SI 2010/521.
 - The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2010, SI 2010/462
 - The Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2010, SI 2010/463
17. This document takes into account the Protection of Freedoms Act 2012.
18. Officers and investigators involved in covert surveillance operations must familiarise themselves with the provisions of:
 - Article 8 of the European Convention on Human Rights 1958
 - The Human Rights Act 1998
 - Part 2 of the Regulation of Investigatory Powers Act 2000
 - The Covert Surveillance and Property Interference Revised Code of Practice ("the DS Code")
 - The Covert Human Intelligence Sources Revised Code of Practice ("the CHIS Code")
19. Applications for access to communications data shall be made via the National Anti-Fraud Network (NAFN).

Codes of Practice

20. The most recent versions of the DS Code and the CHIS Code were issued in August 2018. Whilst the Codes are not themselves law, they are citable in a court of law and any deviation from them may have to be justified. Council officers involved in surveillance activities should be familiar with their content. The Codes of practice are available at:

<https://www.gov.uk/government/collections/ripa-codes>

RIPA Forms

21. Copies of forms referred to in this document can currently be found at the following address: <https://www.gov.uk/government/collections/ripa-forms--2>
22. The Home Office website is at <https://www.gov.uk/government/organisations/home-office>

Compliance with RIPA

23. The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 1950 into UK domestic law) requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, their home and correspondence.
24. Covert surveillance may constitute an interference with the privacy of individuals who are subject to investigation and of members of the public who are present on a site which is subject to surveillance. Such an interference engages an individual's right to private life, family life, home and correspondence under Article 8(1) ECHR. However, interference with that right can be justified where it is prescribed by law and proportionate to the pursuit of a legitimate aim. Part II of RIPA provides a statutory mechanism for authorising covert surveillance and the use of a 'covert human intelligence source'. It is intended to ensure that the proper balance is struck between the right to privacy and, in the local authority context, the legitimate aim of preventing or detecting crime and preventing disorder.
25. It is vital that the substantive requirements and the process set out in Part II of RIPA are adhered to. Provided these requirements are complied with, the Council and its officers should have a legal defence to any legal proceedings by virtue of S27, which states that conduct under Part II is lawful provided it is authorised; and is in accordance with that authorisation.
26. The information obtained by surveillance in accordance with Part II of RIPA will, provided lawfully obtained, be admissible in criminal, civil and tribunal proceedings. However, failure to comply with Part II can also render information obtained by surveillance inadmissible. It is therefore vital that the requirements put in place under RIPA are observed to protect the interests of both the Council and the Officers involved.
27. The use of investigatory powers in the UK is overseen by the Investigatory Powers Commissioner. Further information on the role of the Commissioner and the Investigatory Powers Commissioner's Office can be found at: <https://www.ipco.org.uk>

Obtaining Judicial Approval of Authorisations

28. When making authorisations Authorising Officers must be aware that each authorisation (or renewal of an authorisation) will be subject to judicial approval.
29. The Protection of Freedoms Act 2012 amends RIPA, to require that where an Authorising Officer has granted an authorisation for the use of directed surveillance or for the use of a CHIS, judicial approval will be required. The Council will be required to make an application, without giving notice, to the Magistrates' Court. The Magistrates will give approval if at the

date of the grant of authorisation or renewal of an existing authorisation if and only if, they are satisfied that:

- there were reasonable grounds for believing that obtaining the covert surveillance or use of a human covert intelligence source was reasonable and proportionate and that these grounds still remain.
- the “relevant conditions” were satisfied in relation to the authorisation.

30. Relevant conditions are that:

- the relevant person was designated as an Authorising Officer
- it was reasonable and proportionate to believe that using covert surveillance or a covert human intelligence source was necessary and that the relevant conditions have been complied with;
- the grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under section 25(3) of RIPA; and
- any other conditions provided for by an order made by the Secretary of State were satisfied.

31. If the Magistrates’ Court refuses to approve the grant of the authorisation, then it may make an order to quash that authorisation.

32. No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates’ Court to that authorisation has been obtained.

33. The form to be used for seeking judicial approval from the Magistrates Court is attached at Appendix F.

WHAT IS COVERT SURVEILLANCE?

34. Under s48(2) Regulation of Investigatory Powers Act 2000 (“RIPA”), surveillance includes:

- monitoring, observing or listening or persons, their movements, their conversations or their other activities or communications;
- recording anything monitored, observed or listened to in the course of surveillance; and
- surveillance by or with the assistance of a surveillance device.

35. Most of the Council’s surveillance activities will be overt. Under s26(9) (a) of RIPA, surveillance is “covert” if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place.

36. Covert Surveillance can be an important tool in assisting the Council’s officers to fulfil their duties in relation to the prevention and detection of crime or the prevention of disorder. This includes the prevention and detection of anti-social behaviour.

37. RIPA distinguishes between two categories of covert surveillance, namely **Directed Surveillance** and **Intrusive Surveillance**.

Directed Surveillance

38. "Directed Surveillance" is defined under s.26(2) as covert surveillance that is not intrusive surveillance and is undertaken:
- For the purposes of a specific investigation or operation;
 - In such a manner as is likely to result in the obtaining of *private information* about a person (whether or not that person is a person subject to the investigation)
 - Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under RIPA to be sought for the carrying out of surveillance.
39. This can include surveillance of Council employees. However, it should be noted that a public authority may only seek authorisation under RIPA when it is performing its 'core functions'. 'Core functions' are the specific public functions undertaken by a particular public authority, in contrast to its 'ordinary functions' which are those undertaken by *all* authorities. For example, the disciplining of an employee is not a core function, although related criminal investigations may be.
40. "**Private information**" about a person should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships. The covert surveillance of a person's activities in a public place may result in the obtaining of private information where a person has a reasonable expectation of privacy; and where a record is being made by a public authority of that person's activities.
41. "Private information" includes personal data, such as names, telephone numbers and address details.
42. Regard must be had to the totality of any records held about a person, even where individual records do not constitute "private information".
43. There are two further situations which *may* constitute directed surveillance:
- Where information is derived from surveillance devices which provide information about the location of a vehicle alone, and is coupled with other surveillance activity from which private information is obtained. However, the use of vehicle surveillance devices in itself does not necessarily involve the provision of "private information".
 - Where postal or telephone communications are intercepted and once either the sender or recipient has consented to the interception (and where there is no interception warrant).

Intrusive Surveillance

44. **Intrusive Surveillance** is defined under s.26(3) as covert surveillance that is:

- carried out in relation to anything taking place on any residential premises or in any private vehicle; and
 - involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device on the premises or in the vehicle or is carried out by means of a surveillance device that, although not on the premises or in the vehicle, provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.
45. It is **not** necessary to consider whether intrusive surveillance is likely to result in the obtaining of “private information”¹. The categorisation of surveillance as “intrusive” relates to the location of the surveillance activity rather than the nature of the information obtained.
46. For the purposes of RIPA, residential premises include hotel rooms, hostel rooms and prisons but not common areas to which a person is allowed access in connection with occupation (for example a communal stairway, hotel reception area or dining room, or front garden or driveway which is readily visible to the public)².
47. The definition of “**premises**” under RIPA is broad, and extends to any place whatsoever, including any vehicle or moveable structure, whether or not occupied as land.
48. Under the Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010, directed surveillance shall be intrusive surveillance if carried out on the following premises:
- Any place where persons serving sentences, in custody or on remand may be detained
 - Any place of detention pursuant to immigration powers
 - Police Stations
 - Hospitals where high security psychiatric services are provided
 - The place of business of any legal adviser
 - Any place used for the business of a court, tribunal, inquest or inquiry
49. The Council’s officers **CANNOT AUTHORISE** intrusive surveillance under RIPA.

Online covert surveillance

50. The Home Office Revised Code of Practice on Covert Surveillance and Property Interference, published in August 2018, provides the following guidance in relation to covert online activity:

‘The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if

¹ Para 3.3

² Para 3.23 – 3.26

the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.

As set out below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.'

WHAT IS COVERT HUMAN INTELLIGENCE?

51. A covert human intelligence source ("CHIS") is a person who establishes or maintains a relationship with someone in order to covertly obtain information, to provide another person with access to information or to disclose information as a consequence of that relationship. Essentially, this covers the use of informants and undercover officers.
52. Whether a "relationship" has been established will depend on all the circumstances, including the duration of the contact and the nature of the covert activity.

Test Purchasers

53. For example, where a test purchaser makes a single purchase, the relationship is likely to be too limited to require a CHIS authorisation. On the other hand, if the test purchaser has to become acquainted with the vendor in order for him to make a sale, a relationship will have been established and the test purchaser will be treated as a CHIS. If there is any doubt whether authorisation is required in relation to a particular operation, then the Investigating Officer should seek authorisation.

The use of juveniles as a CHIS

54. If a person under the age of 18 is to be used as a source, authorisation must be obtained from either the Head of Paid Service or (in her absence) the person acting as Head of Paid Service.
55. On no occasion should the use or conduct of a person under 16 be authorised to give information against his parents or any person who has parental responsibility for him.
56. The *Regulation of Investigatory Powers (Juvenile) Order 2018 SI 715* applies to the use of juvenile sources. This requires that where a source is under 16, an appropriate adult must be present at all meetings between the source and the Council's officers. The Order also requires a detailed risk assessment to be undertaken where a source is under 18. The existence and magnitude of any physical or psychological risk must be identified and the Authorising Officer must be satisfied that the use of the source is justified in light of that risk and that the risk has been properly explained to and understood by the source.
57. Authorisations for the use of juvenile source cease after 1 month instead of 12 months.
58. The use of a juvenile e.g. to attempt to buy alcohol or tobacco from a shop suspected of selling to persons under age may not constitute the use of a juvenile as a CHIS for the reasons set out above.

Members of the public as informants

59. A member of the public who reports a matter e.g. about unlawful trading to an officer is not a CHIS. If an Investigating Officer wishes to request that person to e.g. maintain a relationship with a trader and keep records of their dealings or to make further inquiries of a trader, authorisation will, however, be required.

Monitoring the use and welfare of CHIS

60. There must at all times be arrangements in place for the proper oversight and management of CHIS, including appointing individual officers to act as 'controller' and 'handler' for each CHIS.
61. The 'handler' will have day to day responsibility for:
 - dealing with the CHIS on behalf of the Council;
 - directing the day to day activities of the CHIS;
 - recording the information supplied by the CHIS; and
 - monitoring the CHIS's security and welfare.
62. The handler of a CHIS will usually be of a rank or position below that of the Authorising Officer.
63. The 'controller' will normally be responsible for the management and supervision of the handler, and general oversight of the use of the CHIS.
64. Section 29(5) of RIPA provides that an Authorising Officer may only authorise the use of a CHIS if satisfied that there is at all times a person with the responsibility for keeping a record of the use made of the source. The Regulation of Investigatory Powers (Source Records) Regulations 2000 SI 2000/2725 sets out the particulars that must be included in the records relating to each source.
65. Before authorising the use or conduct of a CHIS, the Council should carry out a risk assessment to determine the risk to the CHIS and the likely consequences, should the role of the CHIS become known. Any matters of concern should be considered by the authorising officer and a decision taken as to whether to continue. The ongoing safety and welfare of the CHIS should continue to be taken into account after the authorisation has been cancelled.
66. Material produced as a result of the use of a CHIS must be retained only for so long as necessary. When reviewing the retention of records, the Council must consider its duty of care to the CHIS and the likelihood of future civil or criminal proceedings relating to the information supplied.
67. Appendix C provides further information about the monitoring and welfare of CHIS.

AUTHORISATION

The Role of the Authorising Officer

68. **Directed Surveillance** must be authorised by an **Authorising Officer** prior to approval by the Magistrates Court. The Council's Authorising Officers are set out in the Surveillance Personnel List at Appendix A. The Service Director Legal and Democratic Services will revise the Personnel List as and when necessary.

69. An Authorising Officer may only authorise Directed Surveillance for the purpose of the prevention or detection of crime or the prevention of disorder (punishable by a maximum term of at least 6 months' imprisonment). An Authorising Officer must further be satisfied:
- that sufficient evidence exists and has been documented to warrant the use of the particular directed surveillance exercise requested
 - that the use of the particular directed surveillance exercise requested is both necessary and proportionate to the particular objective pursued.
70. It is fundamentally important that the Authorising Officer is able to evidence that his consideration of the application is based upon the principles of necessity and proportionality. This must include why it is necessary to use covert surveillance in the investigation
71. **The use and conduct of CHIS** must also be authorised by an Authorising Officer, prior to approval by the Magistrates Court. The Authorising Officer must be satisfied that the use or conduct of a CHIS is necessary in the circumstances of the case for one of the following reasons: for the purpose of preventing or detecting crime or of preventing disorder;
72. If one of the above grounds applies, the Authorising Officer must go on to consider whether the use or conduct of a CHIS is proportionate.

Proportionality

73. In considering whether a particular exercise would be proportionate the Authorising Officer must consider whether it is excessive in the overall circumstances of the case. The fact that an offence is serious is not sufficient to render intrusive actions proportionate. The Authorising Officer must consider the following elements:
- The size and scope of the proposed surveillance activity, weighed against the gravity and extent of the suspected offence.
 - Whether the methods suggested will cause the least possible intrusion on the subject and others.
 - Whether the proposed activity is a legitimate and reasonable way of obtaining the necessary result.
 - Whether other methods have been considered and the reasons for their non-implementation.

Additional Safeguards

Collateral intrusion

74. Before authorising applications for **directed surveillance or CHIS**, the Authorising Officer must take into account the risk of "collateral intrusion" i.e. the risk of obtaining private information about persons who are not subjects of the surveillance activity.
75. Measures should be taken, where practicable, to minimise unnecessary intrusion into the privacy of those who are not the intended subjects. However, activities resulting in collateral intrusion may still be lawful if they are proportionate. Applications by investigating officers should therefore include an assessment of the risk of collateral intrusion and details of any measures to limit this.

76. Planned surveillance activity against individuals who are not direct suspects should be treated as intended, rather than collateral, intrusion.

Confidential and Legally Privileged Information

77. Particular care should be taken where an investigation involves confidential information. **Confidential information** consists of matters subject to legal privilege, confidential personal information or confidential journalistic material. Confidential personal information means information held in confidence relating to the physical or mental health or spiritual counselling of an individual. Confidential journalistic information means information held in confidence acquired or created for the purpose of journalism.
78. Public authorities may obtain knowledge of matters subject to legal privilege via CHIS in the following scenarios:
- Where the authority has deliberately authorised the use or conduct of the CHIS to obtain knowledge of matters which are subject to legal privilege.
 - Where the CHIS obtains knowledge of matters subject to legal privilege through conduct which is incidental to his conduct as a CHIS.
 - Where a CHIS obtains knowledge of matters subject to legal privilege where his conduct is not incidental.
79. An authorisation or renewal for the use or conduct of a CHIS **intended** to obtain, provide access to or disclose knowledge of matters subject to legal privilege must follow an enhanced regime of prior notification and approval. Before an authorising officer grants or renews such an authorisation, they must give notice to and seek approval from a Judicial Commissioner. An application for authorisation or renewal must contain a statement that the purpose, or one of the purposes, of the authorisation is to obtain legally privileged information, and should only be sought in exceptional and compelling circumstances.
80. If a CHIS is **not intended** to acquire knowledge of matters subject to legal privilege, but it is likely that such knowledge will nevertheless be acquired, the application should contain an assessment of the degree of likelihood, how any material obtained will be treated, and how access to the material will be minimised.
81. If the surveillance is likely to yield confidential information as defined above, authorisation must be sought from the Council's Head of Paid Service (i.e. the Chief Executive) or, in her absence, the Deputy Chief Executive.

Legal consultations

82. The Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010 states that directed surveillance carried out on premises which are, at any time during the surveillance, used for the purposes of "legal consultation", is to be treated as intrusive surveillance. "Legal consultation" is defined as:
- A consultation between a professional legal adviser and his client or any person representing his client or

- A consultation between a professional legal adviser or his client or any such representative and a medical practitioner made in connection with or in contemplation of legal proceedings or for the purpose of legal proceedings.
83. For further information about surveillance involving confidential or legally privileged information or legal consultation, officers should consult the Codes of Practice on Covert Surveillance and Property Interference and Covert Human Intelligence Sources.
84. If there is any doubt as to whether information likely to be acquired would constitute confidential information, advice should be sought from Legal Services.

The use of agents and cooperation with other bodies

85. The Council can employ or recruit an agent e.g. an agent with more specialised equipment than the Council would have available to act on its behalf in conducting surveillance. The same authorisation procedures must be followed.
86. The Council should also be mindful of any similar surveillance taking place in other areas which could have an impact on its activities. Where an Authorising Officer considers that conflicts may arise, they should consult a senior police officer within the area.

AUTHORISATION PROCEDURES

87. The authorisation procedures are intended to ensure that any interference with privacy is subject to rigorous scrutiny. However, they also provide an opportunity for further discussion and refinement of the methods to be used in a particular investigation.
88. Applications for authorisation for Directed Surveillance must be made on the form **2010-09 DS Application**.
89. Applications for authorisation for CHIS must be made on the form **2010-09 CHIS Application**.
90. The written application must describe:
- the reason why the authorisation is necessary in the particular case for the prevention or detection of crime or the prevention of disorder
 - the purpose of the surveillance
 - the nature of the surveillance
 - the identities, where known, of those to be subject to the surveillance
 - an explanation of the information which it is desired to obtain as a result of the surveillance
 - the nature and extent of any likely collateral intrusion and why it is justified
 - the nature and extent of any likely confidential information
 - the level of authorisation needed
 - the reason why the surveillance is considered proportionate to what it seeks to achieve
 - a subsequent record of whether authority was given or refused, by whom and on what date.

91. The Authorising Officer must satisfy him or herself that the particular surveillance requested is proportionate to the particular aim pursued in the course of the investigation. It is ultimately for the Authorising Officer to decide whether or not the proposed surveillance is necessary and proportionate.
92. The current Authorising Officers are set out in the Surveillance Personnel List. The Service Director Legal and Democratic Services will revise the Personnel List as and when necessary.
93. If the application is granted, the Authorising Officer must record the reasons for authorisation. If the application is refused, the Authorising Officer must record the reasons for refusal.
94. Once the above authorisation process has been completed and a provisional authorisation granted, the Council must apply to the Magistrates Court for an Order approving the grant or renewal of an authorisation.

No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates' Court to that authorisation has been obtained.

Duration and termination of authorisation

95. A written authorisation for **directed surveillance** will cease to have effect (unless renewed) at the end of a period of three months beginning on the day the Magistrates approval took effect.
96. A written authorisation for the use of a **CHIS** granted by an Authorising Officer will cease to have effect (unless renewed) at the end of a period of four months beginning on the day the Magistrates approval was given (or one month where the source is a juvenile).
97. Once the exercise for which authorisation has been granted has been carried out the Officer must complete a cancellation notice (**Form 2007-01 DS Cancellation** or **2007-01 CHIS Cancellation**) and submit this to the Authorising Officer for signature.
98. A written authorisation should be reviewed monthly to assess whether or not there is a need for surveillance to continue. The Authorising Officer must be satisfied that the continuation of the authorisation is justified. The Authorising Officer must record the reasons for concluding that an authorisation is justified to continue as approved or, alternatively, must record the reasons for concluding that the authorisation should not be continued. The review should be conducted using the form **2007-01 DS Review** or **Form 2010-09 CHIS Review**.
99. At any time before an authorisation would cease to have effect, the Investigating Officer may apply to the Authorising Officer to renew the authorisation. The Authorising Officer must be satisfied that the renewal would be proportionate. The authorisation of directed surveillance is subject again to Magistrates approval, and may be renewed for a further 3 months, taking effect at the time or on the day on which the authorisation would otherwise have ceased to have effect. The Authorising Officer must record the reasons for renewal or refusal. An

application for renewal must be made using the form **2007-01 DS Renewal** or form **2007-1 CHIS Renewal**.

100. All applications for a written renewal should record:
 - whether this is the first renewal or every occasion on which the authorisation has been renewed previously
 - any significant changes since the original application or last renewal or last review, as appropriate
 - the reasons why continued surveillance is necessary
 - the content and value to the investigation of information so far obtained by the surveillance
 - the results of regular reviews of the investigation
101. Reviews and renewal applications for the use of a CHIS should also include the use made of the source during the period authorised, the tasks given to the source and the information obtained from the source.
102. An application for renewal should not be made until shortly before the authorisation period is drawing to an end.
103. Authorisations may be renewed more than once, provided they meet the criteria for authorisation.
104. During a review the authorising officer may amend the authorisation or cancel it, if the criteria for its initial authorisation are no longer met. As soon as the decision is taken to discontinue surveillance, all those involved in the surveillance must be notified.

Record Keeping

105. Copies of all signed forms of authorisation, renewals and cancellations should be filed on the case file and the originals should be sent to the RIPA Co-ordinating Officer within 5 working days of such authorisation renewal or cancellation. Forms will be kept for 5 years following the end of an authorisation or relevant court proceedings.
106. The RIPA Co-ordinating Officer will maintain a database of applications containing the following information:
 - the type of authorisation
 - the date the authorisation was given
 - the name and rank of the authorising officer
 - the unique reference number of the investigation or operation
 - the title of the investigation or operation including a brief description and the names of subjects if known
 - details of attendances at Magistrates Court to include the date of attendances at court, the determining magistrate, the decision of the court and the time and date of that decision
 - the dates of any reviews
 - the date of any renewals and the name and rank of the officer authorising renewal

- whether the investigation was likely to result in obtaining confidential or privileged information and whether any such information was obtained
- whether the authorisation was granted by an individual directly involved in the investigation
- the date the authorisation was cancelled
- Where any application is refused, the grounds for refusal as given by the Authorising Officer or determining magistrate.

107. The RIPA Co-ordinating Officer will further maintain copies of all applications (whether or not authorisation was given) with supplementary documentation; a record of the period over which surveillance has taken place; the frequency of reviews; the result of any reviews; copies of any renewals of authorisation; the date and time of any instructions given by the authorising officer.

Handling of material and use of material as evidence

108. Material produced as a result of directed surveillance may be used in criminal proceedings and must be retained only for so long as necessary.

109. All material obtained as a result of covert surveillance will be recorded and logged in the Investigating Officer's notebook in accordance with the usual procedures for the logging of evidence.

110. Material obtained using covert surveillance should be disposed of in accordance with the *Criminal Procedures and Investigations Act 1996*. Public authorities must ensure that arrangements are in place for the secure handling, storage and destruction of material obtained through the use of directed or intrusive surveillance. Authorising officers must also ensure compliance with the requirements of the Data Protection Act 2018 and General Data Protection Regulation.

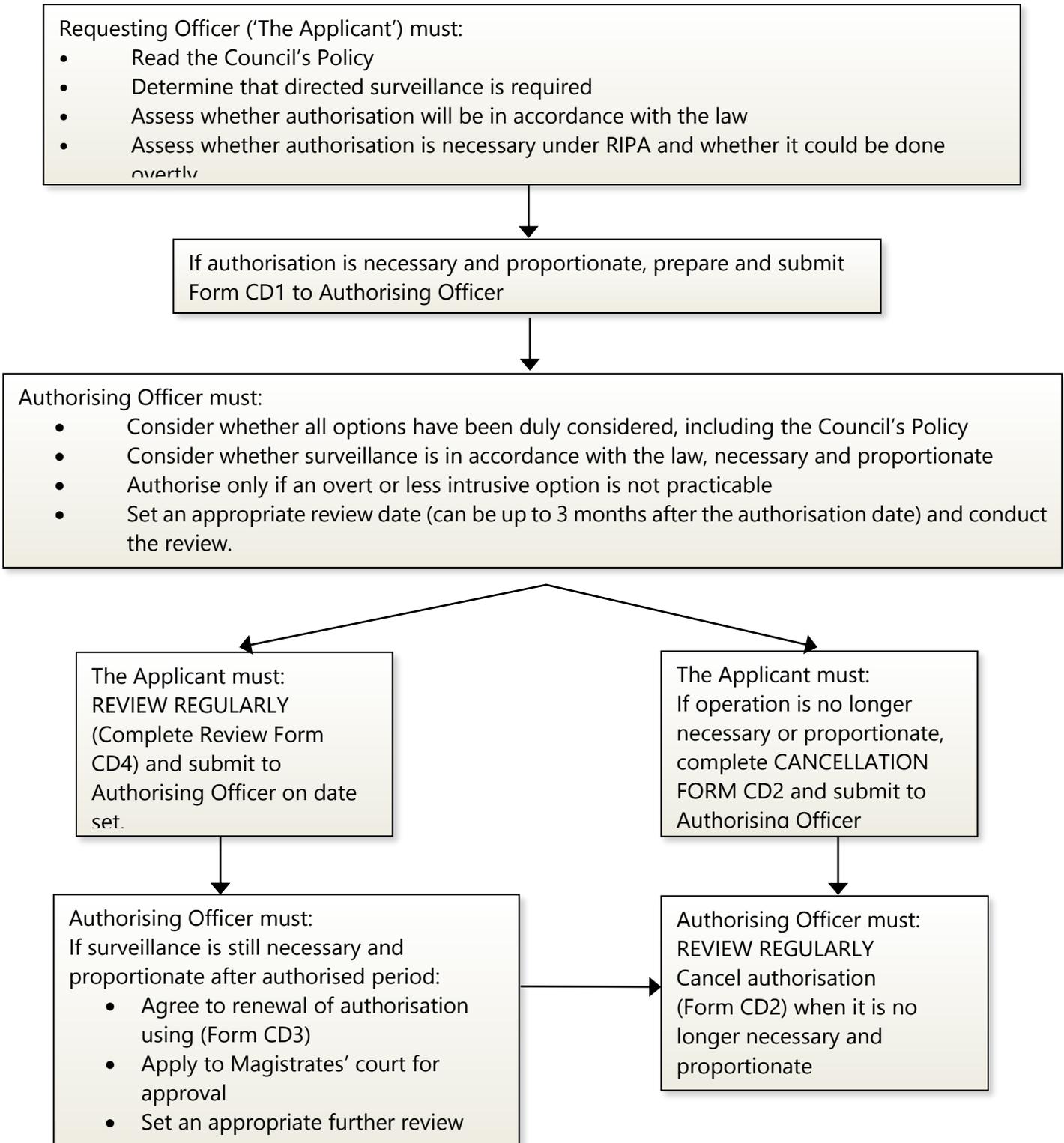
APPENDIX A

SURVEILLANCE PERSONNEL LIST

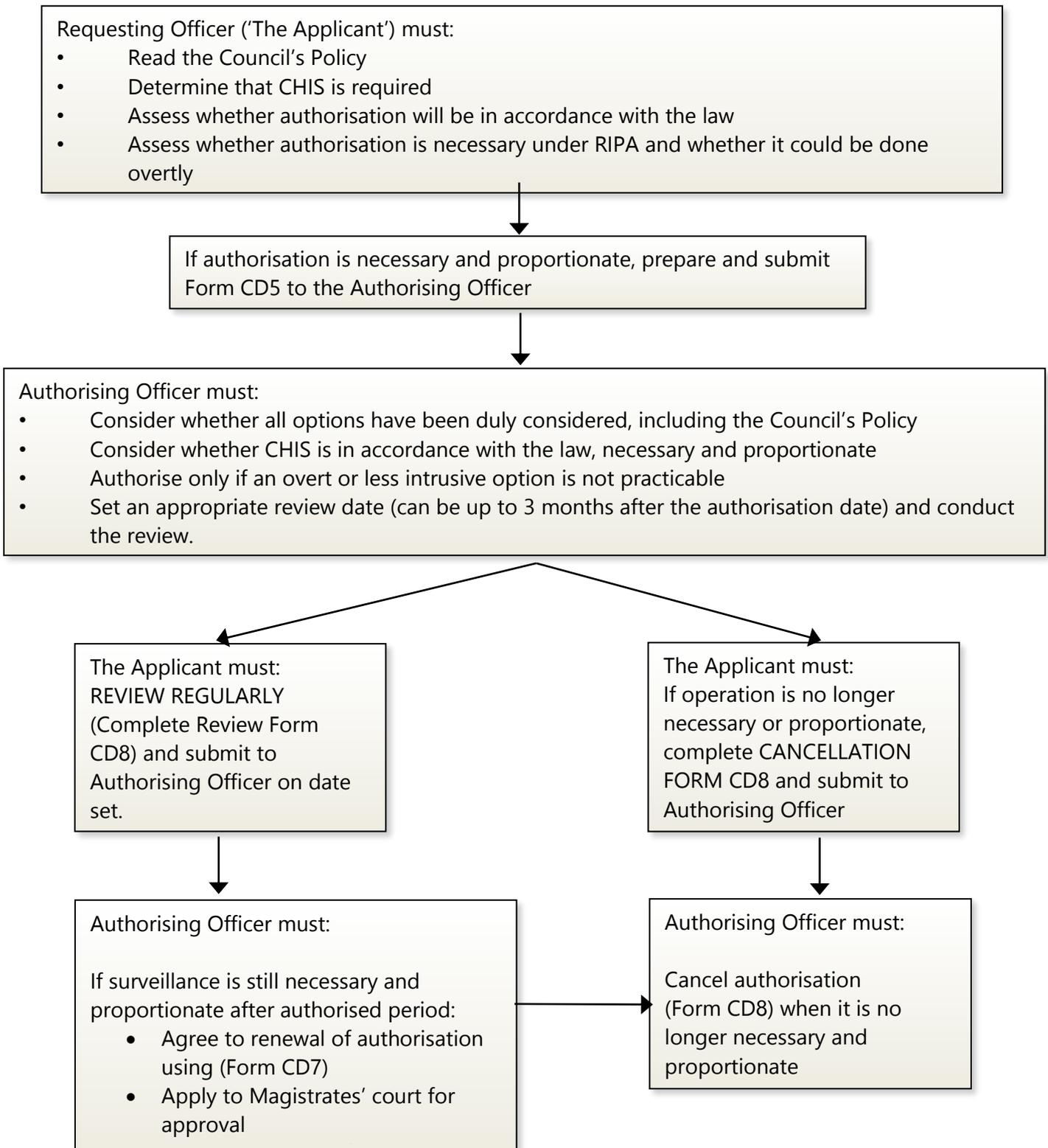
ROLE	NAME	JOB TITLE	DIRECTORATE
AUTHORISATION WHERE CONFIDENTIAL INFORMATION LIKELY TO BE ACQUIRED; USE OF JUVENILE CHIS; USE OF VULNERABLE CHIS	RACHAEL SHIMMIN	CHIEF EXECUTIVE	HEAD OF PAID SERVICE
SENIOR RESPONSIBLE OFFICER		SERVICE DIRECTOR LEGAL AND DEMOCRATIC SERVICES	DEPUTY CHIEF EXECUTIVE
RIPA CO-ORDINATING OFFICER	To be appointed by SRO		LEGAL AND DEMOCRATIC SERVICES
AUTHORISING OFFICER/DESIGNATED PERSON	GILLIAN QUINTON	CORPORATE DIRECTOR ADULTS,HEALTH AND HOUSING	ADULTS,HEALTH AND HOUSING
AUTHORISING OFFICER/DESIGNATED PERSON	RICHARD BARKER	CORPORATE DIRECTOR COMMUNITIES	COMMUNITIES

APPENDIX B

FLOWCHART 1: DIRECTED SURVEILLANCE



FLOWCHART 2: CHIS



APPENDIX C

ADDITIONAL NOTES ON CHIS (FROM HOME OFFICE CODE OF PRACTICE)

Management of sources

Tasking

Tasking is the assignment given to the CHIS by the persons defined at sections 29(5)(a) and (b) of the 2000 Act, asking him to obtain, provide access to or disclose information. Authorisation for the use or conduct of a CHIS will be appropriate prior to any tasking where such tasking involves the CHIS establishing or maintaining a personal or other relationship for a covert purpose.

Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task. If there is a step change in the nature of the task that significantly alters the entire deployment, then a new authorisation may need to be sought. If in doubt, advice should be sought from the Investigatory Powers Commissioner.

It is difficult to predict exactly what might occur each time a meeting with a CHIS takes place, or the CHIS meets the subject of an investigation. There may be occasions when unforeseen action or undertakings occur. When this happens, the occurrence must be recorded as soon as practicable after the event, and if the existing authorisation is insufficient, it should either be reviewed and updated (for minor amendments only) or it should be cancelled and a new authorisation should be obtained before any further such action is carried out.

Similarly, where it is intended to task a CHIS in a significantly greater or different way than previously identified, the persons defined at section 29(5)(a) or (b) of the 2000 Act must refer the proposed tasking to the authorising officer, who should consider whether the existing authorisation is sufficient or needs to be replaced. This should be done in advance of any tasking and the details of such referrals must be recorded. Efforts should be made to minimise the number of authorisations per CHIS to the minimum necessary in order to avoid generating excessive paperwork.

Security and welfare

Any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. This should consider the risks relating to the specific tasking and circumstances of each authorisation separately, and should be updated to reflect developments during the course of the deployment, as well as after the deployment if contact is maintained. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset and reviewed throughout the period of authorised activity by that CHIS. Consideration should also be given to the management of any requirement to disclose information which could risk revealing the existence or identity of a CHIS. For example this could be by means of disclosure to a court or tribunal, or any other circumstances where disclosure of information may be required, and

strategies for minimising the risks to the CHIS or others should be put in place. Additional guidance about protecting the identity of the CHIS is provided at paragraphs 8.22 to 8.25 of the Home Office CHIS guidance.

The CHIS handler is responsible for bringing to the attention of the CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect:

- the validity of the risk assessment;
- the conduct of the CHIS; and
- the safety and welfare of the CHIS.

Where appropriate, concerns about such matters must be considered by the authorising officer, and a decision taken on whether or not to allow the authorisation to continue.

APPENDIX D

LIST OF FORMS IN USE FOR COVERT SURVEILLANCE

Form D1:	Directed Surveillance Application
Form D2:	Directed Surveillance Cancellation
Form D3:	Directed Surveillance Renewal
Form D4:	Directed Surveillance Review
Form D5:	CHIS Application
Form D6:	CHIS Cancellation
Form D7:	CHIS Renewal
Form D8:	CHIS Review

APPENDIX E

GUIDANCE ON ACCESSING COMMUNICATIONS DATA

Any application for communications data (the who, when and where of a communication) must be completed on the CycComms data workflow system on the National Anti-fraud Network website at www.nafn.gov.uk. CycComms is an automated process which will enable you to apply for information, receive responses and manage your application. The National Anti-fraud Network SPoC, will act as a gatekeeper for your application, ensuring that it is practical and lawful and will engage with you to proactively provide advice, support and the most appropriate route which may require judicial approval. If it meets the legal threshold for obtaining communications data NAFN will post it on the website for approval by the appropriate Designated Person.

This procedure necessitates the applicant to be registered with the National Anti-fraud Network prior to making the application. For details on how to do this the applicant should visit www.nafn.gov.uk.

If rejected, by the Designated Person, NAFN will retain the application and inform the applicant in writing of the reason(s) for its rejection.

Comprehensive guidance on the application process is also available via the National Anti-fraud Network website at www.nafn.gov.uk.

APPENDIX F

APPLICATION FOR JUDICIAL APPROVAL FOR AUTHORISATION TO OBTAIN OR DISCLOSE COMMUNICATIONS DATA, TO USE A COVERT HUMAN INTELLIGENCE SOURCE OR TO CONDUCT DIRECTED SURVEILLANCE. REGULATION OF INVESTIGATORY POWERS ACT 2000 SECTIONS 23A, 23B, 32A, 32B.

Local authority: Buckinghamshire Council

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....
.....
.....

Covert technique requested: (tick one and specify details)

Directed Surveillance	<input type="checkbox"/>
Communications Data	<input type="checkbox"/>
Covert Human Intelligence Source	<input type="checkbox"/>

Summary of details

.....
.....
.....
.....
.....
.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer appearing before JP:.....

Address of applicant department.....
.....

Contact telephone number:.....

Contact email address (optional).....

Local authority reference:.....

Number of pages.....

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates' court.....

Having considered the application, I (tick one):

	am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied and I therefore approve the grant or renewal of the authorisation/notice.
	refuse to approve the grant or renewal of the authorisation/notice.
	refuse to approve the grant and quash the authorisation/notice.

Notes.....
.....
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Reasons.....
.....
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.....
.....

Signed:.....

Date:.....

Time:.....

Full name:.....

Address of magistrates' court:.....

Report for:	Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	ENFORCEMENT POLICY – REGULATORY FUNCTIONS
Shadow Portfolio Holder	Isobel Darby
Responsible Officer	Jacqui Bromilow
Report Author Officer Contact:	Jacqui Bromilow; jbromilow@aylesburyvaledc.gov.uk
Recommendations:	To agree the enforcement policy which is an overarching policy covering all enforcement activities where prosecution is an available remedy.
Corporate Implications:	<p>The report has been reviewed by Legal workstream and feedback recommends that work areas harmonise their individual enforcement policies/criteria within a short period of vesting day (except where there are specific requirements within the Orders, such as Licensing).</p> <p>An enforcement policy is required to be in place for any enforcement activities post vesting day to ensure any actions are fair. The policy must have regard to the Legislative and Regulatory Reform Act 2006 and the Regulators' Code.</p>
Options: (If any)	<p>1) Agree the policy as an overarching enforcement policy for the majority of regulatory functions of Buckinghamshire Council. Having a single overarching policy ensures that all parts of the Council that undertake enforcement activities are fair to persons and businesses affected by the policy. (Recommended)</p> <p>2) Refuse the policy as presented – this will mean that there would be no enforcement policy for the new authority, which would affect the ability for enforcement actions to be exercised. Any formal action may be scrutinised in court and could fall due to the lack of an adopted policy.</p>
Reason:	The preferred option will enable the new authority to be safe and legal post vesting day with respect to new enforcement activities and will ensure that the approach to enforcement will be consistent.

1. Purpose of Report

2. Buckinghamshire Council is required to have an enforcement policy. This report recommends the adoption of an overarching enforcement policy for the new authority. The policy at Appendix 1 to this report should ensure that any enforcement action taken, or advice given by the new authority is fair to persons and businesses affected by it.

3. Content of Report

4. As part of ensuring that Buckinghamshire Council is 'safe and legal' post vesting day it was identified that an enforcement policy was required to cover the regulatory functions which currently sit within the Regulatory Workstream (namely Environmental Health, Licensing and Trading Standards) and the activities of Private Sector Housing and anti-social behaviour which are in different workstream areas.
5. An overarching enforcement policy has been drafted (Appendix 1) which has regard to the requirements of the Legislative and Regulatory Reform Act 2006, section 21 and the Regulators' Code, published by the Better Regulation Delivery Office (now known as Office for Product Safety and Standards).
6. The Act outlines two principles that any person exercising a regulatory function must have regard to:
 - a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent.
 - b) regulatory activities should be targeted only at cases in which action is needed

The proposed policy reflects these principles and details how the authority will comply with them.

7. The policy is an overarching policy which means that more detailed policies or guidance documents will be required to support it, for example covering areas such as food safety, antisocial behaviour, planning enforcement etc. These supporting policies may be updated to reflect operational changes or required changes due to legislative or central guidance updates.
8. The work areas affected by this overarching enforcement policy have been contacted to ensure any work that they are undertaking does not cause conflict with the proposed new policy.
9. The areas covered by the proposed overarching policy include: Environmental Health, Licensing (all areas), Planning Enforcement, Housing, Environmental Crime, Unauthorised Encampments, Building Control, Fraud, and Blue Badge enforcement. However, this list is not exhaustive and the proposed policy may also apply to other miscellaneous enforcement functions of the authority.
10. It is recommended that any supporting policies or guidance notes which support this policy are harmonised and implemented as soon as reasonably practicable post vesting day to ensure the principles outlined above are met (unless a specific exemption applies).

11. Financial Implications

12. No direct financial implications have been identified regarding the implementation of this policy other than officer resources in creating the supporting documents. There would be financial implications if the authority took legal action which was challenged in court and the case collapsed as a result of the absence of a policy.

13. Legal Implications

14. The authority is required to have a policy to ensure compliance with the principles outlined in section 3.

15. Other Key Risks

16. The absence of a policy could cause inconsistent approaches to enforcement being undertaken which could influence the reputation of the new authority. It could also undermine other enforcement actions taken by the authority and render its regulatory functions to challenge.

17. Dependencies

18. Each service area which this policy affects will be required to produce supporting service specific policies/documentation so far as is reasonably practicable by April 2021.

19. Consultation

20. Service areas affected by the implementation of the policy have been informed and asked to provide comment. Comments provided have been incorporated as appropriate.
21. Although not a legal requirement, it is envisaged that the policy will be made available on the new Council's website. It is recognised that persons or businesses will only be affected by this policy if they undertake an activity which requires a regulatory input or oversight.

22. Communications Plan

23. There is no specific communications plan for making persons or businesses aware of the policy, however it will be available on the website, post vesting day.

24. Equalities Implications

25. Not required for the proposed overarching policy, the subject of this report. However, it is envisaged that the supporting policies may require Equalities Impact Assessments.
26. Legal advice indicates that the policy could pose difficulties for people with disabilities or whose first language is not English. The intention is therefore to support individuals and signpost them to organisations that may be able to provide further appropriate advice or support. Such details are to be provided by the individual services concerned as part of the procedures which support this policy.

27. Data Privacy Implications

28. It is not believed that there are any data privacy implications with respect to this policy. The policy outlines what persons and businesses can expect from the authority.

29. Next Steps

30. If the proposed policy is adopted, service areas will be informed so that they may begin work to produce harmonised service specific supporting policies. The functions to which this policy applies are outlined within the policy attached.

Background Papers	None
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Enforcement Policy – Regulatory Functions

Reference:

Corporate Priority:

In constitution:

Policy Details

What is this policy for?	<p>This policy sets out Buckinghamshire Council's approach to enforcement activities. The purpose is to ensure an approach to enforcement which is transparent, accountable, proportionate, consistent and appropriately targeted. It does take into account national codes and guidance.</p> <p>It is an overarching policy and is supported by additional subject specific policy or procedure documents which provide additional guidance and, where appropriate, specific criteria which may need to be considered when making decisions regarding regulatory activities. So far as is reasonably practicable all supporting documents will be implemented by April 2021.</p>
Who does this policy affect?	This policy primarily affects residents and businesses within Buckinghamshire, but will also affect visitors and in some circumstances may have effect outside of the authority's boundary.
Keywords	Enforcement, prosecution, notice, caution, advice, business, penalty, consistency, transparency, efficiency, proportionate, accountability.
Author	Jacqui Bromilow, Environmental Health Sub workstream.
Buckinghamshire Council policy adopted from	This is a new policy for Buckinghamshire Council.
Does this policy relate to any laws?	This policy relates to all relevant service legislation where there is a power to take enforcement action and includes the action of prosecution.

<p>Is this policy linked to any other Buckinghamshire Council policies?</p>	<p>There will be other relevant policies/procedures to consider when undertaking investigations and determining and implementing the appropriate enforcement action, for example the Regulation of Investigatory Powers Act 2000 for which the Council has policies in place. Some service areas will have specific enforcement considerations and separate procedure documents are in place to support this policy.</p>
<p>Equality Impact Assessment (EqIA)</p>	<p><i>Full assessment not required.</i></p>
<p>Other Impact Assessments</p>	<p>N/A</p>

Status and Approvals

Status	<i>Live</i>	Version	<i>1.0</i>
Last review date	<i>This is a new policy</i>	Next review date	1 April 2022
Approved by (Director)		Date approved	
Member/ Partnership Board Approval	Community Board	Date approved	18 November 2019

Enforcement Policy – Regulatory Functions

<p>Purpose</p>	<p>Buckinghamshire Council functions as a regulator and enforcement agency with a wide range of legal powers and duties. The authority has an essential role in the protection of the interests of residents, businesses, visitors and on occasions there will be an impact outside of the authority’s area.</p> <p>The purpose of this policy is to ensure a clear and consistent approach to enforcement.</p>
<p>Scope</p>	<p>This enforcement policy is an overarching policy and is intended only to apply to the regulatory activities of council service areas where criminal prosecutions are one of a range of remedies.</p> <p>The functions this Policy covers may include:</p> <ul style="list-style-type: none"> i. Environmental Health ii. Licensing iii. Planning iv. Housing v. Environmental Crime vi. Unauthorised Encampments vii. Building Control viii. Fraud ix. Blue Badge enforcement <p>The above list may not be exhaustive and the policy may apply in other areas of enforcement activity within the authority.</p> <p>For the avoidance of doubt, the Trading Standards function is provided jointly with another Local Government Authority and has a separate agreed enforcement policy.</p> <p>Where appropriate there are additional subject specific procedure documents which support this policy and provide the criteria to be met before enforcement action is taken and any special circumstances which relate to that service, for example, details of appeal processes which must be directed outside of the authority.</p>

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1. Introduction

This document is the enforcement policy which is to be applied to Buckinghamshire Council's enforcement activities. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by the services.

This policy has been prepared having regard to section 21 of the Legislative and Regulatory Reform Act 2006 and the Regulators' Code produced by the Better Regulation Delivery Office (now known as Office for Product Safety and Standards).

The policy is supplemented by specific procedures that relate to specific work areas within the services. Officers will ensure that they follow any detailed matters outlined in such procedures or in nationally published enforcement guidance, as well as the general approach to enforcement given in this policy. Due consideration will also be given to any other enforcement policy or scheme such as the Primary Authority Principle, where appropriate.

2. Principles of Enforcement

The Council's aim is to undertake its regulatory and enforcement role in an impartial, open, and consistent manner. This is achieved through education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and business as necessary.

Compliance is secured through informal and formal routes and, if necessary, through the courts via a prosecution.

We will work to ensure compliance with the law by:

- Helping and encouraging businesses and individuals to understand their responsibilities by providing the necessary advice and guidance to allow them to comply with the law,
- Responding proportionately and fairly to breaches of the law, and
- Using the service planning process to ensure that resources and regulatory activities are appropriately targeted to where they will have the greatest impact taking into account the associated risks.

The Legislative and Regulatory Reform Act 2006 requires that any person exercising a regulatory function has regards to the following:

Transparent – those whom enforcement action is considered will receive sufficient explanation in plain English to enable them to understand what is expected of them, and what they may expect from us including clear indication of any charges we set.

The Council will give clear explanations of things which are legal requirements, and matters which are recommendations. Our correspondence and advice, where appropriate will set out clear deadlines as to when and what appropriate action is required. Verbal advice can be confirmed in writing if requested. If appropriate, the Council will signpost persons to organisations where they are able to get additional support and advice.

Accountable – officers will be courteous, fair and efficient at all times and will identify themselves by name and, where appropriate, identity card. Officers shall record details of enforcement actions and decisions. If it is required to undertake an enforcement action, it shall be carried out without unnecessary delay.

Where appropriate, the Council will ensure that customers are informed of any standards in place which detail the level of service and performance that can be expected by service users and will be given opportunities to provide feedback on the service received. Where enforcement activities are undertaken as a result of a service request/enquiry/complaint from a customer, we will keep the customer updated with the progress of the investigation and inform them of the outcome or resulting actions as appropriate.

Where formal enforcement action is taken, we will provide details of any appeals process which is applicable.

Should a business or individual have concerns or wish to complain about the service they have received they are able to do so via the Council's complaint procedure, although in most cases this must not be used to appeal a decision where formal action has occurred.

Consistent - broadly similar approaches will be used in similar circumstances in order to achieve consistent outcomes. The Council recognises that businesses and people expect consistency from different enforcement officers with whom they come into contact e.g. in the investigation of complaints, service of notices and fines.

The Council will continue to take steps to promote consistency of enforcement. Steps will include training, effective liaison with other local authorities, enforcement bodies and professional organisations, attending local regional and national meetings as well as ensuring we are aware of current national priorities and guidance.

Proportionate – it is recognised that most businesses and individuals wish to comply with the law, however firm action will be taken against those who flout the law or act irresponsibly.

Enforcement action will be related to the risk and the public interest. Any action taken by enforcement officers to achieve compliance with the law will depend on the seriousness of any breach. The Council's approach will aim to secure compliance through advice and guidance however there will be occasions where a formal approach is required. The Council will actively work with people and businesses to advise on and assist with compliance.

Any decision regarding enforcement action will be taken on the merits of each case, be impartial and objective. It will not be affected by race, disability, socioeconomic factors, age, politics, gender, sexual orientation or religious beliefs of any Council employee, offender, victim or witness. However, where a victim has been targeted by an offender by virtue of their status (eg ethnicity) or where the perpetrator is young or vulnerable, consideration will be given to this when deciding on any course of action.

3. Planning Regulatory Activity and Targeting Resources

The Council is committed to helping businesses grow. We will consider the impact that our regulatory activities may have on businesses and members of the public. In doing so will endeavour to help businesses achieve compliance without unnecessary expense.

We will allocate our resources where they will be most effective by assessing the risks associated with non-compliance with the law. In determining risk, we will consider a range of factors that include:

- The potential impact on residents, employees, consumers and business in failing to meet legal requirements.
- The likelihood of non-compliance taking into account matters such as past history, the systems the business has in place, management competence and willingness to comply.

Planned inspections and other visits will be undertaken after consideration of the risk the business poses if it fails to comply. Reactive visits will be carried out upon request by a business, or where there is a service request (complaint), intelligence or information received suggests that an inspection or visit is appropriate.

Where practicable we will co-ordinate inspections or visits with other regulators to minimise the burden on recipients of our services.

4. Enforcement Options

There are a wide range of tools available to us as an enforcement agency that we may use to secure compliance with legislation.

The range of actions we may take are as follows:

- No action
- Informal advice and action

- Written warning
- Fixed Penalty Notices
- Penalty Charge Notices
- Formal Notice
- Forfeiture Proceedings
- Seizure of goods/equipment/documents
- Injunctive Actions and other Civil Sanctions (including Order applications)
- Refusal/Suspension/Revocation of a licence or permit
- Simple Caution
- Prosecution
- Proceeds of Crime Applications

This is not an exhaustive list of actions that we may use to secure compliance and not all the above options detailed apply to all service areas.

Where formal enforcement action is necessary, we will consider the most appropriate course of action from the range of sanctions and penalties available with the intention of:

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit from non-compliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with a criminal conviction.
- Being proportionate to the nature of the offence, and the potential to cause harm or harm caused
- Ensuring that matters leading to non-compliance are rectified
- Aiming to deter future non-compliance

5. Consideration of Prosecution

If the formal enforcement action being considered is prosecution, we will also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance. These factors may include the following:

- The seriousness of the alleged offence
- The history of the party concerned
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers
- Whether it is in the public interest to prosecute
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective

These factors are not exhaustive and are not listed in order of significance. The rating of the various factors will vary with each situation under consideration.

6. Information Sharing

Personal and business information held by the authority will only be shared in accordance with the relevant information sharing protocol or legislation. Confidentiality will be maintained unless with the express agreement of the individual concerned.

The authorities will take a proactive approach to data matching and the sharing of information via agreed secure mechanisms with other regulatory agencies and local authorities about businesses and individuals to help target resources and activities and to minimise duplication of enforcement activity. Any sharing of information will be in compliance with the previous paragraph and the authority's data sharing procedures.

7. Application of the Enforcement Policy

All officers will have regard to this policy, and any relevant policy or procedure made under it, when making enforcement decisions.

In situations where exceptional conditions prevail, the head of service (or equivalent) may authorise departure from any part of this policy. An example maybe where there is a risk of injury to employees or members of the public.

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Report for:	Shadow Executive
Meeting Date:	31st March 2020

Title of Report:	Financial Management Strategy
Shadow Portfolio Holder	Martin Tett, Leader.
Responsible Officer	Richard Ambrose - S151 Officer
Report Author Officer Contact:	Richard Ambrose, 01296 383120
Recommendations:	To consider and approve the Financial Management Strategy, including the Executive Summary.
Corporate Implications:	The Interim S151 Officer has reviewed and signed off the Financial Management Strategy, in consultation with the S151 Officers from the sovereign councils via the Finance and Procurement Work stream.
Options: (If any)	N/A
Reason:	N/A

1. Purpose of Report

- 1.1 The purpose of the report is to present the Financial Management Strategy and its Executive Summary for consideration and approval.
- 1.2 This strategy will remain under review (including post vesting day) as other key documents are developed to ensure consistency.

2. Content of Report

- 2.1 Please see the attached Financial Management Strategy and Executive Summary.

3. Financial Implications

- 3.1 N/A

4. Legal Implications

- 4.1 N/A

5. Other Key Risks

5.1 N/A

6. Dependencies

6.1 Some elements of the report will be updated once the formal structure and function of key finance and governance committees is agreed.

7. Consultation

7.1 N/A

8. Communications Plan

8.1 Communications will be managed through the Finance Service to ensure an integrated approach.

9. Equalities Implications

9.1 N/A

10. Data Implications

10.1 N/A

11. Next Steps

11.1 This will help inform future training and relationships with services and Members.

Background Papers	Financial Management Strategy – Exec Summary
	Financial Management Strategy

Buckinghamshire Council - Financial Management Strategy

Executive summary

Strong Financial Management is critical to ensuring the financial sustainability of the Council, in demonstrating that Value for Money is delivered in the services provided and that the priorities of the Council are delivered. The Council operates in an uncertain environment and this uncertainty has led to major failings in other Councils. The Council's Financial Management Strategy sets out how we will work to manage this uncertainty and ensure the Council's aims and objectives can continue to be delivered into the future.

The CIPFA Financial Management Code details the elements considered as key in demonstrating good financial management within public sector organisations. Whilst the code is not statutory guidance, it reflects best practice. As such this underpins our Financial Management Strategy.

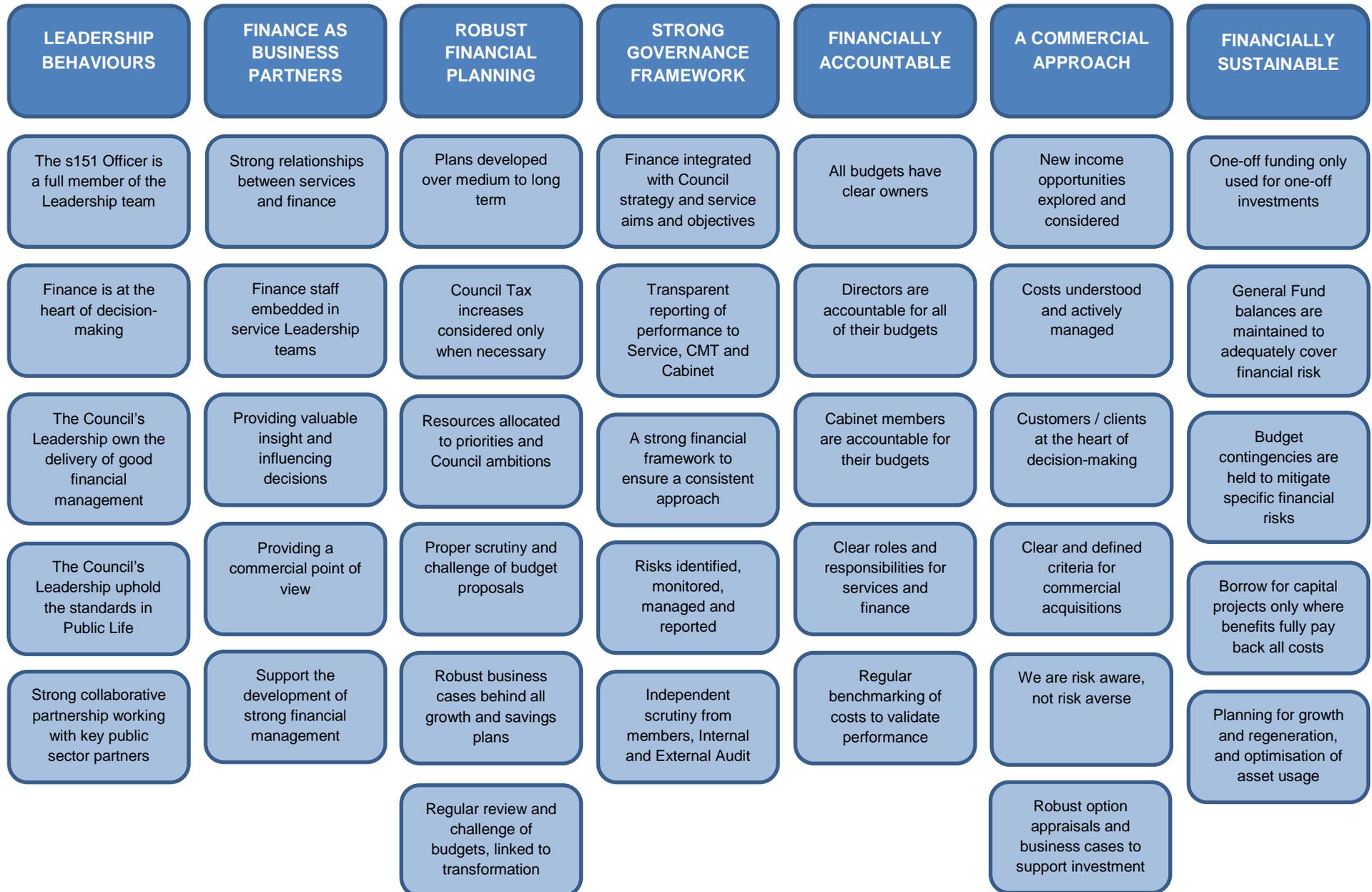
In developing our strategy, seven key aspects of Financial Management are proposed which support strong financial management:

- Leadership behaviours.
- The finance service as business partners.
- Robust financial planning processes.
- A strong governance framework.
- Clarity of accountability across the organisation.
- A commercial approach to financial management.
- Decision-making which supports financial sustainability.

Key aspects of these are set out in our 'Seven Pillars of Strong Financial Management' below:

The Financial Management Strategy itself sets out in more detail the key elements of how financial management will operate within Buckinghamshire Council.

The 'Seven pillars of Strong Financial Management' at Buckinghamshire Council



Buckinghamshire Council

Financial Management Strategy

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1. Introduction

Strong financial management is essential for the efficient, effective and economic management of any organisation. Financial management covers the allocation of available resources to key organisational priorities, monitoring the delivery of those priorities in a changing environment, the effective management of risk, and compliance with relevant legislative requirements. The ultimate aim of the process of financial management is to deliver the greatest benefit to stakeholders within the resources available, in a legal and financially sustainable way.

The purpose of this document is to set the strategic approach to financial management and define the financial governance framework which supports the delivery of high quality financial management, the maintenance of financial sustainability and the alignment of financial resources to organisational outcomes at Buckinghamshire Council. This will be delivered through:-

- A strong focus on financial management discipline from all managers within the council, as led by the Corporate Management Team (CMT).
- Strong and meaningful engagement with members and committees of the council.
- Political and officer ownership of and accountability for all budgets and service outcomes.
- Open, honest and timely reporting on all financial matters and service outcomes.
- The appropriate application of professional standards across the council.

The Chartered Institute of Public Finance and Accountancy (CIPFA) have developed a Financial Management Code for the Public Sector, which identifies the key components of high quality financial management (see Appendix 1). This represents best practice, and delivery of its aims underpin this strategy.

The Council does not operate in a vacuum. The environment and the changing demand for the services we deliver means that the council has limited control and influence over the level of demand. In addition the level of resources available has not kept pace with demand. This creates a challenging environment in which to operate effective financial management.

As part of statutory reporting and as evidence of how effective we are in our financial management, our Annual Governance Statement reports on the ongoing effectiveness of the system of Internal Control, standards of financial management, risk management and governance processes.

2. Role of the Corporate Management Team and management structures

High quality financial management is not the sole responsibility of the Chief Finance Officer (CFO). Whilst they are the lead professional adviser on financial management and decision-making, high quality financial management is the responsibility of all who hold leadership roles. This responsibility must be led from the top and the Council's Leadership team have an intrinsic role in ensuring the principles set out in this strategy are properly supported by and through their management teams.

The Council's Leadership team comprises the Chief Executive (Head of Paid Service), their leadership team, the CFO, executive committees, all elected members, the Leader of the Council and their portfolio holders, and other key committees of the council.

2.1 The Corporate Management Team

By visibly demonstrating the importance of high quality financial management the Corporate Management Team set the tone for the whole organisation and will support the development of a culture where high quality financial management can thrive. The CFO will be an intrinsic part of this team and will be able to exert influence over all material business decisions. The Corporate Management Team will support this by ensuring the CFO is provided with a sufficient resource to deliver this strategy.

The Corporate Management Team also provide a window on the performance of the finance function at a local level and should support the CFO by identifying areas of good or poor practice, or where resources are not sufficient to deliver the high quality of service expected.

2.2 The Section 151 Officer

Section 151 of the Local Government Act 1972 requires local authorities to 'make arrangements for the proper administration of their financial affairs and appoint a Chief Financial Officer (CFO) to have responsibility for those arrangements'. This statutory duty includes a fiduciary responsibility to the local tax payers. Ultimately the CFO is accountable for ensuring the delivery of all of the responsibilities identified above.

CIPFA defines 5 key principles which the CFO is responsible for to ensure high quality financial management within their organisation;

- Principle 1 – The CFO is a key member of the leadership team, helping it to develop and implement strategy and to resource and delivers the authority's strategic objectives sustainably and in the public interest.
- Principle 2 – The CFO in a local authority must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure

immediate and longer term implications, opportunities and risks are fully considered, and alignment with the authority's overall financial strategy.

- Principle 3 – The CFO in a local authority must lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently, and effectively.
- Principle 4 – The CFO in a local authority must lead and direct a finance function that is resourced to be fit for purpose.
- Principle 5 – The CFO in a local authority must be professionally qualified and suitably experienced.

3. Strategic Financial Management Principles

Strategic Financial Management is closely aligned to the overall strategic direction of the Council. The annual budget setting and medium term financial planning process ensure that financial resources are aligned with organisational and service priorities both at a strategic and an operational level. The ongoing management and reporting of financial performance then provides a mechanism through which the Council's Leadership and the CFO are made aware of areas where performance (both financial and non-financial) are off track, and can then propose or take appropriate decisions to ensure all outcomes and financial performance are managed within acceptable standards.

The following broad principles underpin the councils approach to strategic financial management;

The revenue budget and capital programme will be balanced across all years with one-off funding only used for one-off purposes. One-off funding such as reserves and one-off grants will only be used for one-off purposes to ensure future commitments are funded from ongoing sources of income. This ensures that the council is living within its means, supporting continued financial sustainability and resilience.

Reserves, balances and contingency budgets will be maintained at a level proportionate to the prevailing levels of risk. Levels of reserves, balances and contingency budgets will be reviewed annually along with the underlying levels of risk to ensure that future risks do not materially impact on the sustainability of the council.

Council Tax increases will only be considered where it is not possible to deliver organisational outcomes without them. Before considering increases to Council Tax the council will explore all opportunities to deliver savings to offset budget pressures, and will reconsider the priority of Strategic Plan and Service delivery outcomes. Where the council's leadership and the CFO agree that it is not

appropriate or possible to contain unavoidable pressures through these means then council tax increases will be considered.

Budget Managers, Directorate leadership teams, the council's Corporate Management Team and Cabinet members are accountable for their respective budgets. As highlighted above budgetary accountability lies with all who are responsible for financial management. Those who take decisions on strategy, policy and the delivery of service outcomes must also be responsible for the costs of doing so. The CFO and their finance service are responsible for supporting those staff with budgetary accountability, and in providing assurance to the council's leadership that financial management is being delivered appropriately and in line with strategies, policies and guidance provided by the CFO.

Business change and savings proposals will be supported and challenged to ensure that they are robust and deliverable. This challenge will be delivered by appropriate subject matter experts, and all cases for change must be supported and approved by the service finance support before it can be considered for a formal decision.

Performance against agreed budgets and outcomes will be reported to the council's leadership on a regular basis. This will provide the Leadership with the information required to deliver their financial management accountability, and will ensure that financial sustainability and resilience of the council is considered at the highest levels of the organisation.

This is the first Financial Management Strategy of the new Buckinghamshire Council. There will be a significant period of transition post vesting day, and an additional principle is required in the short- to medium-term to reflect the level of transformational activity which is needed post vesting day. Whilst all of the principles above apply to transformational activity, the transformation will require significant focus and co-ordination in order to deliver the savings identified in the Business Case for a Unitary Council. Specific management and oversight mechanisms will be developed to support this and resources have already been earmarked to support the delivery of the changes required.

4. Governance & Financial Management style

Good financial governance is the responsibility of CFO, the council's leadership team and everyone else with any responsibilities within the financial management process. All of these groups must demonstrate high levels of integrity, ethics and Leadership. The CIPFA / SOLACE 'Delivering good governance in Local Government framework' identifies the following stages of high quality financial management;



To ensure the above model of good financial governance the CFO will ensure that:-

- All those involved in financial management are clear of their responsibilities and accountabilities, and are fully engaged in delivering them.
- Outcomes are aligned to the Corporate and Service plans, clearly defined and supported by appropriate levels of resource.
- Appropriate support is given to improvement in delivering objectives and in developing Leadership skills.
- There is a framework of policies and guidance to support the delivery of the principles above, balancing control and compliance with business flexibility.
- The Corporate Management Team recognises these standards, and holds themselves and others in the council to them.
- There are clear and open lines of communication both for formal reporting and for concerns to be raised, and that action is taken in response to material issues.

4.1 Financial Management Style

The Finance Service provides expert advice, support, insight and challenge, working jointly with Directorates to support and enhance the knowledge and experience of

those with financial management responsibilities. Central to delivering this is the partnership between the Finance Service, Directorates and Members. The partnership will be underpinned by:-

- A strong and positive culture that values the importance of financial management in delivering great service outcomes.
- Mutually-understood roles and responsibilities.
- Openness, trust and mutual respect for each other's skills, experience and perspective.
- Robust systems and processes generating clear, reliable and comprehensive data.
- Engagement, visibility and clear, transparent two-way communications.
- Proactive problem-solving.

The council recognises that this partnership extends to other support services such as HR, Business Intelligence and ICT, all of whom make a positive contribution to achieving excellent financial management.

In supporting Directorates to deliver their financial accountabilities the finance service will manage this relationship through a 'Business Partnering' approach. This means the finance service will provide advice and challenge to drive performance of the council towards 'World Class';



The CFO will maintain a Finance Services Offer in support of this model, which clearly defines the key objectives and core values and behaviours of the finance service, and defines expectations of both the finance service and the council as a whole.

4.2 Risk Management & Assurance

Risk management and assurance are key elements of good financial governance, and provide a tool for exploiting opportunities, a safeguard against potential threats, and act as an early warning system. The current challenges facing local government means that now, more than ever, risks need to be identified effectively and managed carefully to mitigate adverse effects. Through successful risk management, the identification and subsequent treatment of risks can help the Council meet its objectives by demonstrating compliance, providing assurance, informing decision making and enabling value for money.

The council employs the 'Three lines of defence' approach in delivering risk management and control. The three lines are defined as follows;

First Line of Defence (functions that own and manage risks): This comprises managers and staff who are responsible for identifying and managing risk as part of their achieving objectives.

Second line of Defence (functions that oversee or who specialise in compliance or the management of risk): This includes the policies, frameworks, tools, techniques and support to enable risk and compliance to be managed in the first line, conducts monitoring to judge how effectively they are doing it, and helps ensure consistency of definitions and measurement of risk.

Third line of defence (functions that provide independent assurance): This is provided by internal and external audit. Sitting outside the risk management processes of the first two lines of defence, its main roles are to ensure that the first two lines are operating effectively and advise how they could be improved.

4.3 Scrutiny

The Council recognises that political scrutiny beyond that deliver by Cabinet forms an integral part of the mechanism to scrutinise financial management performance. The Councils constitution recognises this role and delivers it through the Audit and Scrutiny Committee.

The purpose of the Committee is to;

- Provide independent assurance as to the Council's governance, risk management framework and associated control environment.
- Provide independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment.
- Oversee the Council's financial reporting process.
- Approve the Council's Final Accounts.
- Provide assurance on the adequacy of the Council's Treasury Management risk framework and associated control environment.
- Act as an advisory committee to the Council and the Cabinet on audit and governance issues.

This Committee is supported by specific sub-committees for each Directorate, and a specific Budget Scrutiny sub-Committee. The Directorate sub-Committees will focus solely on the activities of each Directorate. On an annual basis the Budget Scrutiny sub-committee will scrutinise the budget proposals arising from the Annual Budget and Medium Term Financial Strategy process. It will then make recommendations to Cabinet for potential changes to the budget, and a formal response from Cabinet will be made in response to these recommendations.

Further details on the responsibilities of the Audit and Scrutiny Committee can be found in the Council's Constitution.

5. Financial Management Framework

The CFO is responsible for ensuring that there is a structured set of Financial Procedure Rules, Strategies, Policies, Protocols, Instructions and guidance which form a framework for the effective financial management of the council. These documents will be reviewed on a regular basis to ensure that they remain relevant and appropriate, both as the external operating environment changes and as the council itself changes over time. Compliance with them will be measured and actions taken outside these rules will be reported and escalated for appropriate action.

The Financial Management Framework is developed in line with the CIPFA Financial Management Standards within the CIPFA Financial Management Code, and will be updated as this code evolves.

The key policies and strategies of the Financial Management Framework are summarised below, and deliver a tiered approach to Financial Management Standards within the Council. The CFO ensures that these cover all statutory duties and support the delivery of the CIPFA Financial Management Code. Links to all these documents are available within the Appendices.

5.1 Finance Procedure Rules

The Finance Procedure Rules form part of the council's constitution, and apply to both members and officers. This is a top level governance document, approved by the Full Council, which sets the principles for managing the council's financial affairs.

The Financial Regulations cover the following key areas:-

- Financial Management responsibilities.
- Financial Planning and Control.
- Risk Management and the Control of Resources.
- Financial Systems and Procedures.
- External Arrangements.

5.2 Contract Procedure Rules

The Contract Procedure Rules form part of the council's constitution, and are applicable to both members and officers. This is a top level governance document, approved by the Full Council, which set the principles of commercial decisions, to protect the council from potential claims of impropriety, and to avoid the behaviour of the council, its members and officers, being called into question.

The Contract Standing Orders cover the following key areas:-

- Basic principles of contract letting.
- The responsibilities of officers.
- Requirements to ensure competition.
- The contracting process.
- Contract termination and completion.

5.3 Financial Management roles and responsibilities

The document defines the financial management roles and responsibilities of key officer groups within the Council. The framework focusses on key elements of the financial management process, namely Plan, Decide, Manage, and Monitor & Report. At an operational level these are defined in the scheme of delegation for each Directorate.

The council operates a devolved financial management process, and Corporate Directors are ultimately responsible for the delivery of financial management within their Directorates. Responsibility can be delegated to individual budget holders, but accountability remains with the Corporate Directors.

5.4 Procurement Strategy

The Procurement Strategy sits beneath the Contract Procedure Rules and provides more detailed guidance on the practical application of the Contracts Procedure Rules and the legislative framework when letting contracts.

5.5 Treasury Management Strategy

Treasury management is the management of the Council's cash flows, borrowing and investments, and the associated risks. The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the impact of changes in interest rates. The successful identification, monitoring and control of financial risks are therefore central to the Council's prudent financial management.

Treasury risk management at the Council is conducted within the framework of the CIPFA's Code of Practice on Treasury Management in the Public Services, which requires the Council to approve a Treasury Management Strategy before the start of each financial year. This strategy fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code, and is approved annually.

5.6 Income & Commercial Strategy

The council generates significant levels of additional income from sources other than Government Grants, Council Tax and Business Rates. These Fees and Charges includes charges for services, both statutory charges and those the Council is free to set itself, income from use of our assets and income from activities designed to change behaviour (such as parking fines). Fees and Charges represent one of the main opportunities either to increase current income levels or to generate new sources of income.

This strategy sets out the key principles that the council will follow in enhancing and developing all income generation opportunities. Whilst ensuring we operate within the law, the council will as a principle recover full cost for all chargeable activities, will benchmark prices against the market to inform pricing decisions, will implement reduced prices and subsidies where there are identified benefits in doing so, will leverage physical and intellectual assets in order to generate additional income, and that risks and costs will be fully understood before any new charging decisions are taken.

5.7 Debt Management Strategy

The council generates significant levels of income through the provision of services which are chargeable to the end user. In doing so the council incurs significant costs. The Debt Management Strategy is designed to minimise the impact of debt on the Council's financial sustainability through the effective management of individual debts and the provision of appropriate sums to cover the risk of non-payment of debts.

For service areas with specific rules regarding their debts or other accepted circumstances local debt management protocols will be developed to provide further clarity on the specific issues concerned. These will be considered as supplementary to the Corporate Debt Management Strategy, and will be authorised by the CFO to ensure they are compliant with the corporate strategy.

5.8 Capital and Investment Strategy

The Capital and Investment Strategy covers the capital requirements of the Council to deliver the strategic corporate aims of the Council, as well as the investment in capital asset development or acquisition to help generate a return to support the budgets of front line services and/or increase asset value. The strategy helps to ensure that the Council is compliant with the CIPFA Prudential Code for Capital Finance in Local Authorities.

The strategy focuses on the delivery of local policy service objectives, and the capital investment requirements identified in the Council's Capital Programme to deliver them. Given the limited funding certainty from Government and the pressure to both develop assets to support the growth agenda and to keep existing assets in good order, it is critical that there is an appropriate balance between revenue and capital resources in the short and long term for the Council.

5.9 Reserves protocol

Reserves represent an important tool in managing the ongoing financial sustainability of the council. The council recognises and endorses two types of reserves; general, or non-earmarked reserves, which are kept as part of the overall financial risk management approach, and can be deployed for any circumstance, and specific, or earmarked reserves, which are set aside for specific future purposes.

The level of reserves held should be appropriate for the circumstances of council at any given time, and as such it is neither sensible nor possible to try and define a total level of reserves which is prudent. For non-earmarked reserves, which are largely used as mitigation against current and future financial risks, it is largely accepted across the sector that 5% of the net operating budget represents a prudent level.

The appropriateness of balances on earmarked reserves will be reviewed by the CFO on an annual basis (or more frequent if required) to ensure that overall levels of reserves remain appropriate for the current and expected risk levels, that their purposes remain aligned to these strategies. Any reserves which are no longer aligned will be transferred to non-earmarked reserves as part of the wider organisational risk management approach.

5.10 Risk Management & Assurance Strategy

The purpose of the Risk Management & Assurance Strategy is to provide an effective assurance framework supported by robust risk management at all levels across the organisation to encourage a less risk-averse approach, and enable innovation within the Business Units appropriate to the level of risks being taken.

Risk management is an integral part of good management and corporate governance and is therefore at the heart of what we do. It is an essential element of the Council's ability to deliver public services and as a custodian of public funds.

5.11 Audit Charter

The Internal Audit Charter formally defines the purpose, the authority and responsibility of Internal Audit within Buckinghamshire Council, in accordance with the Public Sector Internal Audit Standards (PSIAS). The Charter will be subject to approval by the Audit & Governance Committee on an annual basis to ensure that it is up-to-date and in line with the PSIAS requirements.

The role of Internal Audit is to provide an independent, objective assurance and consulting activity designed to add value and improve Buckinghamshire Council's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

5.12 Anti-Fraud & Corruption Strategy

As one of the largest business organisations in Buckinghamshire the council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or

within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective Anti-Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.

The Council takes a zero tolerance stance to all forms of fraud, corruption and theft, both from within the Council and from external sources. The council recognises that Fraud and Corruption can undermine the standards of public service that the Council is attempting to achieve, reduce the level of resources and services available for the residents of Buckinghamshire, and result in reduced public confidence in the Council.

5.13 Financial Instructions

Financial Instructions represent the third tier of good financial management, and provide clear guidance on the operation of key financial processes. They are applicable to all officers of the council, and may be added to and amended as the key financial processes of the council change.

The CFO will ensure that there are appropriate Financial Instructions for all key financial processes, and that they are easily available to all relevant officers. Compliance with Financial Instructions will be monitored and managed by the finance service, and non-compliance will be reported and appropriate action taken within the management reporting process.

6. Medium Term Financial Strategy (MTFS) and Annual Budget

Setting a balanced budget is a legal requirement upon all councils. This duty is only for the following year; however the council recognises its duty to demonstrate financial sustainability, and considers it appropriate that financial plans should cover a period of at least 3 years to ensure this duty is given sufficient consideration. Ideally detailed revenue budgets and capital investment plans should give some consideration to at least 5 years beyond in order to recognise any future challenges currently outside the budget planning horizon.

The council's budget is essentially the financial plan for delivering the Corporate Plan. As such there is an intrinsic linkage between these two key elements of the councils operation, and decision-making and prioritisation within the development of the budget must always be aligned with the corporate plan.

The process of setting the council's budget and MTFS for future years is essentially the balancing of available funding against the future costs of delivering the corporate plan, with a watching brief on planned and future changes in statutory responsibilities.

It is also a political process. Budgets are set by political portfolio, and portfolio holders are accountable for the delivery of service outcomes within the budgets

agreed. There will be significant engagement with both members and officers in the development of budget proposals, and both officer and member challenge is an intrinsic part of the process.

The high level process is set out below:-

When	What	Who
Late Spring	Horizon Scanning and high level modelling.	CFO CMT
	Key principles for process confirmed.	CMT Cabinet
Summer – Early Autumn	Service plans reviewed. Existing proposals reviewed. New issues and opportunities identified. New / changed proposals identified.	Portfolio Holders Corporate Directors
Autumn	Check and Challenge.	CMT Cabinet
December	Draft Budget agreed.	Cabinet
January	Budget Scrutiny.	Budget Scrutiny Committee
February	Final Budget agreed	Cabinet Full Council

The councils funding is derived from local sources, such as Council Tax and Locally Retained Business Rates, and from Central Government grants. Whilst there is local discretion as to the annual increase to Council Tax rates (subject to the requirements to hold local referendums), there is little direct influence which the council can exert over Business Rates and Central Government Grants. Dependent on Central Government policy decisions there will be different levels of certainty over government grants at any given time. This gives rise to a need to make informed estimates of funding for periods of any budget planning cycle.

At the same time the demand for and cost of the councils services is also variable, and subject to change as a result of external factors and government policy. Estimations of future cost growth and demand predictions are required to understand the expenditure side of the budget equation.

The council will take an approach to resource allocation and risk management which recognises the challenges above. This will be confirmed and quantified on an annual basis through member and officer working groups, and agreed as part of the overall budget and MTFs. Contingency budgets will be held to manage volatility and risk in key service areas and in delivering overall savings targets. A key assumption on the application of funding is that any one-off, non-recurrent funding will only be used to fund non-recurrent expenditure.

Benchmarking will be used to identify the level of current performance relative to similar councils, focussing on volume, cost, quality and user-perception. This will be provided to both elected members and officers as part of the budget development process to inform resource allocation decisions, and ensure that maximum value is delivered in alignment with resident's expectations. The same data will be provided to check and challenge groups to ensure that proposals made stand up to scrutiny.

The process of building the budget will be incremental, looking at changes required from the previous year's budget. However Zero Based Budgeting will be undertaken at times of significant change within service, either driven by external forces, or as part of the change.

7. Monitoring Financial Performance

Whilst having a robust and balanced budget is an essential element of strong financial management, it is only one part of the financial management process. From the moment the budget is agreed, the internal and external factors which influence actual performance will be changing those well laid plans.

The process of financial management is continuous, both from the perspective of ensuring internal controls are effective, and in the review of performance against both budget and performance measures. A key element of this ongoing process is the regular and informative reporting of key measures to appropriate levels of the management and leadership.

Reporting of financial management issues should not be limited to formal reporting, but there will be a culture of openness and transparency where risk and issues are escalated to management and leadership in an appropriate timescale. Without timely escalation, problems and opportunities can be missed, and action might be taken too late to either fully mitigate a risk, or to benefit fully from an emerging opportunity.

With the support and engagement of the leadership team the CFO will foster and enhance a culture of transparency and escalation which support rapid action to maximise opportunities and to address risk.

7.1 General principles

The CFO will implement a Financial Reporting Framework, including the timetable for formal financial reporting. Corporate Directors and individual Budget Holders are accountable for delivering agreed service outcomes within an agreed budget, and reporting on any matters which threaten to impact either of these accountabilities.

Corporate Directors and all officers to whom they delegate budget responsibility are required to act within the Financial Reporting Framework, as well as heeding the advice and guidance of their finance business partners. Support from the finance business partnering teams to challenge financial forecasting will be on a risk based approach, where the scale, volatility and complexity of budgets will be used to define

the level of support provided. Budget Holders will be advised of the level of support they can expect.

The council takes a forward looking approach to financial monitoring wherever possible. All revenue and capital forecasts are based on a forward looking forecast for the financial year. This supports the council in gaining the best possible understanding of the future impact of current and past decisions and events, and the likely impact of future events on the financial sustainability of the council.

Budget holders are required to keep their forecast position up to date, and in a timely fashion to escalate through their management structure the following:-

- Any immediate issues in delivering the required service outcomes within the budget available.
- Any future risks in delivering outcomes within budget.
- All significant delays in delivering projects and changes, including any associated financial impacts.
- Any other matters of performance which have a financial impact, including payment performance, debt recovery and use of reserves.

Through this Service and Corporate Directors should maintain an awareness of the pressures, opportunities and financial performance within their services.

Financial monitoring reports must cover the following key areas of financial performance, in order that financial control is maintained, risks are appropriately managed and decisions are made in line with the overarching organisational strategy:-

- Forecast revenue budget outturn;
- Forecast capital scheme outturn;
- Delivery of savings identified within the annual budget setting process;
- Emerging risks within delivery of the revenue budget and capital programme;
- Forecast outturn position of reserves;
- Performance against late payment targets;
- Levels of outstanding debt.

7.2 Directorate Management team reporting

In order to deliver their accountabilities for financial monitoring, Corporate Directors require a formal mechanism of reporting on all key financial performance measures to them and their management team. This level of financial monitoring is a key point for decision-making in order to ensure resources are utilised appropriately to deliver service priorities. Given the timescales required for decisions to be made and action taken, this level of reporting should be undertaken on at least a monthly basis.

The CFO will provide appropriate levels of support to this process through the finance business partnering teams. These teams will work with budget holders and

service managers to ensure that the position reported to Corporate Directors and their management teams is appropriate, relevant, timely and insightful, and will provide a 'critical challenge' to the content of the report, as well as providing support in the development of mitigating actions raised for decision.

7.3 Corporate Management Team reporting

The Corporate Management Team holds a key role in ensuring the proper management of the financial affairs of the council. Budget monitoring reports to the Senior Leadership Team will be built upon the reporting delivered to the Corporate Directors management teams, and must conform to the standards and key content outlined above. Given the timescales required for decisions to be made and action taken, this level of reporting should be undertaken on at least a monthly basis.

This reporting allows the Corporate Management Team to view the financial position of the council as a whole, in order to consider the ongoing financial sustainability of the council. For this process to be effective this report needs to be supported by key non-financial performance data to provide the context to support the full understanding of any issues or opportunities.

It is important that the national context is presented to provide a balanced view of the council's position against the national backdrop. This supports a broader understanding of the scope of any issues and the relative performance of the council in addressing it, both through future budget setting processes and in terms of active management of the issue as it emerges. This will include external benchmarking data which will be used to establish the relative performance and financial health of the council compared to its peer group.

The CFO will monitor and maintain a process of reporting to the CMT which ensures that all relevant matters are raised in a timely manner, are suitably explained, and which ensures that the CMT are fully informed of all matters which impact on the financial sustainability of the council.

7.4 Cabinet reporting

As with the Corporate Management Team, Cabinet forms part of the council's leadership team, and holds a key role in ensuring the proper management of the financial affairs of the council. Reporting to Cabinet should be built upon the reporting delivered to the Corporate Directors management teams and the Corporate Management Team, and should conform to the standards and key content outlined above.

Cabinet needs to be able to view the financial position of the council as a whole, in order that consideration can be given to its ongoing financial sustainability. In order to be effective this report needs to contain an appropriate level of contextual information to explain the current position. Given that operational budgetary responsibility sits with the Chief Executive and the Corporate Directors this level of reporting should be undertaken on at least a quarterly basis.

Reporting to Cabinet should support both an understanding of the current year position and an understanding of the future impacts of current issues, which may either require in-year decisions, or will support the development of future year's budgets. Through this Cabinet are able to deliver their responsibility to the residents and other key stakeholders that the council is well managed and financially sustainable.

7.5 Finance service monitoring

There are a significant number of key financial processes which underpin the delivery of the financial monitoring process. In the devolved model of financial management the council operates many of these are delivered by staff outside of the finance service.

The proper operation of the financial management process, the accuracy of information made available to the council and the effectiveness of the system of internal controls are all essential components of the CFO's role in delivering financial assurance. The CFO will ensure there is sufficient and appropriate internal monitoring to ensure that non-compliance, poor performance and acts outside the agreed financial processes can be identified, addressed and escalated as necessary.

Where it is available, benchmarking information will be used to compare performance with similar councils. This will be undertaken on an annual basis, unless there is a clear requirement / benefit. The CFO will ensure that there is active engagement with benchmarking opportunities, and that an appropriate balance is struck between achieving high performance and its associated cost. Where the result of corporate level benchmarking identifies a lower level of performance than is desired the issue will be raised for information to the Corporate Management Team, and if necessary the Cabinet, along with proposed actions to address the matter.

8. External financial reporting

As a public body funded by government grants and local taxation the council has a fiduciary duty to its residents, business and other key stakeholders. The council is legally obliged to produce a set of statutory accounts following the completion of each financial year, and this forms a significant part of how this duty is delivered. The deadlines for the compilation of these accounts, and the timeframe in which they must be made public availability are defined in statute.

Council accounts cannot easily be compared with or analysed on the same basis as the accounts for commercial organisations. The way the council is funded differs significantly from commercial organisations, and as such interpretation of the accounts and incorrect conclusions can be drawn from attempting to do so.

The CFO will ensure that the statutory accounts produced by the council are prepared in line with statutory guidance and deadlines, and that they are presented

in a way which assists key stakeholders and interested parties in interpreting them appropriately.

The CFO will ensure that there are regular meetings with the council's external auditors, which include the Corporate Director of Resources and the Chief Executive Officer, and that these channels of communication are open and honest. These will support the Annual Governance Statement and ensure that the statutory reporting requirements are managed efficiently and effectively.

Whilst the statement of accounts is a historic document, looking back at performance over the past year, and providing comparative data to the year before, there are other publically available reports which show the current year and future years financial performance. Both the Cabinet financial monitoring reports and the budget setting papers are public documents, and in conjunction allow interested parties to understand the current position and future plans of the council. These are supplemented by resident focussed summaries in Council Tax leaflets (either physical or electronic) which are made widely available.

The CFO ensure that the current financial position of the council and its future plans are suitably publicised, using the most efficient and effective channels, to ensure that there is widespread confidence across all stakeholder groups that the council is well run and managed, and that financial decisions are made for the ongoing benefit of stakeholders and with the financial sustainability of the council in mind.

9. Procurement

Public procurement is used to support the strategic direction of the Council in acquiring goods, services and works. It is a regulated activity and is governed by the Public Contracts Regulations 2015, as well as the basic principles of fairness, transparency and equal treatment which stems from the Treaty on the Functioning of the European Union.

The CFO will ensure that the Council has an effective Contract Procedure Rules that underpin the commercial governance that the Council must follow in order to legally enter into third party contracts. This requirement encompasses the wider obligations of the CFO in developing a strong contract management culture by ensuring the Council has effective tools and support in place to manage contracts.

The CFO, with the support of the Corporate Management Team, will ensure that the Contract Procedure Rules highlight the need to ensure that service areas obtain best value in every contractual relationship that is entered into. Public money must be spent as diligently as possible whilst demanding that residents get the best possible service delivery.

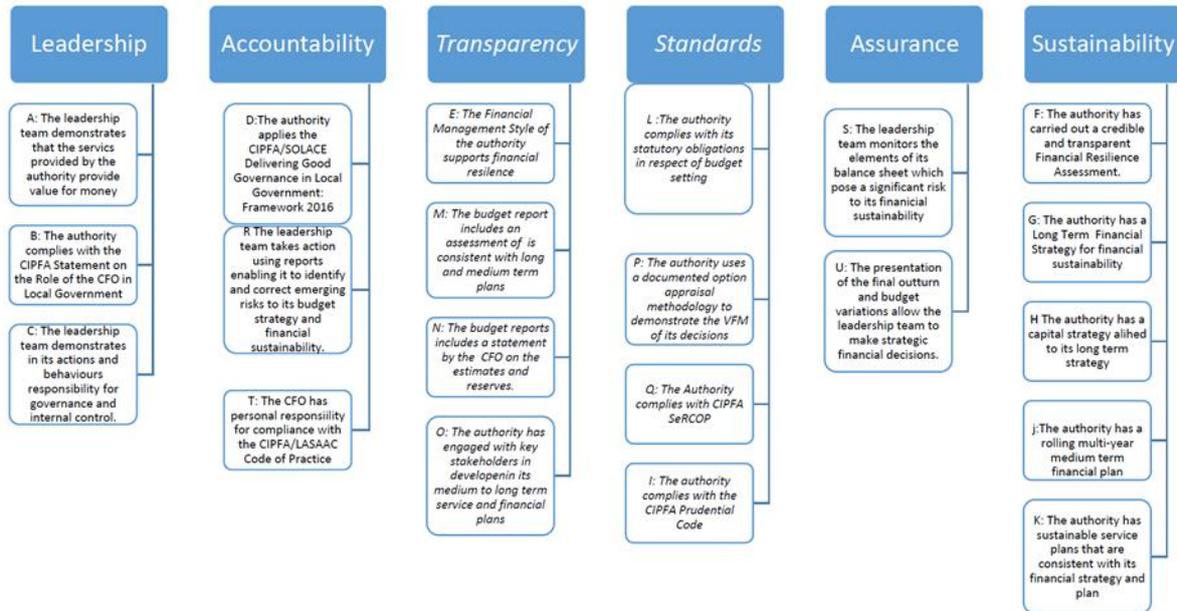
It is important that all procurement activity carried out by the Council is clearly understood and the approach to procurement across the Council is standardised to support the Council's corporate aims and objectives.

In order to gain assurance of commercial governance the CFO will maintain a suitably staffed and skilled Procurement function of the Council. This function will:-

- Maintain and advise on the Contract Procedure Rules of the Council.
- Develop, update and enforce procurement and contract management strategies.
- Support the procurement activities of the Council.
- Support service areas to challenge the value for money on contracts.
- Develop a strong procurement and contract management culture.
- Provide training on procurement and contract management activities.

10. Appendices

Appendix 1 – CIPFA Financial Management Code elements of good Financial Management



Report for:	Formal Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	Finance Policies
Shadow Portfolio Holder	Katrina Wood
Responsible Officer	Richard Ambrose, Interim S151
Report Author Officer Contact:	Maggie Gibb, Head of Business Assurance 01296 387327 mgibb@buckscc.gov.uk
Recommendations:	<p>To approve the following Finance policies for Buckinghamshire Council:</p> <ol style="list-style-type: none"> 1. Anti-Fraud and Corruption Policy 2. Anti-Money Laundering Policy 3. Whistleblowing Policy 4. Debt Management Strategy
Corporate Implications:	<p>The Interim S151 Officer has reviewed and signed off all of the policies, in consultation with the S151 Officers from the sovereign councils via the Finance and Procurement workstream.</p> <p>The Shadow Portfolio Holder has reviewed the policies.</p> <p>HR and Legal advice has been taken.</p>
Options: (If any)	None
Reason:	N/A

1. Purpose of Report

- 1.1 The purpose of the report is to present a number of key finance policies for approval.

2. Content of Report

2.1 See attached finance policies for consideration:

1. Anti-Fraud and Corruption Policy
2. Anti-Money Laundering Policy
3. Whistleblowing Policy
4. Debt Management Strategy

The policies have been drafted in collaboration with the county and district councils, and have been agreed by all of the S151 Officers.

It should be noted that the existing policies were not that different across the five authorities.

The policies will be formatted into a standard template with the new branding as soon as a template is available.

3. Financial Implications

3.1 Interim S151 Officer consulted and no financial implications.

4. Legal Implications

4.1 Legal advice has been taken.

5. Other Key Risks

5.1 None. The key financial policies will support the risk management framework within the new council.

6. Dependencies

6.1 None.

7. Consultation

7.1 Not applicable.

8. Communications Plan

8.1 TBC.

9. Equalities Implications

9.1 None.

10. Data Implications

10.1 None

11. Next Steps

11.1 The finance policies will be communicated across the new organisation and training plans will be developed where necessary.

Background Papers	See attached policies
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Buckinghamshire Council

Anti-Fraud and Corruption Policy

Prepared by: Maggie Gibb, Head of Business Assurance (& Chief Internal Auditor)

Version 1.2 March 2020

Version Control

Version	Date	Sign Off	Action	Responsible Officer
1.0		Draft policy to Resources Board	Agreed. Minor changes to reflect structures	Maggie Gibb
1.1	December 2019	Draft policy to CIG	Agreed. Minor changes to reflect structures	Maggie Gibb
1.2	March 2020	Draft policy to Formal Shadow Exec		

Anti-Fraud and Corruption Policy

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1. Introduction

- 1.1 This policy sets out Buckinghamshire Council's commitment to tackling fraud and corruption.

Buckinghamshire Council has a zero tolerance stance to all forms of fraud, corruption and theft, both from within the Council and from external sources, which it recognises can:

- Undermine the standards of public service that the Council is attempting to achieve.
- Reduce the level of resources and services available for the residents of Buckinghamshire.
- Result in consequences which reduce public confidence in the Council.

- 1.2 The Council is one of the largest business organisations in Buckinghamshire. In administering its responsibilities; the Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective Anti-Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.

- 1.3 Any proven fraud will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to perpetrate fraud, corruption or theft against the Council.

- 1.4 The Council is committed to the highest possible standards of openness, probity, honesty, integrity and accountability. The Council expects all staff, Councillors and partners to observe these standards which are defined within the Code of Conduct.

- 1.5 The Service Director - Corporate Finance, as the "Section 151 Officer" has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs and has developed financial regulations and accounting instructions. The Service Director - Corporate Finance (S.151 Officer) exercises a quality control on financial administration through delegation of responsibilities to the Service Director - Service Finance and the Heads of Finance.

- 1.6 The Deputy Chief Executive, as the "Monitoring Officer" has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council's policies and procedures to demonstrate that the Council is acting in an open and transparent manner.

2. Definitions

2.1 **FRAUD:** Is defined by The Fraud Act 2006 as follows:

A person is guilty of fraud if he is in breach of any of the following:

Fraud by false representation; that is if a person:

- (a) dishonestly makes a false representation, and
- (b) intends, by making the representation:
 - (i) to make a gain for themselves or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by failing to disclose information; that is if a person:

- (a) dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and
- (b) intends, by failing to disclose the information:
 - (i) to make a gain for themselves or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by abuse of position; that is if a person:

- (a) occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and
- (c) intends, by means of the abuse of that position:
 - (i) to make a gain for themselves or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and 1978. The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

In addition the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business, and obtaining services dishonestly, personally or for another.

2.2 **CORRUPTION:** Is the deliberate use of one’s position for direct or indirect personal gain. “Corruption” covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

2.3 **THEFT:** Is the physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

2.4 **MONEY LAUNDERING:** Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origins and ownership and which leaves them with money that cannot be traced back.

All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council's Anti-Money Laundering Policy.

2.5 Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction then advice must be sought. The Council's Money Laundering Reporting Officer (MLRO) is the Service Director - Corporate Finance (S.151 Officer). To report any incidents, please see the guidance notes detailed on the Council's intranet page.

2.6 Legal Services also have their own professional guidance in relation to money laundering which places a duty on solicitors to report any suspicions and these may override their legal professional privilege and confidentiality. All such suspicions must be reported to the Monitoring Officer (Deputy Chief Executive) and the Money Laundering Reporting Officer.

2.7 **BRIBERY:** The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the Council corporately. The Bribery Act 2010 introduces four main offences, simplified as the following:

- Bribing another person: a person is guilty of an offence if he/she offers, promises or gives a financial or other advantage to another person.
- Offences relating to being bribed: a person is guilty of an offence if he/she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not.
- Bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official.
- Failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Note: A 'financial' or 'other advantage' may include money, assets, gifts or services.

2.8 Prior to entering into any business arrangements, all Council officers and/or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

3. Scope

3.1 This document applies to:

- All Council Employees (including volunteers, agents and agency staff) and Councillors;
- Staff and Committee Members of Council funded voluntary organisations;
- Partner organisations;
- Schools;
- Council Suppliers, Contractors and Consultants;
- Service Users;
- General Public; and
- Assisting with external investigations (see 5.4).

4. Aims and Objectives

4.1 The aims and objectives of the Anti-Fraud and Corruption Policy are to:

- Ensure that the Council is protected against fraud and loss;
- Protect the Council's valuable resources by ensuring they are not lost through fraud but are used for improved services to Buckinghamshire residents and visitors;
- Create an "anti-fraud" culture which highlights the Council's zero tolerance of fraud, bribery, corruption and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, staff, managers and policy makers);
- To provide a best practice "counter-fraud" service which:
 - Proactively deters, prevents and detects fraud, corruption and theft;
 - Investigates suspected or detected fraud, bribery, corruption and theft;
 - Enables the Council to apply appropriate sanctions and recovery of losses;
 - Provides recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity.

5. Principles

5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this Policy. The Council will ensure that the resources dedicated to "counter-fraud" activity are sufficient and all those involved are trained to deliver a professional "counter-fraud" service to the highest standards.

5.2 All fraudulent activity is unacceptable, and will result in consideration of legal action being taken against the individual(s) concerned. The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing. The Council will ensure consistency, fairness and objectivity in all its "counter-fraud" work and that everyone is treated equally.

5.3 This Policy encourages those detailed in section 3.1 to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will

not be tolerated and, if proven, disciplinary or legal action will be taken. Sections 8.3 and 8.4 detail the reporting arrangements in relation to incidents of fraud or irregularity.

5.4 The Council will work with its partners to strengthen and continuously improve its arrangements to prevent fraud and corruption. The Council has a variety of arrangements in place with other agencies to encourage and facilitate the exchange of information and investigations in relation to the detection and prevention of fraud and corruption. These include, but are not limited to, arrangements with the following:

- External Auditor;
- Department for Work & Pensions (DWP);
- The Police;
- National Anti-Fraud Network; and
- Social Housing Landlords.

The Council expects all its partners to operate to the same high standards as itself with relation to Anti-Fraud and Corruption.

6. Responsibilities

Stakeholder	Specific Responsibilities
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
Deputy Chief Executive (Monitoring Officer)	To advise Councillors and Officers on ethical issues, standards and statutory responsibility to ensure that the Council operates within the law and statutory Codes of Practice.
Service Director - Corporate Finance (S.151 Officer)	To ensure the Council has adopted an appropriate anti-fraud Policy, there is an effective internal control environment in place and there is an adequately resourced and effective Internal Audit service to deliver "counter-fraud" work.
Audit and Governance Committee	To monitor the Council's strategies and policies and consider the effectiveness of the arrangements for Raising Concerns at Work, Confidential Reporting Procedures, Anti-Fraud and Corruption and the Complaints Process.
Councillors	To comply with the Code of Conduct and related Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns accordingly.
External Audit	Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Anti-Fraud and Corruption Policy and monitoring the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Policy and that action is identified to improve controls and reduce the risk of recurrence.
Corporate Directors, Service Directors, Heads of Finance and Managers	To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit or via the Confidential Reporting Policy. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing strong internal controls.
Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to management, Internal Audit or via the Confidential Reporting Policy and Procedure.
Public, Partners, Suppliers and Contractors	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

7. Approach to Countering Fraud

7.1 Buckinghamshire Council will fulfil its responsibility to reduce fraud and protect its resources by completing work in each of the following key areas:

7.2 **DETERRENCE:** The Council will promote and develop a strong “counter-fraud” culture, raise awareness and provide information on all aspects of its “counter-fraud” work. This includes dedicated fraud web pages, guidance, publicising the results of proactive work, investigating fraud referrals and seeking the recovery of any losses due to fraud.

7.3 **PREVENTION:** The Council will strengthen measures to prevent fraud. Internal Audit will work with managers and policy makers to ensure new and existing systems, procedures and policy initiatives consider any fraud risks. Audit activity will also consider fraud risks as part of each review.

7.4 **DETECTION:** Internal Audit maintains a log of all fraud referrals. The log helps to establish those areas within the Council most vulnerable to the risk of fraud. This also enables a Council wide fraud profile to be created which then informs any detailed work in areas throughout the Council aimed at detecting existing and new types of fraudulent activity.

Internal controls are established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. The Council also relies on employees, Councillors and the public to be alert and to report suspicion of fraud and corruption.

Managers should pay particular attention to circumstances which may require additional and sensitive monitoring or supervision. Examples of Fraud Indicators are detailed in Appendix C.

7.5 **INVESTIGATION:** The Council will investigate all reported incidents of fraud or irregularity. Please see Appendix A for the Protocol for Investigating Irregularities.

7.6 **SANCTIONS:** The Council will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This will include legal action in addition to criminal and disciplinary action, where appropriate.

7.7 **REDRESS:** A crucial element of the Council’s response to tackling fraud is seeking financial redress. The recovery of defrauded monies is an important part of the Council’s Policy and will be pursued, where appropriate.

7.8 In addition to the above, Internal Audit also prepares an annual Counter-Fraud Work Plan that details the key objectives and areas of work for the year and when actions are due to be completed. The work plan is agreed and monitored by the Regulatory and Audit Committee and Section 151 Officer.

8. Reporting, Advice and Support

- 8.1 The Council's expectation is that Councillors and managers will lead by example and that employees at all levels will comply with the Constitution, Council Policies, Financial Regulations and Contract Standing Orders.
- 8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their line manager and if this is not appropriate then to the Corporate Director or Service Director/Manager. The Council will provide all reasonable protection for those who raise genuine concerns in good faith, in accordance with the Whistleblowing Policy and Procedure.
- 8.3 The line manager, Service Manager, Director or Corporate Director who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the following people, to determine how the potential irregularity will be investigated:
- Director of Corporate Finance (Section 151 Officer);
 - Deputy Chief Executive (Monitoring Officer);
 - Corporate Director;
 - Head of Business Assurance (& Chief Internal Auditor);and
 - Head of HR Operations.
- 8.4 Where appropriate, the Monitoring Officer should inform the Leader, Deputy Leader and relevant portfolio holder where the irregularity is material and/or could affect the reputation of the Council. The Section 151 Officer will liaise with the Cabinet Member for Resources, as appropriate. The Media Team should also be informed if the matter is likely to be communicated externally.
- 8.5 The investigating officer will follow the 'Guidelines for Managers on Investigating Allegations' as well as the 'Protocol for Investigating Irregularities' (Appendix A), which includes the need to:
- Deal promptly with the matter;
 - Record all evidence received;
 - Ensure that evidence is sound and adequately supported;
 - Ensure security of all evidence collected;
 - Contact other agencies if necessary e.g. Police;
 - Notify the Council's insurers; and
 - Implement Council disciplinary procedures where appropriate.
- 8.6 The Council will also work in co-operation with the following bodies that will assist in scrutinising our systems and defences against fraud and corruption:
- Local Government Ombudsman;
 - External Audit – Relationship Manager;
 - National Fraud Initiative and related Audit Networks;

- Central Government Departments;
- HM Revenue and Customs;
- UK Border Agency;
- Department for Work and Pensions; and
- Police.

8.7 Any concerns or suspicions reported will be treated with discretion and in confidence. Key contacts include:

- Head of Business Assurance (& Chief Internal Auditor) – Tel: 01296 387327
- Audit Manager (Fraud Lead) – Tel: 01296 383717
- Confidential Reporting Facility - Tel: 01296 382237
- Confidential e-mail - audit@buckinghamshire.gov.uk

8.8 Other Council means for raising concerns:

<ul style="list-style-type: none"> ▪ Chief Executive 	<p>Write to: Buckinghamshire Council, The Gateway Aylesbury Buckinghamshire HP20 1UA</p>
<ul style="list-style-type: none"> ▪ Service Director - Corporate Finance (S.151 Officer) 	
<ul style="list-style-type: none"> ▪ Deputy Chief Executive (Monitoring Officer) 	
<ul style="list-style-type: none"> ▪ Corporate Director 	
<ul style="list-style-type: none"> ▪ Service Director/Manager 	
<ul style="list-style-type: none"> ▪ Head of Business Assurance (& Chief Internal Auditor) 	
<ul style="list-style-type: none"> ▪ Audit and Governance Committee Chairman 	

8.9 External means of raising concerns:

<ul style="list-style-type: none"> ▪ External Audit (Grant Thornton) 	020 7728 3328
<ul style="list-style-type: none"> ▪ Citizens Advice Bureau 	Website: www.citizensadvice.org.uk
<ul style="list-style-type: none"> ▪ Police 	Website: www.thamesvalley.police.uk

8.10 Attached are the following Appendices:

- Appendix A: The Protocol for Investigating Irregularities
- Appendix B: The Council's Fraud Response Plan
- Appendix C: Examples of Fraud Indicators

9. Further Information

9.1 Further information on Council policy can be found in the following documents:

- The Constitution;
- Codes of Conduct (Councillors and Officers);
- Whistleblowing Policy;

- Commercial Practices, Gifts and Hospitality;
- Financial Regulations and Instructions;
- Contract Standing Orders and Exemptions;
- Anti-Money Laundering Policy; and
- Investigatory Powers Act (IPA).

10. Policy Review

10.1 The Audit and Governance Committee will continue to review and amend this Policy as necessary to ensure that it continues to remain compliant and meets the requirements of the Council.

Responsible Officer:	Head of Business Assurance (& Chief Internal Auditor)
Date:	March 2020
Review Date:	March 2021

APPENDIX A

Protocol for Investigating Irregularities

a) Fraud Referral / Allegation

The primary responsibility for the prevention and detection of fraud, corruption and theft rests with Corporate Directors, Directors and Service Managers. Internal controls have been established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. Employees, Councillors and other groups are encouraged to report suspected irregularities in accordance with the Council's Confidential Reporting Policy and Procedure.

When a referral or allegation is received, the Corporate Director, Director or Service Manager will report the incident to the key contacts and officers detailed in section 8.3 above, as well as any other relevant contacts, to determine the course of action.

In some cases, an allegation may be of a routine or minor nature that can be dealt with by service management without the need for a formal investigation. If this is the outcome, a record of the decision and who made it must be kept to enable the course of action to be justified. Alternatively, if the matter is of a nature that requires immediate Police involvement, please refer to section f) below on reporting issues to the Police.

If it is agreed that an internal investigation is required, this protocol details the stages that should be followed. It is the Corporate Director, Director and Service Managers' responsibility to initiate and manage the investigation in potential cases of fraud, corruption or theft.

All investigations should be reported to Internal Audit, who will monitor the investigation, ensuring action is initiated, effectively managed and it is brought to a proper conclusion.

b) The Investigation

The Corporate Director, Director or Service Manager should appoint a senior manager, independent of the activity, to head the investigation. The investigation team will take specialist professional advice and investigation skills from Internal Audit, Human Resources and a legal adviser from Legal Services. The team will also have open access to service management to ensure all appropriate enquiries can be undertaken. The Corporate Director or Director should arrange for regular briefing meetings from the investigation team.

The team will agree a plan for the investigation having regard to the initial evidence and/or allegation. The investigation plan should be kept under regular review. Investigation progress will be reported to the Corporate Director, Director, Service Manager and other relevant officers on a regular basis, especially when any key decisions need to be taken.

c) Evidence

All evidence gathered will be regarded as strictly confidential and will be the property of the investigation team. It will only be made more widely available on agreement with the necessary officers. The team will be responsible for gathering all evidence, whether it is verbal, written or electronic, which may include the need to interview employees.

If it is necessary to interview employees, the Corporate Director, Director or Service Manager should be informed. HR should also be contacted to ensure the interview is arranged, conducted and managed correctly to ensure the employee is supported and the investigation is not compromised. Interviews with employees must be conducted in accordance with the relevant Council standards and procedures, with allowances for proper representation. Advice should also be obtained from Internal Audit as to the overall approach in undertaking the interview.

When obtaining written evidence, the source copy of any documentation should be obtained. Electronic evidence will be stored on a PC, laptop, tablet, mobile phone, etc. When obtaining electronic evidence, the main issue is how to capture the evidence before it is changed. To do this, the equipment should be secured at the earliest opportunity to ensure evidence is not altered. This is a specialist activity and should be undertaken under the supervision of an IT specialist on which Internal Audit can advise.

Some investigations may require either covert surveillance or a covert operation to obtain information. If this is required, formal authorisation will need to be obtained under the Investigatory Powers Act 2016 (IPA). Authorising any action under IPA regulation needs to be obtained from the Monitoring Officer and Head of Legal Services.

The conduct of interviews and gathering of evidence which may subsequently be used as criminal evidence is governed by specific rules and acts. In this respect, the following statutes are relevant:

- Police and Criminal Evidence Act 1984 (PACE);
- Investigatory Powers Act 2016 (IPA);
- Human Rights Act 1998; and
- General Data Protection Regulation. Data Protection Act 2018.

Specialists trained in investigation and interviewing could be made available to the investigation team. Legal Services and Business Assurance may be able to assist if this is required. The need for specialist advice would be a part of the discussion when an investigation is initiated.

The investigation team should ensure that a fully referenced investigation file is maintained, which includes all documentation, records and notes collated during the investigation. Advice on the best approach to referencing investigation files can be obtained from Internal Audit.

d) Reporting

Once the investigation work has been concluded, the team will need to prepare a written report detailing the initial referral or allegation, the work completed (including documents obtained and interviews conducted) and an opinion or conclusion on the outcome of the investigation. Depending on the severity of the investigation outcome, the report may lead to a disciplinary hearing or Police referral.

The report should also detail any breakdown in management, operational or financial controls to the Corporate Director, Director or Service Manager, who will have to agree the necessary actions to address the issues.

The investigation team, in consultation with the Corporate Director or Service Director/Manager, should make arrangements for the Service Director - Corporate Finance (S.151 Officer), Monitoring Officer, Head of Business Assurance (& Chief Internal Auditor) and Head of HR Operations to be informed of the investigation outcome. Other officers should be notified on a strictly confidential, need to know basis.

e) Disciplinary and Criminal Proceedings

Corporate Directors and Service Directors/Managers will be expected to take action in accordance with the Council's Disciplinary Policy, where the outcome of the investigation indicates improper behaviour. School Governors are also required to take similar action where the outcome of the investigation indicates improper behaviour.

If an investigation requires that an employee is suspended, this must be done in accordance with the Disciplinary Policy and Procedure. The procedure states that the suspension period should be as short as is reasonably practical. Senior employees should record in writing a decision to suspend and any subsequent review of that decision, setting out the reasons for the decision and whether alternative options have been considered.

The Corporate Director or Service Director/Manager should ensure, normally through the investigation team, that the relevant written reports are available timely, for disciplinary and criminal proceedings. Necessary members of the investigation team may be required to give written evidence and attend at hearings to give verbal evidence and answer questions.

Normally the line manager will make the complaint at the disciplinary hearing, but in exceptional circumstances and with the Corporate Director and HR's agreement, it may be made by a member of the investigation team.

Where there is a possibility of criminal proceedings, the investigation team should ensure that any relevant evidence is gathered and reported in such a way that it could be admissible in court. Legal Services will advise on a case by case basis as appropriate.

f) Police Involvement

Reporting incidents to the Police must be considered on an individual basis. If criminal activity is suspected, the matter should be promptly reported to the Police by the Corporate Director or Service Director/ Manager. Approval to report the matter to the Police must be obtained from the Service Director - Corporate Finance (S.151 Officer), Monitoring Officer and/or Head of Legal Services. Advice should be sought from Internal Audit on how the matter should be reported and who would be best placed to meet with the Police and discuss the details of the investigation. In the unlikely event that none of the above officers are immediately available, the Corporate Director, Director and Service Manager must judge how quickly the matter should be reported to ensure any Police investigation is not affected.

Continuous liaison with the Police is vital as there may be parallel enquiries undertaken by the Police in addition to those by the in-house team. Also, the Police have specialist skills to interview under caution that will be needed if evidence is to be used in court. Normally, any internal disciplinary process can take place at the same time as the Police investigation. However, this should be agreed in advance by both the Police and the Council to ensure both investigations are not compromised.

g) Investigation Costs

Internal Audit plans a small contingency for anti-fraud work. The Head of Business Assurance (& Chief Internal Auditor), will determine whether the contingency should be used for undertaking work on a specific investigation. Where resources are not directly available through Internal Audit, any contribution may disrupt planned work so there may be an additional direct charge to the service concerned. If external specialist advice is required, this will only be after agreement both in terms of scope and cost, with the Corporate Director or Director/Service Manager. Charges for Legal Services advice will be in accordance with the normal service agreements with Directorates.

h) Post Investigation

The Council wishes to see that following an investigation, action is taken to minimise future occurrence. This may involve improvements in control, changes to systems and procedures, employee training or promoting "lessons learnt" advice

Any publicity arising from an investigation will be co-ordinated by the Council's Media Team. It is the responsibility of the Corporate Director or Director/Service Manager to ensure that the Media Team is informed of developments following completion of an investigation.

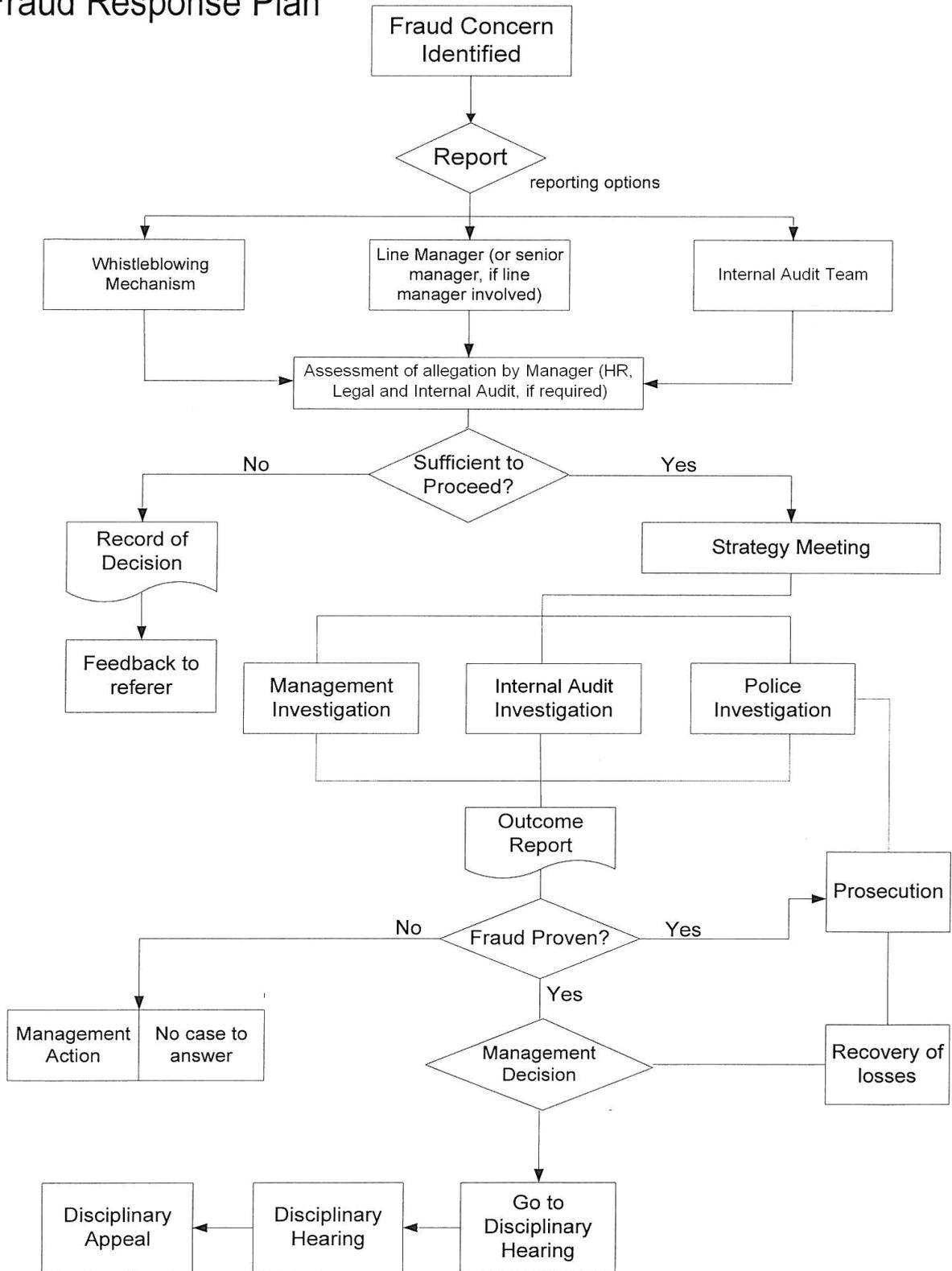
i) Training

The Council acknowledges that the continuing success of its Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees and Councillors throughout the organisation.

Investigation of fraud and corruption may require specialist training, not only for the Council's Internal Audit Service, but also employees within Directorates. Directorate and Internal Audit staff training plans will reflect this requirement.

APPENDIX B

Fraud Response Plan



APPENDIX C

Fraud Indicators

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indicators or warning signs. The following are types of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

- **Unusual employee behaviour:** Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long-hours, job dissatisfaction/unhappy employee, secretiveness or undue defensiveness.
- **Financial irregularities:** Key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers and official records; general ledger out of balance; bank and ledger reconciliations are not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; ghost employees on the payroll; large payments to individuals; excessive variations to budgets or contracts.
- **Bad procurement practice:** Too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.
- **Disorganisation:** Understaffing in key control areas; consistent failures to correct major weaknesses in internal control; inadequate or no segregation of duties.
- **Inadequate supervision:** Policies not being followed; lack of senior management oversight; inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation); low staff morale, weak or inconsistent management.
- **Lax corporate culture:** Management frequently override internal control; climate of fear; employees under stress without excessive workloads; new employees resigning quickly; crisis management coupled with a pressured business environment; high employee turnover rates in key controlling functions.
- **Poor work practices:** Lack of common sense controls; work is left until the employee returns from leave; post office boxes as shipping addresses; documentation that is a photocopy or lacking essential information; lack of rotation of duties; unauthorised changes to systems or work practices.

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Buckinghamshire Council

Corporate Debt Management Strategy

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1. Introduction

Effective debt management is an important element of effective financial management of any organisation, as inefficient and ineffective debt management puts income at significant risk, and this consequently reduces the money available to fund services. The purpose of this Strategy is to ensure that the council receives the maximum level of income possible for services it provides.

For the purposes of this strategy 'Debt' is defined as any amount of Council income that is due to the council but which has not been paid.

For the purposes of this strategy 'Overdue Debt' is defined as any amount of Council income that is due to the council but which has not been paid by the due date.

For the purposes of this strategy 'Customers' are defined as all organisational and individuals (both customers and clients) with whom a debt has arisen.

This Strategy is intended to:

- Provide a clear structure that allows all those involved in debt collection to adopt a consistent and timely approach;
- Encourage payment processes which avoid debt arising;
- Ensure all debts owed to the Council ensuring that those with means to pay do so;
- Manage debts in accordance with legislation and best practice;
- Be considerate of all customers / organisations and in particular those customers who are experiencing genuine financial hardship;
- Keep write off levels to a minimum;
- Minimise the level of complaints and appeals relating from charges made.

This Strategy is applicable to all service areas which provide services to or invoice or charge customers, clients, commercial or other organisations for the provision of goods or services, or for other reasons, and for any loans provided by the council to individuals or organisations for whatever reason.

The principles of this strategy are relevant to all debts. Local Debt Management protocols will be developed for the following areas, in order to reflect the unique legislative circumstances within which they operate:

- Council Tax and Business Rates.
- Housing Benefits.
- Temporary Accommodation payments.
- Adult Social Care charges.
- Commercial Property charges.
- Car Parking charges.

These protocols must adhere with the principles contained within this strategy, and will be approved by the S151 Officer to ensure compliance.

2. Key principles

It is important to the financial sustainability of the Council that it is able to collect all income due to it. This helps the Council to pay for the services it delivers and any non-payment ultimately impacts on service levels. The following key principles are essential to delivering this ambition:

- income is collected before it becomes overdue;
- where it does become overdue prompt, effective and appropriate action is taken to collect all outstanding amounts;
- consideration is given to the ability to pay, both through the charging decision and in recovery action;
- all correspondence is clear and written in plain English;
- it is easy for customers / organisations to pay and contact us;
- enforcement action is taken against debtors that refuse to pay in line with any appropriate legislation;
- early contact and signposting to debt advice and support agencies will be offered where appropriate;
- customers / organisations in debt, or at risk of getting into debt, will be helped to set payment arrangements that they can afford.

3. Operation of the Strategy

Billing is a function devolved to individual service areas, and operation of this strategy requires Corporate Directors and their services to accept responsibility and accountability for their actions in charging and debt management.

As mentioned above there are some areas of the Council which operate under specific legislative regimes in relation to debt management. These areas will maintain local debt management policies as appropriate. These policies will comply as far as practical with the principles of this strategy and will be formally agreed by the appropriate Corporate Director and S151 Officer.

The first principle of income collection is to collect income in advance of the delivery of service whenever possible. This does not create a debt, and hence avoids the risk of a debt becoming overdue. This also allows the Council to withhold service if payment has not been received, potentially avoiding any costs which might be incurred unnecessarily. Although this is not applicable to all debts which the council holds, it should be the preferred approach for all areas where it is appropriate.

Secondly whenever a chargeable service is delivered the recipient should be made aware that an invoice will be raised before the service is delivered. By setting an expectation that the services will be paid for the customer is fully informed at the point of commissioning the service, and will be more likely to pay when the invoice is received. Invoices should include, where possible;

Thirdly, whenever an invoice is raised for services provided it should be both accurate, understandable and issued in a timely fashion. No invoice should come as a surprise to a customer, and all invoices should contain sufficient information so that the customer can;

Fourthly, wherever practical payment mechanisms should be used to automate payment (such as Direct Debits and Standing Orders) such that payment can be taken without the need for the client / customer to actively engage with making a payment to the council. This will benefit the council as it will reduce defaults and failure to pay. As new payment options develop in the market which can deliver similar benefits these will also be considered and implemented where appropriate.

Finally, if a debt becomes overdue the council will make all reasonable efforts to recover all sums outstanding in a timely fashion. The Corporate Debt Management Team will take over conduct of overdue debts when they become 5 days overdue, unless the service area concerned actively chooses to retain conduct for justifiable business reasons. Whilst conduct of the debt is transferred, responsibility for the debt remains with the service concerned, and any decisions to write-off, cancel or refer the debt for legal recovery remain the responsibility of the originating service.

The Legal recovery process will be managed and monitored by the Corporate Debt Management Team, and regular reporting made to the responsible service manager, with issues escalated to the Directorate leadership team as required. Poor performance in the legal recovery process will be escalated to the legal debt recovery lead for action.

Any costs associated with Legal recovery processes are the responsibility of the originating service area, and the costs should be considered as part of the decision to escalate collection to the legal recovery process.

The Corporate Debt Management Team will pursue debt through agreed processes until such time as they collect the debt, or require a decision from the originating service to escalate collection processes, or to write-off the debt. Regular reports on the process of debt recovery will be provided to Corporate Directors and their management teams by the Corporate Debt Management Team, along with advice on the future conduct of specific debts.

Where a service area retains conduct of a debt they will be expected to comply with the principles contained within this strategy in their actions, and to escalate issues to their management teams. Corporate Directors are expected to engage directly in the recovery of debt where the debt lies with a partner organisation at an early stage in order that all practical leverage is used to deliver a speedy conclusion of discussions and that any underlying financial problems with the partner organisation are identified in a timely fashion.

Where there is a legal framework specific to a type of debt this must be adhered to above the principles contained within this strategy. Progress on these debts will be reported in the monthly reports produced by the Corporate Debt Management Team.

4. Customer care

The Council recognises that customers can and do occasionally experience financial difficulties. Many of our customers have a relationship with the council because they are vulnerable, or in financial hardship.

The Council aims to collect debts fairly and consistently from customers and organisations. We aim to adhere to some key principles when collecting debt:

- Recover all debts due to the Council in a timely manner;
- Make it easy for customers to pay and contact us;
- Actively pursue debtors that refuse to pay and take enforcement action in line with any appropriate legislation;
- Encourage early contact and signpost to debt advice and support agencies if appropriate;
- Work with customers in debt, or at risk of getting into debt, to set payment arrangements that they can afford;
- Ensure that all Council services work together to recover multiple debts if appropriate;
- Where recovery action has to take place, explain the process to the customer and ensure that they understand the process and their obligations.

Signposting to other agencies is an important part of debt collection. Many organisations offer free confidential advice to customers to help them to prioritise their debt and often arrange payment plans with their creditors. A list of appropriate agencies will be kept by the Corporate Debt Management Team, which will be made available to service areas upon request.

5. Management reporting of debt

Corporate Directors and their management teams are accountable for all debt within their service areas. The Corporate Debt Management Team will provide reporting to Directorates / Portfolios as to the status of recovery of all debts, whether managed centrally or retained by the service. The format of reporting will be agreed corporately, in consultation with Heads of Finance, and will be provided on a monthly basis.

The value, risk level and status of debts must be reported and reviewed by Directorate Management Teams on a monthly basis, and will also be reported to the Senior Leadership Team on monthly basis. Reporting to Cabinet on debt will be on a quarterly basis. Reports will provide sufficient information to ensure that any issues are clearly described and mitigating and that corrective actions stand up to scrutiny.

6. Right of Appeal and Complaints

One of the principles of this strategy is to minimise the level of appeals and complaints. However, officers have to make decisions regarding the most appropriate action to take and the reasons why. If the customer / organisation disagree with the decision they have the right of appeal.

Appeals should be made in writing by post or e-mail and considered by the Management Team of the Service area concerned. Customers should be asked to explain the reason for the appeal and provide as much information as possible to support proper consideration of any complaint or appeal.

The original decision will be reviewed within 7 days and the customer will receive a written response. The response will either uphold the original decision or revise the decision.

The Corporate Complaints procedure allows for formal complaints to be made if a customer is not satisfied with the standard of service.

In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may make a further complaint to the Local Government Ombudsman.

7. Data Protection and Fair Processing

The Council will comply with the Data Protection Act 1998 at all times and will adhere all relevant to Buckinghamshire Council policies:

Data may be shared between service areas within the Council in order to ensure that a customer's debt is managed corporately if appropriate.

The Council take part in data matching exercises as part of work to assist in the prevention and detection of fraud. Data matching involves comparing sets of our data against other records held by the Council or other bodies to see how far they match. Data matching allows potentially fraudulent claims, reductions and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out. The processing of personal information by the Council for data matching exercises is carried out in accordance with the Data Protection Act 1988; specifically under section 29 of that act. This means the Council does not require the consent of the individuals concerned.

8. Review and continuous improvement

The Strategy will be reviewed annually. Any changes in legislation and any new ways of working will be incorporated as required.

The Corporate Debt Management Team will provide a corporate overview of the performance of the process, and will identify relevant trends in debt matters, and identify opportunities to improve practice, including areas where pre-payment before delivery of service will improve performance.

The council will strive to make continuous improvements to the collection and enforcement of debt. This will be achieved by:

- Promoting a co-ordinated approach to debt collection;
- Sharing good / best practice;
- Setting consistently high standards;
- Monitoring and reporting process quality;
- Supporting the rectification of quality failures;
- Providing staff with clear procedures supported by training;
- Using and building upon the technology available to us;
- Encouraging partnership working with external agencies such as the Citizens Advice Bureau.

9. Writing-off debt

Having a robust Corporate Debt Management Strategy in place ensures that only the minimal amounts of debt need to be considered for write off. As part of the

commercial approach of the Council, we would not anticipate that debts against corporate bodies and other organisations would be written off. The approach to individuals should be subject to the local service area debt management arrangements and this strategy.

Individual debts under £10,000 can be written off by agreement of the relevant Corporate Director and relevant Head of Finance. Debts over £10,000 must be written off by agreement of the relevant Corporate Director and Head of Finance, and the S151 Officer.

Value of debt being written off	Approvals required
<£10,000	Corporate Director Head of Finance
>=£10,000	Corporate Director Head of Finance S151 Officer

Tracing agencies will be used to search for debtors where contact has not been possible.

Before being considered for write-off, debts may be referred to a debt collection agency in order to maximise the income that the Council can recover.

Debts must only be written off if they are deemed to be irrecoverable, and it can be demonstrated that every effort was made to recover the debt or it is uneconomical to recover (i.e. the debtor is bankrupt or has died with no estate).

In instances where a write off has taken place, should the debtor be subsequently traced the debt will be written back on and action to collect any balance will be taken.

10. Bad and Doubtful Debt provisions

For Bad and Doubtful Debt Provisions the recommended provision levels must be based on the following for non-secured debts, unless information is available about specific debts or customers. Where this is the case, the justification for the basis of the provision must be recorded in the working papers for the accounts.

It is recognised that our customer base is broad, and includes very different types of relationship with the different groups we invoice, and subsequently the risks of non-payment of debts differs between commercial and client debts and those with other public sector bodies. The tables below show the recommended provisions for bad debt for the customer groups identified above:

Commercial debtors and clients

Age of Debt	Provision
Up to 3 months	1% of outstanding debt
3 months – 6 months	25% of outstanding debt

6 months – 12 months	50% of outstanding debt
Over 12 months	100% of outstanding debt

Other public sector bodies

Age of Debt	Provision
Up to 3 months	No provision
3 months – 6 months	No provision
6 months – 12 months	No provision
12 months – 18 months	25% of outstanding debt
Over 18 months	50% of outstanding debt

Loans to community groups / organisations where we are the only available lender / lender of last resort

Where these are high-risk they should be fully provided for in the year the loan is made. Judgement should be applied if the risk is not high, and an appropriate provision made. This should be reviewed annually to ensure the provision reflects the latest risk position.

Bad and Doubtful Debt provision will be reviewed on a regular basis and the service will update its budget monitoring position to reflect the likely movement in the provision.

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Buckinghamshire Council

Anti-Money Laundering Policy

A guide to the Council's anti-money laundering safeguard and reporting arrangements.

Prepared by: Maggie Gibb, Head of Business Assurance (& Chief Internal Auditor)

Version 1.2 – March 2020

Version	Date	Sign Off	Action	Responsible Officer
1.0	14/11/2019	Resources Board	Agreed. Minor changes to reflect structures	Maggie Gibb
1.1	26/11/2019	Chief Executive's Implementation Group	Agreed. Minor changes to reflect structures	Maggie Gibb
1.2	11/12/2019	Informal Shadow Exec	Agreed.	Maggie Gibb
1.2	31/03/2020	Formal Shadow Exec		

Anti-Money Laundering Policy

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1. Introduction

- 1.1. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017. They implement the EU's 4th Directive on Money Laundering. In doing so, they replace the Money Laundering Regulations 2007 (MLR 2007) and the Transfer of Funds (Information on the Payer) Regulations 2007 which were previously in force.
- 1.2. A key difference is that relevant persons are obliged to adopt a more risk-based approach towards anti-money laundering, in particular in how they conduct due diligence. Determining the appropriate level of due diligence requires analysis of risk factors based on the EU Directive and which are set out in MLR 2017.
- 1.3. Although Anti-Money Laundering legislation does not specifically cover local authorities as defined by organisations in the regulatory sector, it is implied best practice that we assess the risk and put sufficient controls in place to prevent the Council from being used for money laundering.
- 1.4. We are also required to:
 - Assess the risk of Buckinghamshire Council being used by criminals to launder money;
 - Check the identity of our customers;
 - Check the identity of 'beneficial owners' of corporate bodies and partnerships;
 - Monitor our customers' business activities and report anything suspicious to the National Crime Agency (NCA);
 - Make sure we have the necessary management control systems in place; - keep all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes, and;
 - Make sure our employees are aware of the regulations and have had the necessary training.

2. Scope of the policy

- 2.1 This Policy applies to all employees whether permanent or temporary and Members of the Council. Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside of work should contact the police.
- 2.2 Failure by a member of staff to comply with the procedures set out in the Policy should be escalated for appropriate action to be taken.

3. What is money laundering?

3.1 Money Laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under The Proceeds of Crime Act 2002 as the following prohibited acts;

- Concealing, disguising, converting, transferring or removing criminal property from the UK.
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Acquiring using or possessing criminal property.
- Doing something that might prejudice an investigation e.g. falsifying a document.
- Failure to disclose one of the offences listed above where there are reasonable grounds for knowledge or suspicion.
- Tipping off a person(s) who is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

3.2 Money laundering activity may range from a single act, for example being in possession of the proceeds of one's own crime, to complex and sophisticated schemes involving multiple parties and multiple methods of handling and transferring criminal property as well as concealing it and entering into arrangements to assist others to do so. Council employees need to be alert to the risks of clients, their counterparties and others laundering money in any of its many forms.

3.3 The main money laundering offences are those under sections;

1. **327 to 329 of the Proceeds of Crime Act 2002:**

- Under section 327 it is an offence to conceal, disguise, convert, transfer or remove criminal property from England and Wales.
- Under section 328 it is an offence for a person to enter into or become concerned in an arrangement which s/he knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Under section 329 it is an offence for a person to acquire, use or have in his/her possession criminal property.

2. 18 of the Terrorism Act 2000.

- Under section 18 of the Terrorism Act 2000 it is an offence for a person to enter into or become concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, removal from the jurisdiction, transfer to nominees or in any other way. Terrorist property is defined as money or other property which is likely to be used for the purposes of terrorism (including any resources of a prescribed organisation), proceeds of the commission of acts of terrorism, and proceeds of acts carried out for the purposes of terrorism.

3.5 It is important to note that anyone, Council employee or not, can commit any of the above offences. However, in addition to these offences there are a series of obligations imposed on the Council by the 2007 Money Laundering Regulations that it must fulfil, and of which breach can also amount to an offence by the Council.

4. What are the obligations on the council?

4.1 Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

4.2 The regulations apply to “relevant persons” acting in the course of business carried on by them in the UK. Not all of the Council’s business is relevant for the purposes of the Regulations; it could include accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services.

4.3 It is reasonable to conclude that the money laundering regime is not primarily aimed at local authorities and that local authorities’ work is to some extent tangential to the regime. However, the safest way to ensure compliance with the regime is nonetheless to apply its requirements to all of the Council’s areas of work and to ensure that all staff comply with the reporting procedure set out in the Policy.

4.4 The obligations on the Council are to establish and maintain appropriate and risk-sensitive policies and procedures relating to the following;

- Customer due diligence measures and ongoing monitoring.
- Reporting.
- Record-keeping.
- Internal control.
- Risk assessment and management.
- The monitoring and management of compliance with, and the internal communication of such policies and procedures.

4.5 All employees are required to follow the procedure set out in the Policy and in this way the Council will properly discharge its obligations under the money laundering regime.

5. The importance of disclosing any suspicions to the Money Laundering Reporting Officer (MLRO)

5.1 Where you know or suspect that money laundering activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose to the MLRO this suspicion or concern as soon as practicable; the disclosure should be made within hours rather than days or weeks of the information coming to your attention. The legislation determines that a single cash transaction or a series of linked transactions totalling over €15,000 (approximately £10,000 at the time of the legislation) should be treated as suspicious. However vigilance also needs to be maintained in respect of all other possibilities such as a series of smaller payments in cash.

IF YOU FAIL TO DO SO YOU MAY BE LIABLE TO PROSECUTION.

5.2 Your disclosure should be made to the MLRO on the Pro Forma attached. The report must include as much detail as possible, for example:

- Full details of the people involved (including yourself if relevant) e.g. name, date of birth, address, company names, directorships, phone numbers etc.
- If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327-329 of the 2002 Proceeds of Crime Act then your report must include all relevant details as;
- You will need consent from the National Crime Agency (NCA) or relevant successor body, through the MLRO, to take any further part in the transaction. This is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- The types of money laundering activity involved. If possible cite the section number(s) under which the report is being made.
- The date of such activities, including whether the transactions have happened, are on-going or are imminent.
- Where they took place.
- How they were undertaken.
- The (likely) amount of money/assets involved.
- Why, exactly, you are suspicious.
- In addition, any other information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable
- To prepare a report to the NCA, where appropriate. You should also enclose any copies of relevant supporting documentation.

5.3 As soon as you have reported the matter to the MLRO you must follow any directions they give to you. **You must NOT make any further enquiries into the matter yourself.**

Any necessary investigation will be undertaken by the National Crime Agency (NCA) or relevant successor body; simply report your suspicions to the MLRO, who will refer the matter to NCA or relevant successor body, if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

- 5.4 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) organisation you suspect of money laundering; otherwise you may commit the criminal offence of “tipping off”.
- 5.5 Do not, therefore, make any reference on a client file to a report having been made to the MLRO. Should the client exercise his/her right to see the file then such a note would obviously tip them off to the report having been made. Again you would be at risk of prosecution for tipping off. The MLRO will keep the appropriate records in a confidential manner.

6. Customer Due Diligence

- 6.1 Customer due diligence means that the Council must know its clients and understand their businesses. This is so that the Council is in a position to know if there is suspicious activity that should be reported; clearly it is only by the Council knowing its clients and their businesses that it can recognise abnormal and possibly suspicious activity.
- 6.2 The obligations imposed on the Council must, of course, be brought into effect by its individual employees. Employees must therefore be familiar with these obligations.
- 6.3 The 2017 Regulations require that the Council identifies its customers and verifies that identity on the basis of documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the Council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the Council must understand the nature of the control structure of that trust. Finally the Council must obtain information on the purpose and intended nature of the business relationship. The MLR 2017 introduces the need for the Council to consider both customer and geographical risk factors in deciding what due diligence is appropriate. The new Regulations introduced a list of high risk jurisdictions which if involved in a transaction makes enhanced due diligence and additional risk assessment compulsory. For an up to date list of such jurisdictions an officer should seek advice from the MLRO. The list of areas is currently: Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Syria, Uganda, Vanuatu, Yemen, Iran and the Democratic People’s Republic of Korea.

- 6.4 The checks described in the paragraph above must generally be undertaken by the Council before it establishes a business relationship or carries out an occasional transaction, or if it suspects money laundering or terrorist funding or doubts the veracity of any information obtained for the purposes of identification or verification. However, the Council is not required to undertake these checks if its customer is another public authority, unless it suspects money laundering or terrorist funding.
- 6.5 The Council is also obliged to maintain ongoing monitoring of its business relationships which means it must scrutinise transactions throughout the course of the relationship to ensure that the transactions are consistent with the Council's knowledge of the customer and keep the information about the customer up-to-date.
- 6.6 Where property transactions are carried out using externally appointed agents on behalf of the Council, the agent will be required to perform and evidence the "know your client checks (KYC)" and these should be shared and retained by the Council.
- 6.7 Where the Council is not able to apply the customer due diligence measures set out above it must not carry out a transaction with or for a customer through a bank account, it must not establish a business relationship or carry out an occasional transaction with the customer, it must terminate any business relationship with the customer and consider whether to make a disclosure.
- 6.7 However, the above paragraph does not apply where a lawyer or other professional adviser is in the course of advising the legal position for his/her client or performing his/her task of defending or representing that client in, or concerning, legal proceedings including the advice on the institution or avoidance of proceedings.

7. Enhanced Customer Due Diligence and Ongoing Monitoring

- 7.1 It will in certain circumstances be necessary to undertake what is known in the Regulations as Enhanced Customer Due Diligence. In summary, this will be necessary where:
- The customer has not been physically present for identification purposes; or
 - In any other situation which by its nature can present a higher risk of money laundering or terrorist financing.

- 7.2 Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the customer's identity is established by additional documents, data or information.
- 7.3 Similarly, where the Council is in an ongoing "business relationship" with a customer, the Regulations impose a special obligation to carry out ongoing monitoring. This means that the Council must:
- scrutinise transactions undertaken throughout the course of the relationship to make sure that these transactions are consistent with the Council's knowledge of the customer, his/her business and risk profile; and
 - keep documents, data or information obtained for the purpose of applying Customer Due Diligence measures up-to-date.
- 7.4 The regulations require that enhanced customer due diligence measures are taken to manage and mitigate the risks exposed by politically exposed persons (PEPs). The term PEPs refers to people who hold high public office. The Council is required to have appropriate risk-management systems and procedures to identify when the customer is a PEP and to manage the enhanced risks arising from having a relationship with that customer. Business relationships with the family and known close associates of a PEP are also subject to greater scrutiny.

8. Internal Clients

- 8.1 Appropriate evidence of identity for Council departments will be signed, written instructions on Council headed notepaper or an e-mail on the internal system at the outset of a particular matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

9. External Clients

- 9.1 The MLRO will maintain a central file of general client identification and verification information about the Council's external clients to whom the Council provides professional services. You should check with the MLRO that the organisation or individual in respect of which you require identification and verification information is included in the MLRO's central file and then check the details of the information held in respect of the particular client. If the organisation or individual is not included in the central file you should discuss the matter with the MLRO.
- 9.2 In practice the Council can fulfil its obligations if employees complete the Customer Due Diligence Pro-Forma attached.

10. Record Keeping

10.1 The information gathered by the Council in pursuance of its customers due diligence obligations and described above must be kept for a period of five years from either the completion of the transaction or the end of the business relationship. Each Department or Section of the Council should nominate an officer who is to be responsible for the secure storage of these records.

11. Money Laundering Reporting Officer

11.1 The officer nominated to receive disclosure about money laundering activity within the Council is the Service Director - Corporate Finance (S151 Officer), who can be contacted as follows:

Service Director - Corporate Finance (S.151 Officer)
Buckinghamshire Council
The Gateway
Aylesbury
Buckinghamshire
HP20 1UA
01296 383120

In the absence of the MLRO the Monitoring Officer, the Corporate Director of Resources, is authorised to deputise.

They can be contacted at the above address or on telephone 01296 303986.

Customer Due Diligence Pro-Forma

SECTION A: PRELIMINARY	
NAME OF CUSTOMER	
Is this customer another public authority (E.g. a local authority)?	If “Yes”, the due diligence measures below in Sections B and C do not need to be applied.
Does the Council suspect the customer of money laundering or terrorist financing?	If “Yes”, the suspicion MUST always be reported to the MLRO immediately.
SECTION B: DUE DILIGENCE MEASURES	
<p>These measures are to be applied where the Council:</p> <ol style="list-style-type: none"> 1) establishes a business relationship with a customer² ; 2) carries out an occasional transaction³ ; 3) doubts the veracity or adequacy of documents, data or information previously obtained from the customer for the purposes of identification or verification. <p>To apply the due diligence measures, please answer as fully as possible the questions below.</p>	
1.	Can the Council identify this customer?
2.	How has the identity of this customer been established? [Attach documents, data or information establishing identity]
3.	Are these documents, data or information from an independent and reliable source?
4.	Can the Council verify the identity of the customer?

² **“business relationship”** means a business, professional or commercial relationship which the Council expects, at the time the contact is established, to have an element of duration.

³ **“occasional transaction”** means a transaction, carried out other than as part of a business relationship, amounting to 15,000 Euro or more, whether a single operation or several operations which appear to be linked. [Sterling equivalent at date of final document]

	[Through the documents referred to in Questions 2 and 3]	
5.	Is there a beneficial owner involved with the customer who is a different person or entity to the customer identified above?	
6.	What is the identity of the beneficial owner?	
7.	Can the Council verify the identity of the beneficial owner?	
8.	Does the Council doubt the veracity or adequacy of documents, data or information obtained for the purposes of identification or verification?	
9.	When were the documents, data or information obtained for the purposes of identification or verification of this customer last up-dated?	
10.	When will the documents, data or information obtained for the purposes of identification or verification of this customer next be up-dated?	
11.	What is the ownership and control structure of the beneficial owner?	
12.	Does the Council wish to establish a business relationship with this customer?	If “No”, go straight to Section C.
13.	What is the purpose and intended nature of the business relationship?	

SECTION C: OUTCOME OF DUE DILIGENCE MEASURES

Is the Council unable to answer any of the above questions because the customer has been unable or unwilling to provide information?

If so, please give full details.

If the answer is “Yes”, the Council must not establish a business relationship or carry out an occasional transaction with this customer; it must not carry out any transaction with or for the customer through a bank account; it must terminate any business relationship with the customer AND the suspicion must be reported immediately to the MLRO.

NOTE

This pro-forma must be kept for 5 years from the end of the business relationship or occasional transaction with this customer.

BUCKINGHAMSHIRE COUNCIL

WHISTLEBLOWING POLICY AND PROCEDURE

WHISTLEBLOWING POLICY AND PROCEDURE

1. INTRODUCTION

1.1 What is the policy about?

Employees can sometimes be the first to realise that there may be something wrong with procedures/processes, or the conduct of others. However, they may not always express their concerns because they feel that speaking up would be disloyal to their colleagues or the council. They may also fear the threat of harassment or victimisation and in these circumstances they may feel it easier to just ignore their concern rather than report.

“Whistleblowing” is the term used when an employee passes on information concerning wrongdoing. This is generally referred to as making “making a disclosure” or “blowing the whistle”.

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998).

The council is committed to the highest possible standards of openness, honesty, integrity and accountability. In line with that commitment we expect employees, and others we deal with, who have any serious concerns about any aspect of the council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant council procedures to report issues in an open and transparent way. However, it is recognised that some cases will have to proceed on a confidential basis.

This policy makes it clear that you can report concerns without fear of victimisation, subsequent discrimination or disadvantage. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the council rather than overlooking a problem of “blowing the whistle” outside.

The Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.

1.2 Who does the policy apply to?

This policy applies to all Buckinghamshire Council employees, and all workers including agency staff, consultants, self-employed staff, apprentices, trainees, contractors and volunteers. It also applies to organisations working in partnership with the Council.

These procedures are in addition to the council’s complaints procedures and other statutory reporting procedures applying to some services.

1.3 Aim of the policy.

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise those concerns and receive feedback (where appropriate) on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and

- Reassure you that you will be protected from possible reprisals or victimisation if you have reasonable belief that you have made any disclosure in the public interest.

1.4 Scope of the policy

An employee who makes a disclosure under this policy must reasonably believe:

- (i) That they are acting in the public interest;
- (ii) That the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
 - Conduct which is an offence or breach of the law;
 - Health and safety risks, including risks to the public as well as employees/workers;
 - Damage to the environment;
 - Abuse of clients;
 - Safeguarding concerns relating to children, young people or adults with care and support needs;
 - Practice which falls below established standards of practice;
 - Unauthorised use of public funds;
 - Possible fraud, corruption or financial irregularity including unauthorised use of Council funds (*please see the Anti-Fraud and Corruption Policy*);
 - Unauthorised disclosure of confidential information;
 - Unreasonable conduct resulting in unfair pressures on staff;
 - Any other unethical conduct; and
 - Covering up information about anything listed above.

The above list is neither exclusive nor exhaustive.

Thus, any serious concerns that you have, which are in the public interest, about any aspects of service provision or the conduct of officers or members of the council or others acting on behalf of the council can be reported under the Whistleblowing Policy.

2. PRINCIPLES

2.1 This policy and procedure is founded on the following principles:

- a. Employees/workers have a legal right to report their concerns if they have a reasonable belief that wrongdoing may be occurring, or may have occurred, within the Council.
- b. The Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.
- c. Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.

- d. If a concern is raised in confidence, the employee's or worker's identity will not be disclosed without their consent, unless required by law.
- e. All parties involved in the whistleblowing process will maintain strict confidentiality throughout by ensuring that only the people who need to know have access to details of the case (with the exception of any legal obligations requiring action from the Council, e.g. in health and safety matters).
- f. The employee/worker has a right to be accompanied by an accredited trade union representative or work colleague at any meeting during the Whistleblowing process.
- g. If you have any misgivings about either the process or the managers leading it, you should tell us openly so that we can address your concerns. Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter.
- h. Maliciously making a false allegation is a disciplinary offence, which may be dealt with under the Disciplinary Policy and Procedure.
- i. Trying to identify, harassment or victimisation of a whistleblower (including informal pressures) will be treated as a disciplinary offence, which will be dealt with under the Disciplinary Policy and Procedure.
- j. Any person who deters or attempts to deter any individual from genuinely raising concerns under this policy may also be subject to the Council's Disciplinary Policy and Procedure.
- k. Issues raised by an employee about their own employment should be dealt with through the Grievance Policy and Procedure.
- l. The Role of the Council's Monitoring Officer (Deputy Chief Executive) is to promote and maintain high standards of conduct across the Council and to ensure lawfulness and fairness of decision making.
- m. All concerns raised relating to Buckinghamshire Council and Schools will be recorded on a central register, held by the Business Assurance function on behalf of the Council's Monitoring Officer.
- n. As part of the ongoing review of the effectiveness of this policy, an annual report will be issued to the Buckinghamshire Council's Audit and Governance Committee of all concerns raised under the Whistleblowing policy.
- o. There will be no unlawful discrimination against any individual in the application of this policy on the basis of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law.

3. SAFEGUARDING

- 3.1 If an employee/worker has a concern that any person who works with children, young people or adults with care and support needs, in connection with their employment or voluntary activity, has:
- a. behaved in a way that has harmed a child, young person or vulnerable adult or may have harmed a child, young person or vulnerable adult; or
 - b. possibly committed a criminal offence against or related to a child, young person or vulnerable adult; or
 - c. behaved towards a child, young person or vulnerable adult in a way that indicates they may pose a risk of harm to children, young people or adults with care and support needs;

then the employee/worker should raise the concern via the Whistleblowing Policy as this policy affords the employee/worker protection under the Public Interest Disclosure Act 1998. It is important that a safeguarding concern is raised as a matter of urgency as the safety of others may be dependent upon the concern being dealt with swiftly. The concern may then have to be dealt with under the procedures for Managing Concerns or Allegations Against Staff and Volunteers Working with Adults with Care and Support Needs and Managing Allegations against Staff and Volunteers Working with Children.

- 3.2 An employee/worker may raise their concern regarding a person who works with children, young people or adults with care and support needs with a Local Authority Designated Officer (LADO).

4. RAISING A CONCERN UNDER THE WHISTLEBLOWING POLICY AND PROCEDURE

- 4.1 How to raise a concern:
- a. In the first instance, the employee/worker should raise their concern verbally or in writing with their immediate manager, or, if the concern involves the direct line manager, their superior. Wherever possible concerns should be made in writing direct by the person raising the concerns using the template [\[link to be included for new website\]](#)
 - b. The manager will then either continue to deal with the concern or refer it to another appropriate senior manager. Where concerns raised involve Children, Young People or Adults with care and support needs, the appropriate process should be followed.
 - c. In certain circumstances, you may feel unable, or it may not be appropriate, to raise your concerns with your immediate manager due to the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If this is the case, the concern can be reported to one of the following officers using the same template:
 - Head of Service;
 - Service Director;
 - Corporate Director;
 - Director of Finance (\$151);
 - Deputy Chief Executive (Monitoring Officer);
 - Chief Executive;

- Chief Internal Auditor; or
- You may also use the Council's Whistleblowing Hotline on 01296 382237 (accessible 24 hours a day) or email audit@buckinghamshire.gov.uk

5. HOW THE COUNCIL WILL RESPOND

- 5.1 The council will respond to your concerns. Following the recording of the concern, either directly by the whistleblower or the manager to whom it was reported, the completed form should then be immediately forwarded to the Chief Internal Auditor and Corporate Fraud Manager for logging and monitoring purposes.
- 5.2 The Chief Internal Auditor and Corporate Fraud Manager is independent and has unlimited access to any officer, member or information within the council and, in consultation with the appropriate officer, can agree the most appropriate way of investigating the concern.
- 5.3 Where appropriate, the matters raised may:
- be investigated by management, internal audit and corporate fraud;
 - through the disciplinary process;
 - be referred to the police;
 - be referred to the external auditor; or
 - form the subject of an independent inquiry.
- 5.4 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principles, which the council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures [for example, safeguarding or discrimination issues] will normally be referred for consideration under those procedures.
- 5.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 5.6 Within ten working days of a concern being raised, the person with whom you have raised your concerns will respond to you in writing:
- acknowledging that the concern has been received;
 - indicating how we propose to deal with the matter;
 - giving an estimate of how long it will take to provide a final response;
 - telling you whether any initial enquiries have been made;
 - supplying you with information on employee support mechanisms; and
 - telling you whether further investigations will take place and if not, why not.
- 5.7 A copy of the response will be forwarded to the Chief Internal Auditor and Corporate Fraud Manager for monitoring purposes.

5.8 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the council will seek further information from you. However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the Whistleblowing process, specific procedures will need to be applied.

5.9 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the relevant person(s) for a decision to be made as to whether such a course of action is both necessary and proportionate.

5.10 **Important:**

- a. All employees must not, under any circumstances attempt to obtain any further information covertly either directly or indirectly without first having complied with the Council's procedures in relation to staff surveillance which can be found in the Regulation of Investigatory Powers (RIPA) Policy [include link to new website]. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- b. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union or professional association representative or a work colleague.
- c. The council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the council will arrange for you to receive advice about the procedure.
- d. The council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.
- e. This code is intended to provide you with an avenue within the council to raise concerns. The council hopes you will be satisfied with any action taken.

6. FURTHER REPORTING OPTIONS

6.1 If following the outcome of the internal investigation outlined in section 5 the employee/worker reasonably believes that the appropriate action has not been taken they may opt to raise the concern outside the Council to any of the following:

- Buckinghamshire Council's External Auditor;
- The Comptroller and Auditor General;
- The Police;
- Public Concern at Work (www.pcaw.co.uk, email whistle@pcaw.co.uk or telephone (020 7404 6609);

- A relevant professional body or inspectorate (e.g. OFSTED OR SSI); or
- A trade union or professional association.

Report for:	Formal Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	Risk Management Strategy
Shadow Portfolio Holder	Katrina Wood
Responsible Officer	Richard Ambrose
Report Author Officer Contact:	Maggie Gibb, 01296 387327, mgibb@buckscc.gov.uk
Recommendations:	<p>To approve the Risk Management Strategy for Buckinghamshire Council.</p> <p>To note the risk process and work that will progress across the organisation post vesting day, to ensure that a robust risk framework is embedded.</p>
Corporate Implications:	None
Options: (If any)	None – the Risk Management Strategy supports the effective management of risk and good governance.
Reason:	

1. Purpose of Report

1.1 The purpose of the report is to present the Risk Management Strategy for approval.

2. Content of Report

2.1 The Risk Management Strategy provides a framework designed to support Members and Officers in ensuring that the Council is able to discharge its risk management responsibilities.

2.2 The key objectives of the Risk Management Strategy are to:

- Embed risk and opportunity management into the culture of the organisation;
- Develop a balanced approach to managing the wide range of business risks facing the Council;
- Manage risk in accordance with legislation and best practice; and
- Establish a common understanding of the Council's expectations on risk management with partners, providers and contractors.

- 2.3 The Strategy will eventually set out the Council's risk appetite. The risk appetite should be reviewed, at least annually and will differ for across the Council and activities. It is suggested that the risk appetite should be agreed alongside the Directorate and Service Planning process and that it should be an engaging process with Members and the Corporate Management Team. The strategy therefore provides a "placeholder" for this and "template" which can be further developed and agreed post vesting day.
- 2.4 The Strategy states that the responsibility for managing risk belongs to everyone across the Council and that there needs to be a good understanding of the nature of risk by all stakeholders. However, the details of the roles with specific responsibilities for managing risks need to be further developed when structures and teams are in place. This should be done as part of establishing the "ways of working" and can be an engaging process to support the development of an effective risk management culture.
- 2.5 The strategy will be supported by a risk management framework and process to be developed through engagement with the Corporate Directors and Leadership Team. Engaging in the development of the framework is an important part of embedding an effective risk management culture.
- 2.6 The current BCC and WDC risk management system, Pentana, will be used to manage the risks in the new unitary authority. The system is currently being populated with the new structure, and a risk data transfer exercise is planned for early April to ensure that relevant legacy risks are captured and managed effectively.
- 2.7 We are proposing to identify at least one Risk Champion within each area of the business, to ensure that all services have a "go-to" person for risk queries and for support with the system.
- 2.8 The network of Risk Champions would meet with the Corporate Risk Team on a regular (minimum quarterly basis) to review the current and emerging risks and to escalate risks where appropriate.

3. Financial Implications

- 3.1 None.

4. Legal Implications

- 4.1 The Council has a responsibility to ensure effective management of risk to enable the fulfilment of statutory duties and as a custodian of public funds. The Risk Management Strategy supports the Council in fulfilling this duty.

5. Other Key Risks

- 5.1 None.

6. Dependencies

- 6.1 None

7. Consultation

7.1 Not Applicable.

8. Communications Plan

8.1 Not Applicable.

9. Equalities Implications

9.1 An equalities impact assessment is not required. The Risk Management Strategy provides a framework for managing risk at Buckinghamshire Council and is therefore supportive of managing risks associated with the potential for breaches of the Equalities Act.

10. Data Implications

10.1 A Data Protection Impact Assessment is not required. The Risk Management Strategy provides a framework for managing risk at Buckinghamshire Council and is therefore supportive of managing risks associated with the potential for breaches of the General Data Protection Regulations.

11. Next Steps

11.1 The Risk Management Strategy will be communicated across the organisation and a supporting operational risk framework will be developed for each Directorate to ensure that the risk appetite and escalation framework is appropriate to support achievement of objectives. This will support the engagement and embedding of risk management into the organisational culture and processes.

Background Papers	It is a legal requirement to make available background papers relied upon to prepare a report and should be listed at the end of the report (copies of background papers for executive decisions must be provided to Democratic Services). Hyperlinks to papers published online should be used where possible. Where there are no background papers, insert None.
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Buckinghamshire Council

Risk Management Strategy

March 2020

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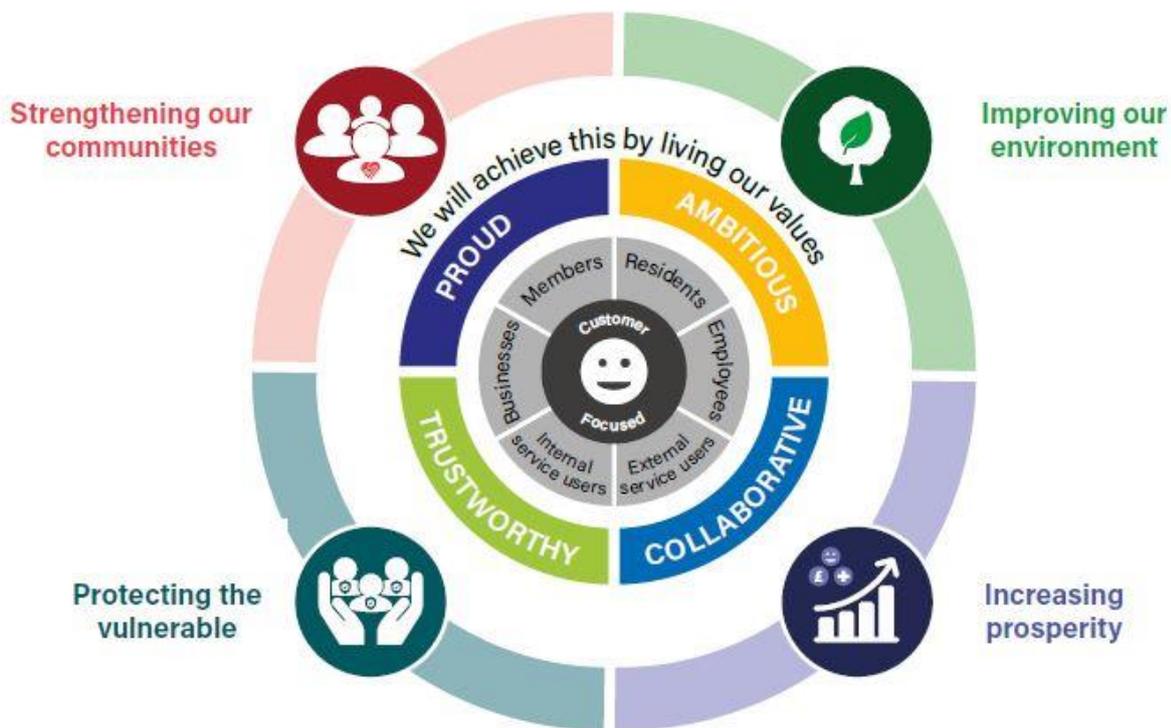
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1. Introduction

Risk is part of everything we do. We live in an ever-changing world and the pace of change is increasing. This carries with it uncertainty and that uncertainty brings new opportunities and risks. How we manage those has never been more important in helping us meet our objectives, improve service delivery, achieve value for money and reduce unwelcome surprises.

Buckinghamshire Council believes in the value of effectively managing risk: it informs business decisions; enables a more effective use of resources; enhances strategic and business planning; and strengthens contingency planning. None of this is possible without a supportive risk culture. A positive risk culture, one which encourages openness and discusses real business issues in a realistic manner, is absolutely essential to the effective management of risk. Everyone, from the Cabinet and Corporate Management Team down, has a clear role to play in establishing and maintaining that risk culture.

As set out in the Buckinghamshire Council Corporate Plan 2020-23, the Council has defined four key priorities:



Fundamental to delivering these ambitions is the way the Council implements sound management of risks and opportunities. The Council is committed to adopting best practice in its management of risk to ensure risk is of an acceptable and tolerable level in order to maximise opportunities and demonstrate it has full consideration of the implications of risk to the delivery and achievement of the Council's outcomes, strategic aims and priorities.

The Council is clear that the responsibility for managing risk belongs to everyone across the Council and that there needs to be a good understanding of the nature of risk by all stakeholders. This is fundamental in making informed decisions and is becoming increasingly important as the Council pursues innovative ways of working in carrying out its service delivery.

The Council will adopt a robust approach to risk but strive to be risk aware - being prepared to accept risk at a tolerable level that can be managed and mitigated whilst ensuring that the most vulnerable are protected and there is increased collaboration with our partners, communities and residents.

This Strategy and its objectives are inherent to good governance practices and they have been endorsed by the Council's Cabinet and Corporate Management Team.

Chair of Audit and Governance Committee

Chief Executive

2. Aims and Objectives of the Risk Management Strategy

Risk management is an integral part of good management and is therefore at the heart of what we do. It is essential to the Council's ability to deliver public services and as a custodian of public funds. The current challenges facing local government means that now, more than ever, risks need to be identified effectively and managed carefully to mitigate adverse effects.

"Risk arises as much from failing to capture opportunities, as it does from a threat that something bad will happen."

Effective risk management, including the identification and subsequent treatment of risks, can help the all areas of the organisation meet their objectives by demonstrating compliance, providing assurance, informing decision making and enabling value for money.

Risk Management is a useful tool for exploiting opportunities as well as safeguarding against potential threats, and acts as an early warning system. The Council is committed to the management of risk in order to:

- Ensure that statutory obligations and policy objectives are met;
- Prioritise areas for improvement in service provision and encourage meeting or exceeding customer and stakeholder expectations;
- Safeguard its employees, clients or service users, members, pupils, tenants and all other stakeholders to whom the Council has a duty of care;
- Protect its property including buildings, equipment, vehicles, knowledge and all other assets and resources;
- Identify and manage potential liabilities;
- Maintain effective control of public funds and efficient deployment and use of resources achieving VfM;
- Preserve and promote the reputation of the Council;
- Support the quality of the environment;
- Learn from previous threats, opportunities, successes and failures to inform future management of risks.

The Risk Management Strategy provides a framework designed to support Members and Officers in ensuring that the Council is able to discharge its risk management responsibilities. The Risk Management Strategy aims to:



'If you don't have effective risk management, you don't have effective management.'

Chance or Choice: Guidance on Effective Risk Management and Internal Control in Local Government (SOLACE/ZM, 2000)

Key objectives of the Risk Management Strategy:

- Embed risk and opportunity management into the culture of the organisation;
- Develop a balanced approach to managing the wide range of business risks facing the Council;
- Manage risk in accordance with legislation and best practice; and
- Establish a common understanding of the Council's expectations on risk management with partners, providers and contractors.

3. Approach to Risk Management

Definitions

Risk is the *'effect of uncertainty on objectives'*, and an effect is a positive or negative deviation from what is expected. Therefore, the Council defines risk as:

Any potential development or occurrence which, if it came to fruition, would jeopardise the Council's ability to:

- achieve its corporate objectives and priorities
- provide services as planned
- fulfil its statutory duties, including the duty to make arrangements to secure continuous improvement and ensure financial stability

Risk Management is *'a coordinated set of activities and methods that is used to direct an organisation and to control the many risks that can affect its ability to achieve objectives'*

**Source ISO 31000 'Risk Management – Principles and guidelines.*

Risk Appetite

At its simplest, risk appetite can be defined as the amount of risk an organisation is willing to take in pursuit of its objectives. A well-defined risk appetite means members and officers are clear about which risks are acceptable and which risks should be avoided. Risk appetite should be at the heart of how we do business and sets the tone for the risk culture across the Council. Once it is properly understood and clearly defined, it can become a powerful tool to help take measured risks and improve overall performance and decision making.

The approach towards and appetite for risk can be:

- Averse - Preference for safe business delivery options that have a low degree of inherent risk and only a potential for limited reward.
- Cautious - Preference for safe delivery options that have a medium degree of residual risk and may only have limited potential for reward.
- Aware - Willing to consider all potential delivery options and choose the one that is most likely to result in successful delivery while also providing a good level of reward
- Hungry - Eager to be innovative and to choose options offering potentially higher business rewards, despite greater inherent risk.

[PLACEHOLDER: AGREE AND SET OUT THE RISK APPETITE]

The Council's risks appetite is determined by individual circumstances. In general terms, the Council's approach to providing services is to be innovative and to seek continuous improvement within a framework of compliance, delivering value for money and strong corporate governance.

Our aim is to have robust risk management at all levels across the organisation to encourage a less risk averse and more risk cautious/risk aware approach. This should enable innovation and opportunities to be taken within the Directorates whilst managing and addressing the barriers to success. However, the attitude towards risk will differ across the Directorates, from risk averse to risk aware. For example the Council's appetite for risk on matters of compliance with the law or safeguarding areas will be much lower.

Types of risk

Every organisation will face different types of risk - internal, external, strategic, and those arising from major projects, and the approach to managing them will differ.

Type of risk	Description	Examples
Internal	These are risks over which the organisation has some control, for example risks that can be managed through internal controls and, where necessary, additional mitigating actions. This often involves traditional risk management, such as risk registers, controls and assurance.	Fraud, health & safety, legal & regulatory, information security, data protection, safeguarding, contracts, people capability & capacity.
External	This focuses on big external events/perils and then considers how to make the organisation more resilient to such events. The approach to managing external risks is through considering the impact those external events could have on infrastructure, finance, people, operations and reputation. A common example is a business continuity plan.	Economic downturn, central government cuts, terrorist attack, extreme weather, cyber attacks
Strategic	This concerns the aims and priorities and aligns to the Council's Corporate Plan, identifying the principal risks to the achievement of those within a set timeframe.	These can be immediate impact risks to the organisation's ability to continue operating, e.g. loss of customer data; or slow-burning risks that grow and eventually prevent delivery of objectives, e.g. staff turnover or leadership capability.
Major programmes & projects	Major projects form such a critical part of the plans for many councils and should have their own risk management arrangements in place aligned to the Programme/Project Governance arrangements. Significant projects and/or risks should be escalated as required.	These risks will be specific to the major project in question, and could involve shifting requirements, budget overspend, slippage in delivery timeframes, failure to deliver.

Our approach to risk management is proportionate to the type of risk, decision being made or the impact of changes to service delivery/ strategies. Our risk management arrangements enable us to manage uncertainty in a systematic way at all levels of the council's business.

All key decisions presented to Cabinet must clearly show the key risks and opportunities associated with the decision/recommendations, the potential impact and how these will be managed. This helps promote informed decision making, particularly in an environment of uncertainty and change.

Risk Scoring

It is important that the organisation as a whole uses the same methodology to calculate risk to ensure that Buckinghamshire Council has an accurate overview of the risks that are posed. The risks are scored using two criteria scales that are then multiplied together to produce a total score by which the risk is assessed. The two criteria used are the Likelihood of an event occurring and the Impact that event could have. The criteria and methodology are set out in Appendix 2.

Identifying and ranking risks is important but the key element thereafter is to determine the strategy for managing them. The following table provides guidance on the level of management intervention that is likely to be necessary or appropriate.

Colour	Score	Action	Risk Control
Green	Very Low 1-3	Acceptable risk; No further action or additional controls are required; Risk at this level should be monitored and reassessed at appropriate intervals.	Tolerate/Accept or Treat and Control.
Green	Low 4-6	Acceptable risk; No further action or additional controls are required; Risk at this level should be monitored and reassessed at appropriate intervals.	Tolerate/Accept or Treat and Control.
Yellow	Moderate 7-12	A risk at this level may be acceptable; If not acceptable, existing controls should be monitored or adjusted; No further action or additional controls are required.	Tolerate/Accept or Treat and Control
Amber	High 13-20	Not normally acceptable; Efforts should be made to reduce the risk, provided this is not disproportionate; Determine the need for improved control measures.	Treat, Tolerate or Transfer.
Red	Extreme 21-30	Unacceptable; Immediate action must be taken to manage the risk; A number of control measures may be required.	All options can and should be considered.

4. Roles and Responsibilities

The Council recognises that it is the responsibility of all members and officers to have due regard for risk in performing their duties, and that they should not be afraid of identifying a risk or feel that identifying a risk is a failure or that we should try to eliminate risk unduly. To ensure risk management is effectively implemented, all Buckinghamshire Council Members and officers should understand the Council's risk management approach and embed risk management as part of their day to day activities.

Key roles in effective risk management are summarised as follows:



At Buckinghamshire Council, specific responsibilities with regards to risk are:

Who	Responsibilities (with regard to risk)
Leader and Members	<p>Set the direction against political imperatives and articulate a high-level appetite for the risks to those imperatives. Has the ultimate accountability for the risk and related control environment.</p> <p>To endorse Council's Risk Management Policy and Risk Management Framework. Through the Audit & Governance Committee, the Council Leader and Members also have a responsibility to:</p> <ul style="list-style-type: none"> • Oversee the effective management of risk by officers • Monitor the Council's risk management strategy and performance. Review regular reports from the CRMG on key issues affecting the Council. • Review and approve the Annual Risk Management Report submitted by the CRMG and the Annual Risk Assessment.
Audit & Governance Committee	<p>Is responsible for overseeing the effectiveness of the council's risk management arrangements and has overall governance of the risk management process. Their role is to:</p> <ul style="list-style-type: none"> • Approve the framework for risk management • Approve strategic risks and monitor progress • Monitor adequacy of management arrangements and directly raise queries with risk owners • Gain assurance of objectives being met • Delegation to sub-committee (Risk Management Group)
Corporate Management Team	<p>Should set an appropriate tone from the top, for example by articulating risk appetite, championing and driving the effective management of risk and ensuring the risk function is supported in carrying out its role</p>
Leadership Team (Corporate Directors & Service Directors)	<p>Demonstrate visible commitment to risk management by:</p> <ul style="list-style-type: none"> • Leading through actions - embracing risk based decision making aligned with strategic objectives • Having a clear understanding of the risks to the business • Ensuring assurance on the status of key risks and controls sought and followed through on a strategic and directorate level • Embedding of the policy and framework for managing risk
Risk Champions Group	<p>Act as department risk 'champions', ensuring that risk management is given an appropriate profile and sufficient focus.</p> <ul style="list-style-type: none"> • Play a lead role in the identification and monitoring of corporate risk • Receive updates on key risks & actions and assurances on effectiveness of risk management • Consider "very severe" and "serious" risks identified by projects, functional risk groups and department groups • Escalate new and emerging risks that may have a corporate impact to the Risk Manager and participate in ad hoc meetings of the Group to discuss such risks
Professional Leads/Specialist Groups	<p>Are responsible for the facilitation and co-ordination of risk management activity in their specialist area across the council.</p>
Managers	<p>Should actively identify and manage risks as part of their everyday business, escalating them promptly as and when necessary</p> <ul style="list-style-type: none"> • Identify, manage & monitor risks within their service area/team • Report and escalate risks in accordance with strategy • Monitor compliance and report exceptions to relevant Professional Lead
Risk Management function	<p>Should support and facilitate the Council's management and oversight of risk. For example by building the organisation's risk capability and defining the organisation's risk management practices and framework.</p>
Internal Audit	<p>Should provide independent and objective assurance on the effectiveness of the organisation's risk management arrangements, and share good practice through comparative assessment</p>
All members and officers	<p>Manage risk effectively in their role and report risks as appropriate in accordance with procedures. Comply with polies and procedures and escalate exceptions appropriately.</p>

5. Risk Reporting and Escalation

[PLACEHOLDER – CONTENT AND FREQUENCY OF RISK REPORTING TO BE AGREED IN-LINE WITH BUCKINGHAMSHIRE COUNCIL STRUCTURE, ROLES & RESPONSIBILITIES AND AGREED WITH CORPORATE DIRECTORS AND IN LINE WITH CONSTITUTION/LOCAL CODE OF GOVERNANCE. EACH DIRECTORATE WILL HAVE A TAILORED RISK REPORTING/ESCALATION FRAMEWORK]

6. Culture, Awareness and Training

To ensure risk management is effectively implemented, all Buckinghamshire Council Members and officers should have a level of understanding of the Council's risk management approach and regard risk management as part of their responsibilities. Managing risk should be firmly embedded in everyone's thinking, behaviours and actions.

Having developed a robust approach and established clear roles and responsibilities and reporting lines, it is important to provide Members and officers with the knowledge and skills necessary to enable them to manage risk effectively.

A range of training methods are being developed to meet the needs of the organisation and include:

- Formal risk management training
- E-learning
- Risk workshops

Appendix 1 - Risk Appetite Matrix (example)

Risk levels	0	1	2	3	4	5
Key elements	Avoid Avoidance of risk and uncertainty is a Key Organisational objective	Minimal (as little as reasonably possible) Preference for ultra-safe delivery options that have a low degree of inherent risk and only for limited reward potential	Cautious Preference For safe delivery options that have a low degree of inherent risk and may only have limited potential for reward.	Open Willing to consider all potential delivery options and choose while also providing an acceptable level of reward (and VfM)	Seek Eager to be innovative and to choose options offering potentially higher business rewards (despite greater inherent risk).	Mature Confident in setting high levels of risk appetite because controls, forward scanning and responsiveness systems are robust
Financial/VfM	Avoidance of financial loss is a key objective. We are only willing to accept the low cost option as VfM is the primary concern.	Only prepared to accept the possibility of very limited financial loss if essential. VfM is the primary concern.	Prepared to accept possibility of some limited financial loss. VfM still the primary concern but willing to consider other benefits or constraints. Resources generally restricted to existing commitments.	Prepared to invest for return and minimise the possibility of financial loss by managing the risks to a tolerable level. Value and benefits considered (not just cheapest price). Resources allocated in order to capitalize on opportunities.	Investing for the best possible return and accept the possibility of financial loss (with controls may in place). Resources allocated without firm guarantee of return – ‘Investment capital’ type approach.	Consistently focused on the best possible return for stakeholders. Resources allocated in ‘social capital’ with confidence that process is a return in itself.
Compliance/regulatory	Play safe; avoid anything which could be challenged, even unsuccessfully.	Want to be very sure we would win any challenge. Similar situations elsewhere have not breached compliances.	Limited tolerance for sticking our neck out. Want to be reasonably sure we would win any challenge.	Challenge would be problematic but we are likely to win it and the gain will outweigh the adverse	Chances of losing any challenge are real and consequences would be significant. A win would be a great coup.	Consistently pushing back on regulatory burden. Front foot approach informs better regulation.
Innovation/Quality/Outcomes	Defensive approach to objectives – aim to maintain or protect, rather than to create or innovate. Priority for tight management controls and oversight with limited devolved decision taking authority. General avoidance of systems/technology developments.	Innovations always avoided unless essential or commonplace elsewhere. Decision making authority held by senior management. Only essential systems / technology developments to protect current operations.	Tendency to stick to the status quo, innovations in practice avoided unless really necessary. Decision making authority generally held by senior management. Systems / technology developments limited to improvements to protection of current operations.	Innovation supported, with demonstration of commensurate improvements in management control. Systems / technology developments used routinely to enable operational delivery. Responsibility for non-critical decisions may be devolved.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. New technologies viewed as a key enabler of operational delivery. High levels of devolved authority – management by trust rather than tight control.	Innovation the priority – consistently ‘breaking the mould’ and challenging current working practices. Investment in new technologies as catalyst for operational delivery. Devolved authority – management by trust rather than tight control is standard practice.
Reputation	No tolerance for any decisions that could lead to scrutiny of, or indeed attention to, the organisation. External interest in the organisation viewed with concern.	Tolerance for risk taking limited to those events where there is no chance of any significant repercussion for the organisation. Senior management distance themselves from chance of exposure to attention.	Tolerance for risk taking limited to those events where there is little chance of any significant repercussion for the organisation should there be a failure. Mitigations in place for any undue interest.	Appetite to take decisions with potential to expose the organisation to additional scrutiny/interest. Prospective management of organisation’s reputation.	Willingness to take decisions that are likely to bring scrutiny of the organisation but where potential benefits outweigh the risks. New ideas seen as potentially enhancing reputation of organisation.	Track record and investment in communications has built confidence by public, press and politicians that organisation will take the difficult decisions for the right reasons with benefits outweighing the risks.
RISK APPETITE	NONE		LOW	MODERATE	HIGH	SIGNIFICANT

Appendix 2 - Risk Methodology

Risk Scoring

Impact	5	Severe	5	10	15	20	25	30
	4	Significant	4	8	12	16	20	24
	3	Moderate	3	6	9	12	15	18
	2	Minor	2	4	6	8	10	12
	1	Minimal	1	2	3	4	5	6
Score			Extremely Unlikely	Unlikely	Less Likely	Likely	Very Likely	Extremely Likely
			1	2	3	4	5	6
			Likelihood					

1-3	Very Low	Acceptable risk; No further action or additional controls are required; Risk at this level should be monitored and reassessed at appropriate intervals.
4 - 6	Low	Acceptable risk; No further action or additional controls are required; Risk at this level should be monitored and reassessed at appropriate intervals.
7 – 12	Moderate	A risk at this level may be acceptable; If not acceptable, existing controls should be monitored or adjusted; No further action or additional controls are required.
13 - 20	High	Not normally acceptable; Efforts should be made to reduce the risk, provided this is not disproportionate; Determine the need for improved control measures.
21 - 30	Extreme	Unacceptable; Immediate action must be taken to manage the risk; A number of control measures may be required.

Capacity to Manage	Description
Full	All reasonable steps have been taken to mitigate the risk and are operating effectively. The cost / benefit considerations on implementing additional controls have been considered and no additional actions are proposed.
Substantial	There are sound arrangements to manage the risk with some scope for improvement. Arrangements have had a demonstrable impact in reducing either the likelihood or consequence of the risk.
Moderate	There are a number of areas for improvement in arrangements that would help to demonstrate effective and consistent management of the risk.
Limited	There are significant areas for improvement in arrangements that would help to demonstrate effective and consistent management of the risk.
None	There is a lack of clear arrangements in mitigation of the risk.

Risk Rating – Likelihood

	Likelihood	Likelihood Descriptors	Numerical Likelihood
1	Extremely Unlikely	EITHER has happened rarely / Never before. OR less than 5% chance of occurring on or prior to proximity date.	Less than 5% chance of occurrence
2	Unlikely	EITHER only likely to happen once every 5 or more years. OR 5-20% chance of occurring on or prior to proximity date.	5% - 20% chance of occurrence
3	Less Likely	EITHER only likely to happen at some point within next 2-5 years. OR 20-45% chance of occurring on or prior to proximity date. OR circumstances occasionally encountered once a year.	20% - 45% chance of occurrence
4	Likely	EITHER likely to happen at some point within the next 2 years. OR 45-70% chance of occurring on or prior to proximity date. OR circumstances encountered few times a year.	45% -70% chance of occurrence
5	Very Likely	EITHER Likely to happen at some point within the next 12 months. OR 70-90% chance of occurring on or prior to proximity date. OR Circumstances encountered several times a year.	70%-90% chance of occurrence
6	Extremely Likely	EITHER Regular occurrence. OR Over 90% chance of occurring on or prior to proximity date. OR Circumstances that could give rise to the occurrence frequently encountered - at least monthly.	Over 90% chance of occurrence

Risk Rating – Impact

Score	Level	Service Delivery / Performance	Political / Reputation	Health and Safety	Technology / Data Protection	Financial
1	Minimal	Minimal service disruption in non-critical area of service for brief period (hours).	Contained within service area. Complaint from individual / small group / single supplier. No press interest. Minor delay in member objectives	Minimal injury or discomfort to an individual. Failure to report notifiable incident to the HSE.	Isolated individual personal detail compromised / revealed.	Costing <£1m.
		Commercial Plan Outcomes/ Objectives delayed by less than 1 month.	Complaint from an individual to a member or internal complaint from a member. Minor change to political landscape.		Minimal technological failure / security breach with minimal impact on day-to-day service delivery.	
2	Minor	Minor effect to an important service area for a short period (days).	Adverse local publicity / local public opinion aware. Lowered perception/standing with local suppliers.	Injury causing loss of working time to an individual. HSE Investigation leads to improvement notice served or threat of prosecution.	Some individual personal details compromised / revealed.	Costing = £1m to <£2.5m.
		Commercial Plan Outcomes/ Project / Objective fails to deliver on 1 important aspect. Delayed by up to 3 months.	Complaint or petition from a local group / delay to member objectives. Moderate change to political landscape.		Minor technological failure / security breach to the organisation's ICT assets impacting on the day-to-day delivery of services.	
3	Moderate	Moderate service disruption of an important service area for a period of up to a week.	Adverse national media interest and/or adverse publicity in professional/municipal press. Adverse local publicity of a major and persistent nature. Lowered perception/standing with national suppliers / professional / local government community.	Serious injury sustained by one or more individuals. Prohibition Notice served by the HSE that closes a key facility.	Many individual personal details compromised/ revealed	Costing = £2.5m to <£5m
		Commercial Plan Outcomes/ Major Project / Objective fails to deliver several key benefits. Delayed by 3 - 6 months.	Moderate criticism from local government community. Significant delay in member objectives. Significant change in political landscape.		Large technological failure / security breach with a significant impact on the organisation's ICT assets essential for the day-to-day operation of critical services.	
4	Significant	Significant service disruption, across several important areas of service for protracted period.	Adverse and persistent national media coverage. Adverse central government response, threat of removal of delegated powers. Public Enquiry. Officer(s) and/or Member(s) forced to resign. Council blacklisted by suppliers.	Serious permanent disablement of individual or several people. Prosecution under Corporate Manslaughter Act.	All personal details compromised/ revealed.	Costing = £5m to < £10m
		Commercial Plan Outcomes/ Complete failure of business critical project / objective. Delayed by over 6 months.	Significant and persistent criticism from central government. Major delay in member objectives. Major change in political landscape.		Significant technological failure / security breach with a detrimental impact on the organisation's ICT assets essential for the day-to-day operation of critical services.	
5	Severe	Complete service failure across all critical areas of service for protracted period.	Adverse and persistent international media coverage. Adverse central government response, threat of removal of delegated powers. Public Enquiry. Officer(s) and/or Member(s) forced to resign. Council blacklisted by suppliers.	Death of an individual or several people. Prosecution under Corporate Manslaughter Act.	All personal details compromised/ revealed and exposed to groups undertaking fraudulent activity.	Costing = £10m & over
		Complete failure to deliver Commercial Plan Outcomes/ business critical project / objective. Delayed by over 12 months.	Condemning criticism from central government. Complete failure to meet member objectives. Catastrophic change in national/international political landscape.		Severe and prolonged complete technological failure / full security breach with a detrimental impact on the organisation's ICT assets essential for the day-to-day operation of critical services.	

Report for:	Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	Prevention Grants
Shadow Portfolio Holder	Councillor Angela Macpherson Councillor Gareth Williams
Responsible Officer	Gillian Quinton
Report Author Officer Contact:	Marie Mickiewicz, Specialist Commissioning Manager, Integrated Commissioning Service mmickiewicz@buckscc.gov.uk
Recommendations:	<ol style="list-style-type: none"> 1. Agree the award of Prevention Grants in line with the report and as detailed in Appendix 1. 2. Agree the award of contracts against two successful befriending service lots (Mental Health & General over 18). 3. Agree to utilise funding allocated to the unsuccessful dementia befriending commission (£35k) to support broader awards to Prevention Grant applicants for 2020/21. This would be to mitigate potential impacts identified through the EqIA.
Corporate Implications:	<ol style="list-style-type: none"> 1. Supports the embedding of the aims of the VCS Strategy for Buckinghamshire 2. Potential reputational damage due to the impact of the outcome of certain awards
Options: (If any)	<p>The following alternative options are set out in section 8 and are not recommended.</p> <ul style="list-style-type: none"> • Do not award any of the befriending service contracts. Revert to grant award for providers who received Prevention Grant in 2019/20 based on their 2020/21 submissions. • Award befriending service contracts where possible. Revert to grant award to providers who received Prevention Grant in 2019/20 based on their 2020/21 submissions.
Reason:	<p>The recommended option:</p> <ul style="list-style-type: none"> • Moves befriending to a commissioned model where possible, whilst retaining support for those with dementia within the community • Allows for the award of Prevention Grants for 2020-21 whilst mitigating potential impacts on those from protected groups identified through the Equalities Impact Assessment. • Maintains MTP savings trajectory for this workstream

1. Purpose of Report

1.1 The purpose of this paper is to:

- Provide an overview of the approach that has been taken in relation to Befriending services and the Community Prevention Grant programme in Buckinghamshire.
- Provide an update on the current position including highlighting risks and suggested mitigations.
- Agree next steps.

2. Executive Summary

2.1 The Prevention Grant Scheme has been in place to support the availability of community provision, to promote social inclusion and prevent increased dependency of vulnerable older people. Schemes previously funded include day centres, information and advice provision, social groups for particular communities and befriending provision.

2.2 With the move to unitary in April 2020, the Council will be deferring decisions on those grant programmes moving from the districts, as articulated in the paper before Shadow Executive on 18 February 2020, “Grant commitments to voluntary and community sector organisations (VCSOs)”. A review of those programmes will be brought to the Executive in September 2020, with a refreshed VCSO strategy. However due to commissioning cycles the decision on the preventions grants and commissioning of befriending services within this paper needs to be taken sooner and the approach taken aligns with the wider Council position.

2.3 The Council’s strategic position supports a shift away from grant funding towards commissioned models. In line with this we are taking a phased approach to developing the Prevention Grant Scheme. This approach is aligned with the developing VCSO Strategy and the proposed development of Community Boards within the new Unitary Authority. The phased approach takes account of the fact that some organisations have been receiving funding for a number of years and we want to ensure these organisations are supported to manage this change.

- **2018/19** – Application process put in place for existing prevention grant recipients and support to bid offered (for 2019/20 funding)
- **2019/20** – Application process opened out for wider VCSO base (more competitive process) and support offered to apply (for 2020/21 funding)
- **2020/21** – A portion of the resource previously available for grant funding invested in a commissioned model for befriending services, reducing the overall investment in grant funded activity
- **2021/22 and 2022/23** – Continue to develop approach to grant funding in line with the future Community Boards, Integrated Commissioning’s review of approach to prevention services and the wider Council approach to VCSOs.

2.4 There have been some challenges in implementing the changes for 2020/21:

- While two areas of befriending support have had suitable providers identified and, following agreement, can be awarded, one remains unsecured. In addition, there

is a likely impact on a current grant funded provider of befriending support. This is covered in more detail within the confidential appendix 2.

- Grant applications were received and evaluated resulting in the recommended award in Confidential Appendix 1. The Equalities Impact Assessment (Confidential Appendix 3) shows that if awards are made for 2020/21 based on evaluation alone there would be an impact on some protected groups. More information on this impact is also included within Confidential Appendix 2.
- Additionally, some organisations who have received grant funding historically will not receive funding and there is a risk that this will impact on their ability to continue delivering services.

2.5 This report recommends next steps that seek to mitigate the key areas of risk. Specifically:

- To award contracts for the over 18 and mental health befriending services
- Given that the market has been unable to respond, not to progress with any further procurement activity for the dementia befriending service
- For the next 12 months, to re-invest the resource available for the dementia befriending service (£35k) to mitigate some of the identified risks and impacts relating to the prevention grant awards.

3. Background

3.1 Community Prevention Grants have been issued by Buckinghamshire County Council since 2014. The Grants have been awarded to support community provision that promotes social inclusion and helps prevent increased dependency of vulnerable older people. This provision enables people to actively participate in constructive and interesting activities, and provides them with opportunities to contribute to and socialise in community settings.

3.2 Historically, payments have been made to the same organisations on a rolling annual basis. Grants have been issued to a range of VCS providers delivering a variety of different projects including, music therapy, lunch clubs, information and advice and befriending. Due to the historic nature in which the grants have been issued, there is a lack of equity, reach and diversity across the county as well as duplication of provision. The amount of funding awarded has also varied between organisations with a lack of continuity between similar provisions.

3.3 To address some of these issues, and in line with the Council's strategic direction, in 2018 a new bid process for Prevention Grant Funding was implemented for the 2019/20 financial year to:

- Ensure that grant allocations support the Council's *Better Lives Strategy* by providing funding to organisations that aim to promote independence, prevent social isolation and delay or prevent the need for more intensive health and / or social care interventions
- Support the VCS to provide services without having to solely rely on grant funding
- Maintain services and protect community assets whilst a strategy is developed to procure services more efficiently
- Deliver efficiency savings

3.4 For the 2019/20 financial year, only previously grant funded organisations were invited to submit a funding application. Guidance notes were issued to providers advising that the grants were not intended to be used as a long term or recurrent funding stream,

and providers were encouraged to seek ways in which to secure other revenue to fund the delivery of their projects on a longer term sustainable basis.

- 3.5 This bid process for 2019/20 grant funding did not address the inequity in access to this funding across the wider VCS base in Buckinghamshire. In 2019, to continue to support the VCS and address key priorities across the county, agreement was given to retain the Community Prevention Grant fund with the application process being opened up to the wider community for 2020/21.
- 3.6 Furthermore, it was agreed in 2018 to develop a strategy for procuring services more efficiently by moving from a grant process towards a commissioned model for Befriending Services as a first phase towards moving grant provision towards a commissioned model.
- 3.7 A total of five organisations have been receiving funding via the Community Prevention Grant fund towards delivery of befriending services across the county since 2014. All five services have different objectives and delivery models but with the common overarching aim of supporting individuals to remain independent for as long as possible within their communities through the provision of regular one-to-one support.
- 3.8 It was identified that there were issues around duplication of effort (where multiple services are offering befriending to the same individuals), lack of collaboration between providers in relation to sharing of resources and best practice; additionally there was an inability to effectively monitor and evaluate the impact of these services due to their grant status.
- 3.9 In order to effectively address these issues, sign off (final sign off by Cabinet Member at briefing on 14 August 2019) was obtained to commission befriending services on a 1+1 contract term with contract values remaining similar to current grant funding.
- 3.10 The agreed approach was to commission three individual contracts for befriending, with specific specialist foci for a 1st April 2020 start:
- General befriending 18+ (incorporating autism, Learning Disability and Physical and Sensory Disability)
 - Dementia
 - Mental Health

4. Interdependencies with other Council work-streams

- 4.1 **Unitary Implementation:** As part of the implementation of the unitary authority from April 2020, there has been consultation on the implementation of Community Boards which will undertake a role in providing grant funding to VCS organisations in line with local area priorities. These are due to start awarding funding from June 2020 which would leave a gap of three months were Prevention Grants rolled into this pot from 2020/21. Following discussion with lead officers, it was agreed that the Prevention Grants would be kept separate for 2020/21 on the understanding that this would be revisited once the implementation of the Community Boards was complete. This would allow for continuity of funding availability for VCS organisations subject to successful application for funding in line with the *Better Lives Strategy*.
- 4.2 **Integrated Commissioning review of prevention services:** The *Better Lives Strategy* sets out an ambition to support people to live independently, regain their independence following a crisis and for those who require ongoing support, to ensure

that wherever possible, people are supported to remain at home. The Council currently commissions a range of services that could be termed as ‘preventative’ across different contracts. The Integrated Commissioning Service has identified an opportunity to review whether these services could be commissioned differently to improve the outcomes we are achieving for service users, ensure coordinated service delivery that is well aligned to the ambition of the *Better Lives Strategy* and maximise value for money. It is anticipated that in line with the Council’s overall direction of travel, this would result in more of the current grant funding resource being used for commissioned services, as well as potential changes to current arrangements for commissioned services. Given the lack of market response to invites to quote for a commissioned dementia befriending service, we would also need to undertake further work with the market to ensure it can respond to our needs.

- 4.3 **VCSO Strategy Development:** A VCSO strategy is currently being developed for the new Buckinghamshire Council along with a review of those grant programmes coming into the new Buckinghamshire Council from the districts. Following joint work with the relevant officers, there is good alignment between the future proposals for the Befriending Service and prevention grants and the ambition of the emerging VCSO Strategy.
- 4.4 Across the next two years it is proposed that our approach to Prevention Grant Funding is further developed in line with the above areas of work.

5. Funding – Prevention Grants & Befriending Services

5.1 The below table provides an overview of funding arrangements. This has been subject to MTP savings over the period. It also shows how resource has started to shift towards a commissioned model for befriending for the 2020/21 financial year.

Year	Prevention Grants	Befriending	Comments
2018/19	£391,000 (grant awards – included some befriending)	£68,672 (mental health only, grant award)	For 2020/21 resource shifted from prevention grants and grant funded mental health befriending to commissioned befriending model in 3 lots: <ul style="list-style-type: none"> • General over 18 (£90k) • Mental Health (£89k) • Dementia (35k)
2019/20	£279,000 (grant awards – included some befriending)	£68,672 (mental health only, grant award)	
2020/21	£140,845 (grant awards)	£145,155 + £68,672 = £213,872 for commissioned befriending services	

- 5.2 The above details that for 2020/21, there will be £140,845 for Prevention Grants and £213, 872 available for the commissioned befriending services.
- 5.3 Appendix 1 sets out in detail the recommendation for awarding prevention grants for 2020/21.

6. Stakeholder Engagement

6.1 To inform and prepare the market for the proposed changes to our approach, key stakeholders were engaged with in the following ways:

- Proposed changes to the Community Prevention Grant fund highlighted at the Prevention Market Position Statement provider event on 21st May 2019.
- Met individually with five current grant funded Befriending providers to explain the proposed approach and understand any issues or concerns. None raised.
- Befriending event held on 9th July to engage current and potential befriending providers to develop and shape the services. Attended by approx. 20 individuals across 11 organisations/providers.
- Three x Prevention Grant workshops held in September and October on different days and times in Aston Clinton, Wycombe and Amersham, in conjunction with the VCS infrastructure provider (Community Impact Bucks), to explain the new process, timeframes and offer advice around submitting a successful application.
- Met with or discussed other telephone with other 18 current grant funded organisations to explain proposed approach, discuss progress on plans to be sustainable, understand any issues or concerns and offer advice/support.
- Tasked infrastructure provider to support organisations with completion of applications and provide capacity building information and advice.
- Developed a communication strategy with colleagues from the Council's Communications Team to inform of and promote the Community Prevention Grant fund via e-mails, social media, infrastructure provider and partner communications.

7. Current Position

7.1 To implement the agreed approaches, a robust and fair process has been followed involving colleagues from Procurement, Finance and Legal. Key stakeholders have been engaged with in a timely and thorough manner to provide opportunities to feed into the processes, raise any issues or concerns and keep abreast of key dates and requirements.

Commissioning of Befriending Services

7.2 Based on the respective funding values for these services, it was not necessary to go to full tender. The procurement was run as a quote process. Contract term for all contracts was one year with an option to extend for one year to allow for flexibility through the significant amount of change ahead for the Council.

	Quote Process Undertaken	Outcome
Mental Health	One bid received and scored. Meets quality & financial threshold	Contract award recommended
General (18+)	Out to quote twice due to insufficient quality of original quote. Second quote process led to more quotes and of better	Contract award recommended

	quality. Meets quality & financial threshold	
Dementia	Out to quote twice with no response from market. No bids received.	Decision required on next steps Recommendation: reinvest the £35k from this lot into Prevention Grant award to mitigate potential impacts identified in EqIA.

There is more information on the impact of the recommendation included within Confidential Appendix 2.

Distribution of Prevention Grants

- 7.3 Following agreement to the revised approach and initial engagement with key stakeholders, work was undertaken to identify the key priority areas that the grants would align to. Consultation was undertaken with the Communities' team, Public Health and CCG partners ensuring alignment with the *Better Lives Strategy 2018-2021* and *Prevention, Early Help and Supporting People at a Community Level Market Position Statement 2018-2022*.
- 7.4 A communications plan was developed to publicise the offer to the wider community via a variety of media including e-mail, social media, partner newsletters and via Community Impact Bucks (CIB) who currently deliver the infrastructure contract. A webpage on the BCC public website was also developed to host all information and documents for transparency and accessibility for all applicants.
- 7.5 Guidance notes, criteria and application forms were developed based on learning from the grant process for 2019/20, BCC Local Area Forum funding process and other Local Authority grant programmes.
- 7.6 The grant application process opened on Monday 14th October and closed on Friday 15th November. A total of 36 applications were received from current grant funded and new organisations for a range of projects. All applications were individually evaluated and moderated by officers from the Integrated Commissioning Service and the Communities Team.
- 7.7 Following the scoring and moderation of the applications, an Equalities Impact Assessment (EqIA) was completed for the recommended award. As a result, a number of groups that may be disadvantaged by the recommended award were highlighted. These are discussed in more detail within the Confidential Appendix 2.
- 7.8 The full EqIA is included at Confidential Appendix 3.

8. Options and Next Steps

8.1 Options for next steps are set out in the table below, taking account of the risks identified in section 7.

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Option	Pro's	Con's
<p>RECOMMENDED 1) Do not commission a Dementia Befriending service AND Transfer funds (£35k) to the Community Prevention Grant fund to mitigate potential impacts identified in EqlA</p>	<ul style="list-style-type: none"> Increases funding available to the wider VCS to deliver a range of services Reinvestment allows for mitigation of equalities impacts as defined within the EqlA for the award of the Prevention Grants Continues to fund services that support people with dementia and their carers through a range of services e.g. lunch clubs, music therapy etc. (highlighted in blue in Appendix 1). This helps mitigate the non-award of the dementia befriending lot. Current provider of grant funded dementia befriending service reports that they will continue to maintain their current service offer in Bucks without BCC funding. Light touch officer involvement Achievable within the given time frame 	<ul style="list-style-type: none"> Reputational risk to BCC due to perceived non-investment in befriending service for those people and their carers living with dementia. However, this is mitigated by investment in support for those with dementia and their families as part of the Prevention Grant award recommendations Will not produce any additional financial savings Less able to capture performance data through grant funded dementia support to help inform and shape future dementia services. No direct control over future delivery of dementia support by the current grant funded provider once they lose their funding.
<p>2) Do not award any of the befriending services. Revert to grant award to providers who received Prevention Grant in 2019/20 based on their 2020/21 submissions</p>	<ul style="list-style-type: none"> Minimises risk of previously grant-funded provision reducing due to reduced funding from the Council. Reduced officer time required to support transition into 2020-21 financial year Results in an underspend against projected MTP targets for 2020-21 	<ul style="list-style-type: none"> Reputational risk to the Council due to move away from previously communicated changes to scheme Reputational damage due to new bidders under the scheme being rejected for funding in opposition to previous communication Relational risk with VCS organisations in Bucks for future opportunities and impact on future joint working Does not support the direction of travel in terms of moving to commissioned model of delivery where appropriate to do so Limits the availability of information on need for befriending services on an ongoing basis in comparison with the recommended option. Reduced control of the befriending offer available in Buckinghamshire in comparison to recommended option.

Option	Pro's	Con's
		<ul style="list-style-type: none"> • Does not address duplication of offer or gaps in provision across Buckinghamshire in respect of befriending services • Reduction in delivery (some previous grant applicants did not apply) • Does not address inequity in application process that changes were put in place to address
3) Award befriending service contracts where possible (general over 18 and Mental Health). Revert to award to providers who received Prevention Grant in 2019/20 based on their 2020/21 submissions	<ul style="list-style-type: none"> • Minimises risk of previously grant-funded provision reducing due to reduced funding availability from the Council. 	<ul style="list-style-type: none"> • Result in an overspend against projected MTP targets for 2020-21 • Reputational risk to Buckinghamshire County Council (and Buckinghamshire Council) due to move away from previously communicated changes to scheme • Reputational damage due to new bidders under the scheme being rejected for funding outside of the scoring process in opposition to previously communicated messages. • Relational risk with VCS organisations in Bucks for future opportunities and impact on future joint working • Does not address inequity in application process that changes were put in place to address

9. Financial Implications

- 9.1 It is proposed that the £35k earmarked for the dementia befriending lot is diverted to award additional prevention grants for 2020/21 to mitigate against potential detrimental impacts identified in the EqlA. This would amount to making five additional awards totalling £35,275 (see Appendix 1). The only financial impact is therefore a small reduction of £275 in the MTP saving of £105k for 2020/21.

10. Legal Implications

- 10.1 None envisaged.

11. Other Key Risks

- 11.1 **Befriending** – as previously highlighted in this report
- 11.2 **Community Prevention Grants** – in addition to those risks previously highlighted in this report:
- **Closure of services and reputational risk** – If organisations do not secure funding they may have to reduce or cease operation which could result in a gap in local provision. This could also lead to negative press for the Council who are currently working to support the VCS.
 - **Dependency on grant funding** – If organisations who have been deemed to not meet the criteria are funded then this could create further dependency on grant funds and undermine key messages about sustainability. It is proposed that further support is provided to these organisations to mitigate against this.
 - **Timeliness of Decision Making** – If a prompt decision is not forthcoming, then this may significantly impact of VCS organisation ability to plan and deliver key community services into 2020/21 financial year. It would also impact on the 2.5 month implementation period for the new commissioned befriending services. This would also act to further any potential reputation damage to the council (both Buckinghamshire County Council and Buckinghamshire Council)

12. Dependencies

- 12.1 The interdependencies between the Prevention Grants and Befriending Services have been discussed in the main body of the paper. There are no further dependencies that have been identified.

13. Consultation

- 13.1 Stakeholder engagement carried out (detailed in Section 6.1). Communications Team advised that there would be no formal consultation required as part of the project.

14. Communications Plan

14.1 The Communications Team are aware of this project and have been involved within the process so far. They will be consulted for further input in relation to effectively communicating the agreed approach.

15. Equalities Implications

15.1 An Equalities Impact Assessment was completed prior to the change of policy and suggested that a further Equalities Impact Assessment was completed prior to award to capture and allow for mitigation of any adverse impact on those with protected characteristics.

15.2 The Equalities Impact Assessment in regard to the recommended award is attached at Appendix 3 and is discussed within the main body of this report

16. Data Implications

16.1 A Data Protection Impact Assessment is not required.

17. Next Steps

17.1 If option 1 is agreed, then the Prevention Grants and befriending contracts will be awarded in line with the Appendices to this report.

17.2 In terms of decision making the proposed route is as follows:

- Shadow Executive: 31/03/2020

Background Papers	None.
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