

SHADOW EXECUTIVE

Date: Tuesday, 28th January, 2020
Time: 10.00 am
Venue: The Oculus, Aylesbury Vale District Council, Gatehouse Road,
HP19 8FF - Aylesbury

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Report for:	Shadow Executive
Meeting Date:	28th January 2020

Title of Report:	Treasury Management Strategy
Shadow Portfolio Holder	Katrina Wood
Responsible Officer	Richard Ambrose
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Recommendations:	Shadow Executive is asked to CONSIDER and APPROVE the draft Treasury Management Strategy for the new Council.
Corporate Implications:	The Council is legally obliged to produce an annual Treasury Management Strategy.
Options: (If any)	N/A
Reason:	N/A

1. Purpose of Report

- 1.1 The draft Treasury Management Strategy for the new Buckinghamshire Council is presented to the Shadow Executive for consideration and comment.

2. Executive Summary

- 2.1 Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice 2017 Edition* (the CIPFA Code) which requires the Council to approve a treasury management strategy before the start of each financial year. This report fulfils the Council's legal obligation under the *Local Government Act 2003* to have regard to the CIPFA Code.

3. Treasury Management Strategy

- 3.1 The draft Treasury Management Strategy is attached for consideration and covers the statutory requirements, reporting arrangements, economic context, borrowing strategy, investment strategy, prudential and treasury performance indicators.
- 3.2 The Council's investment priorities are the security of capital and liquidity of its investments. The Council will aim to achieve the optimum return on its investments commensurate with the proper levels of security and liquidity. The effective

management and control of risk are prime objectives of the Council's treasury management activities.

- 3.3 The strategy and borrowing limits reflect the draft Capital Programme and Medium Term Financial Plan, but may need to be updated if there are any changes made before being finally approved by Council.
- 3.4 The recent 1% additional margin on PWLB Rates has led to Treasury advisors to suggest that those authorities that can sensibly delay long-term funding do so and select short-term loans from other local authorities in the interim. It also means that although traditionally the Council would have borrowed from the PWLB, other borrowing options could now come into play including the Municipal Bond Agency, although this would be subject to approval by Cabinet before being undertaken.
- 3.5 HM Treasury are clearly concerned about the overall level of local authority debt and this is a situation that the Council will need to monitor closely, together with the Council's Treasury advisors.
- 3.6 The Council monitors the Treasury Management risk using indicators that cover 3 areas of risk: Security; Liquidity and Interest Rate Exposure.
- 3.7 For the existing 5 legacy councils, as at 31st December 2019, the total combined borrowing was £333.7m (mainly £301.2m PWLB borrowing and £30m LOBOs) and the combined investments totalled £192.6m (£107.4m with UK institutions, £3m non-UK institutions, £61m Money Market Funds and £21.2m in a Property Fund), giving net borrowing of £141.1m. The Council may pre-fund future year requirements, providing it does not exceed the authorised limit for gross borrowing of £630m.
- 3.8 From an investment perspective, risk exposure is managed by setting limits for approved investment counterparties based on their credit rating and the type of bank security.

4. Financial Implications

- 4.1 There are no direct financial implications as a result of this strategy.

5. Legal Implications

- 5.1 The Treasury Management Strategy fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

6. Other Key Risks

- 6.1 There are no direct risks associated with the strategy. The strategy helps to mitigate financial risks from the Council's treasury management activity.

7. Dependencies

- 7.1 There are no dependencies as a direct consequence of the strategy although there are elements of the strategy that are dependent upon an agreed draft capital programme and input from external Treasury advisors which requires the draft capital programme information and the Council's planned use of reserves as part of the

MTFP process. This strategy is necessarily an early draft that will need updating further.

8. Consultation

8.1 Not Applicable.

9. Communications Plan

9.1 The strategy will need to be communicated as part of the communication of the suite of strategies that are developed for the new Council.

10. Equalities Implications

10.1 No equalities impact assessment is required.

11. Data Implications

11.1 No Data Protection Impact Assessment is required.

12. Next Steps

12.1 The Treasury Management Strategy will go onto full Council for approval.

Background Papers	None
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Treasury Management Strategy

Background

The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Treasury Management is the management of the Council's cash flows, borrowing, investments and their associated risks, to ensure this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the Treasury Management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans, or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.

Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice 2017 Edition* (the CIPFA Code) which requires the Council to approve a treasury management strategy before the start of each financial year. This report fulfils the Council's legal obligation under the *Local Government Act 2003* to have regard to the CIPFA Code.

Investments held for service purposes or for commercial profit are considered in the Capital and Investment Strategy [\[link\]](#) rather than the Treasury Management Strategy document. This will cover in detail the capital plans for the authority (including the capital related prudential indicators), the minimum revenue provision (MRP) policy and non-financial investments (such as Property).

CIPFA Treasury Management Code of Practice

CIPFA recommends that all public service organisations adopt, as part of their standing orders, financial regulations, or other formal policy documents appropriate to their circumstances, the following four clauses:

- (i) This organisation will create and maintain, as the cornerstones for effective treasury management:
 - a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
 - suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in the CIPFA Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

- (ii) This Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- (iii) This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Resources Cabinet Member, and for the implementation and administration of treasury management policy and decisions to the Section 151 Officer, who will act in accordance with the organisation's policy statement and TMPs and, as a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- (iv) This organisation nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

Treasury Management Reporting Arrangements

The Council is required to receive and approve, as a minimum 3 main treasury reports each year, after appropriate scrutiny from the Audit and Governance Committee:

- (i) The Treasury Management Strategy – Forward looking detailing the Council's approach to cash investment and borrowing, including the treasury indicators.
- (ii) A mid-year treasury management report – This is delegated to the Audit and Governance Committee and is primarily a progress report for members, reporting of any policy revisions if required.
- (iii) An annual treasury management report – This is delegated to the Audit and Governance Committee and is a backward looking review document providing details of prudential and treasury indicators and treasury performance.

External Context

Economic background: GDP growth rose by 0.3% in the third quarter of 2019 from -0.2% in the previous three months with the annual rate falling further below its trend rate to 1.0% from 1.2%. Looking ahead, the Bank of England's Monetary Policy Report (formerly the Quarterly Inflation Report) forecasts economic growth to pick up during 2020 as Brexit-related uncertainties dissipate and provide a boost to business investment helping GDP reach 1.6% in Q4 2020, 1.8% in Q4 2021 and 2.1% in Q4 2022. The Bank of England maintained Bank Rate at 0.75% in November following a 7-2 vote by the Monetary Policy Committee. Despite keeping rates on hold, MPC members did confirm that if Brexit uncertainty drags on or global growth fails to recover, they are prepared to cut interest rates as required. Moreover, the downward revisions to some of the growth projections in the Monetary Policy Report suggest the Committee may now be less convinced of the need to increase rates even if there is a Brexit deal.

Credit outlook: Credit conditions for larger UK banks have remained relatively benign over the past year. The UK's departure from the European Union was delayed three times in 2019 and while there remains some concern over a global economic slowdown, this has yet to manifest in any credit issues for banks. Meanwhile, the post financial crisis banking reform is now largely complete, with the new ring-fenced banks embedded in the market. Looking forward, the potential for a "no-deal"

Brexit and/or a global recession remain the major risks facing banks and building societies in 2020/21 and a cautious approach to bank deposits remains advisable.

Interest rate forecast: The treasury management adviser Arlingclose is forecasting that Bank Rate will remain at 0.75% until the end of 2022. The risks to this forecast are deemed to be significantly weighted to the downside. The Bank of England, having previously indicated interest rates may need to rise if a Brexit agreement was reached, stated in its November Monetary Policy Report and its Bank Rate decision (7-2 vote to hold rates) that the MPC now believe this is less likely even in the event of a deal. Gilt yields have risen but remain at low levels and only some very modest upward movement from current levels are expected. The central case is for 10-year and 20-year gilt yields to rise to around 1.00% and 1.40% respectively over the time horizon, with broadly balanced risks to both the upside and downside. However, short-term volatility arising from both economic and political events over the period is a near certainty.

PWLB: The PWLB increased the margin applied to loan rates by 1% on 8 October 2019, the new margin above gilts is now 1.8%. The treasury advisers have suggested that those authorities that can sensibly delay long-term funding do so and select short-term loans from other local authorities in the interim. There are several alternatives to PWLB funding, such as bank loans and the Municipal Bonds Agency. HM Treasury (HMT) is keen to ensure that borrowing across local government is controlled. While they increased the statutory PWLB limit by £10bn to £95bn, they were fearful that, at the current rate of borrowing, this could be exhausted in a few months. With no appetite to extend the statutory limit beyond this, HMT decided to control demand by increasing rates, therefore preserving the facility. HMT are less concerned about the type of borrowing or purpose, than the overall level of local authority debt.

Current Portfolio Position

The existing Buckinghamshire councils consolidated treasury position as at 31 December 2019 is summarised below:

	31 Mar 2019 £m	30 Sep 2019 £m	31 Dec 2019 £m
Borrowing:			
PWLB ¹	-277.2	-303.6	-301.2
LOBO ²	-30.0	-30.0	-30.0
Temporary Borrowing	-20.0	-0.0	-0.0
Accrued Interest	-2.7	-2.2	-2.5
Gross Borrowing	-329.9	-335.8	-333.7
Treasury Cash:			
UK institutions	106.0	95.0	107.4
Non-UK institutions	1.0	1.0	3.0
Money Market Funds	65.0	75.2	61.0
Gilts/Bonds/Bond	0.6	0.0	0.0
Property Fund	13.7	21.2	21.2
Gross Cash	186.3	192.4	192.6
Net	-143.6	-143.4	-141.1

¹ PWLB (Public Works Loan Board) – The PWLB is a statutory body, part of the Treasury. Its purpose is to lend money to local authorities. The Council's main objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving certainty of those costs over the period for which those funds are required.

² LOBO (Lender Option Borrower Option) – LOBOs are long term borrowing instruments which include an option for the lender to periodically revise the interest rate. If the lender decides to revise the interest rate, the borrower then has the option to pay the revised rate or repay the loan.

The Council's current strategy is to maintain borrowing and investments below their underlying levels, sometimes known as internal borrowing.

Borrowing Strategy

The Council currently holds £331.2 million of loans as part of its strategy for funding previous years' capital programmes, £17.2m will be repaid to the PWLB by the end of 2020/2021. The amount borrowed has increased in recent years due to the acquisition of commercial properties. Following advice from the County Council's treasury management advisors, the County Council arranged a £10m long term loan in May 2019 with the intention of reducing the temporary borrowing requirement. Consequently cash balances and total borrowing values have increased temporarily until the temporary borrowing arrangements mature. The Council may borrow additional sums to pre-fund future years' requirements, providing this does not exceed the authorised limit for borrowing of £630 million.

Objectives: The Council's chief objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving certainty of those costs over the period for which funds are required. The flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.

Strategy: The Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently much lower than long-term rates, it is likely to be more cost effective in the short-term to either use internal resources, or to borrow short-term loans instead.

By doing so, the Council is able to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk. The benefits of internal and short-term borrowing will be monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when long-term borrowing rates are forecast to rise modestly. The Council's treasury management advisors will assist the Council with this 'cost of carry' and breakeven analysis. Its output may determine whether the Council borrows additional sums at long term fixed rates in 2020/21 with a view to keeping future interest costs low, even if this causes additional cost in the short-term.

The councils have previously raised the majority of its long-term borrowing from the PWLB, but the government increased PWLB rates by 1% in October 2019 making it now a relatively expensive option. The Council will consider borrowing any long-term loans from other sources including banks,

pensions and local authorities, and may investigate the possibility of issuing bonds and similar instruments, in order to lower interest costs and reduce over-reliance on one source of funding in line with the CIPFA Code.

Alternatively, the Council may arrange forward starting loans during 2020/21, where the interest rate is fixed in advance, but the cash is received in later years. This would enable certainty of cost to be achieved without suffering a cost of carry in the intervening period.

In addition, the Council may borrow further short-term loans to cover unplanned cash flow shortages.

Sources of borrowing: The approved sources of long-term and short-term borrowing are:

- Public Works Loan Board (PWLB) and any successor body
- any institution approved for investments (see below)
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except the Buckinghamshire Pension Fund)
- capital market bond investors
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

Other sources of debt finance: In addition, capital finance may be raised by the following methods that are not borrowing, but may be classed as other debt liabilities:

- leasing
- hire purchase
- sale and leaseback

The Council has previously raised the majority of its long-term borrowing from the PWLB but it continues to investigate other sources of finance, such as local authority loans and bank loans, that may be available at more favourable rates.

Municipal Bonds Agency: UK Municipal Bonds Agency plc was established in 2014 by the Local Government Association as an alternative to the PWLB. It plans to issue bonds on the capital markets and lend the proceeds to local authorities. This will be a more complicated source of finance than the PWLB for two reasons: borrowing authorities will be required to provide bond investors with a guarantee to refund their investment in the event that the agency is unable to for any reason; and there will be a lead time of several months between committing to borrow and knowing the interest rate payable. The 1% rise in margin on PWLB rates may bring the agency into serious consideration. Any decision to borrow from the Agency will be the subject of a separate report to Cabinet for approval before pursuing this option.

LOBOs: The Council holds £30m of LOBO (Lender's Option Borrower's Option) loans where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. £15m of these LOBOs have options during 2019/20, and although the Council understands that lenders are

unlikely to exercise their options in the current low interest rate environment, there remains an element of refinancing risk. The Council will take the option to repay LOBO loans at no cost if it has the opportunity to do so.

Short-term and variable rate loans: These loans leave the Council exposed to the risk of short-term interest rate rises and are therefore subject to the interest rate exposure limits in the treasury management indicators below. Financial derivatives may be used to manage this interest rate risk (see section below).

Debt rescheduling: The PWLB allows authorities to repay loans before maturity and either pay a premium or receive a discount according to a set formula based on current interest rates. Other lenders may also be prepared to negotiate premature redemption terms. The Council may take advantage of this and replace some loans with new loans, or repay loans without replacement, where this is expected to lead to an overall cost saving or a reduction in risk.

Borrowing in Advance of Need

The Council has the power to borrow in advance of need in line with its future borrowing requirements under the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003, as amended.

The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed and not in relation to any commercial property investment. Any decision to borrow in advance will be within the forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.

Risks associated with any borrowing in advance of activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

Investment Strategy

The Council holds invested funds, representing income received in advance of expenditure plus balances and reserves held.

Objectives: The CIPFA Code requires the Council to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income. Where balances are expected to be invested for more than one year, the Council will aim to achieve a total return that is equal or higher than the prevailing rate of inflation, in order to maintain the spending power of the sum invested.

Negative interest rates: If the UK enters into a recession in 2020/21, there is a small chance that the Bank of England could set its Bank Base Rate at or below zero, which is likely to feed through to negative interest rates on all low risk, short-term investment options. This situation already exists in many other European countries. In this event, security will be measured as receiving the

contractually agreed amount at maturity, even though this may be less than the amount originally invested.

Strategy: Given the increasing risk and very low returns from short-term unsecured bank investments, the majority of the Buckinghamshire councils' surplus cash remains invested in short-term unsecured bank deposits and money market funds. This diversification represents a continuation of the current strategy.

Approved counterparties: The Council may invest its surplus funds with any of the counterparty types in the table below, subject to the cash limits (per counterparty) and the time limits shown.

Approved investment counterparties and limits

Credit Rating	Banks Unsecured	Banks Secured	Government
UK Government	n/a	n/a	£Unlimited 50 years
AAA	£5m 5 years	£10m 20 years	£10m 50 years
AA+	£5m 5 years	£10m 20 years	£10m 25 years
AA	£5m 4 years	£10m 5 years	£10m 15 years
AA-	£5m 3 years	£10m 4 years	£10m 10 years
A+	£5m 2 years	£10m 3 years	£5m 5 years
A	£5m 13 months	£10m 2 years	£5m 5 years
A-	£5m 6 months	£10m 13 months	£5m 5 years
None	n/a	n/a	£10m 25 years
Pooled Funds		£25m per fund	

This table must be read in conjunction with the notes below.

Credit rating: Investment limits are set by reference to the lowest published long-term credit rating from a selection of external rating agencies. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant factors including external advice will be taken into account.

Banks unsecured: Accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail. See below for arrangements relating to operational bank accounts.

Banks secured: Covered bonds, reverse repurchase agreements and other collateralised arrangements with banks and building societies. These investments are secured on the bank's assets, which limits the potential losses in the unlikely event of insolvency, and means that they are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon

which the investment is secured has a credit rating, the higher of the collateral credit rating and the counterparty credit rating will be used to determine cash and time limits. The combined secured and unsecured investments in any one bank will not exceed the cash limit for secured investments.

Government: Loans, bonds and bills issued or guaranteed by national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in, and there is generally a lower risk of insolvency, although they are not zero risk. Investments with the UK Central Government may be made in unlimited amounts for up to 50 years.

Pooled funds: Shares or units in diversified investment vehicles consisting of the any of the above investment types, plus equity shares and property. These funds have the advantage of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a fee. Short-term Money Market Funds that offer same-day liquidity and very low or no volatility will be used as an alternative to instant access bank accounts, while pooled funds whose value changes with market prices and/or have a notice period will be used for longer investment periods.

Bond, equity and property funds offer enhanced returns over the longer term, but are more volatile in the short term. These allow the Council to diversify into asset classes other than cash without the need to own and manage the underlying investments. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Council's investment objectives will be monitored regularly.

Operational bank accounts: The Council may incur operational exposures, for example through current accounts and merchant acquiring services, to any UK bank with credit ratings no lower than BBB- and with assets greater than £25 billion. These are not classed as investments, but are still subject to the risk of a bank bail-in. The Bank of England has stated that in the event of failure, banks with assets greater than £25 billion are more likely to be bailed-in than made insolvent, increasing the chance of the Council maintaining operational continuity.

Risk assessment and credit ratings: Credit ratings are obtained and monitored by the Council's treasury advisers, who will notify changes in ratings as they occur. Where an entity has its credit rating downgraded so that it fails to meet the approved investment criteria then:

- no new investments will be made,
- any existing investments that can be recalled or sold at no cost will be, and
- full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.

Other information on the security of investments: The Council understands that credit ratings are good, but not perfect, predictors of investment default. Full regard will therefore be given to other available information on the credit quality of the organisations in which it invests, including credit default swap prices, financial statements, information on potential government support, reports in the quality financial press and analysis and advice from the Council's treasury management adviser. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may otherwise meet the above criteria.

When deteriorating financial market conditions affect the creditworthiness of all organisations, as happened in 2008 and 2011, this is not generally reflected in credit ratings, but can be seen in other market measures. In these circumstances, the Council will restrict its investments to those organisations of higher credit quality and reduce the maximum duration of its investments to maintain the required level of security. The extent of these restrictions will be in line with prevailing financial market conditions. If these restrictions mean that insufficient commercial organisations of high credit quality are available to invest the Council's cash balances, then the surplus will be deposited with the UK Government via the Debt Management Office or invested in government treasury bills for example, or with other local authorities. This will cause a reduction in the level of investment income earned, but will protect the principal sum invested.

Investment limits: The Council's revenue reserves available to cover investment losses are forecast to be approximately £187 million on 31st March 2020. In order that no more than 10% of available reserves will be put at risk in the case of a single default, the maximum that will be lent to any one organisation (other than the UK Government) will be £10 million. A group of banks under the same ownership will be treated as a single organisation for limit purposes. Limits will also be placed on fund managers, foreign countries and industry sectors as below. Investments in pooled funds and multilateral development banks do not count against the limit for any single foreign country, since the risk is diversified over many countries.

Investment Limits

	Cash Limit
Any single organisation, except the UK Central Government	£10m each
UK Central Government	Unlimited
Any group or organisations under the same ownership	£10m per group
Any group of pooled funds under the same management	£25m per manager
AAA sovereign rated foreign countries	£20m per country
AA+ sovereign rated foreign countries	£10m per country
Money Market Funds	£75m in total

Borrowing Prudential Indicators

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Gross Debt	Estimate	Years 1, 2 and 3	£m	484.48	508.78	535.74	573.01
Capital Financing Requirement			£m	561.15	713.87	750.44	678.65

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Authorised limit (for borrowing) *	Estimate	Years 1, 2 and 3	£m	540	630	655	695
Authorised limit (for other long term liabilities) *	Estimate	Years 1, 2 and 3	£m	10	10	10	10
Authorised Limit (for total external debt) *			£m	550	640	665	705

*These limits can only be breached with the approval of full Council to raise them

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Operational boundary (for borrowing)	Estimate	Years 1, 2 and 3	£m	482.50	530.00	555.00	595.00
Operational boundary (for other long term liabilities)	Estimate	Years 1, 2 and 3	£m	9.50	7.50	7.50	7.50
Operational Boundary			£m	492.00	537.50	562.50	602.50

Treasury Management Indicators

The Council measures and manages its exposures to treasury management risks using the following indicators.

Security: The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

Credit Risk Indicator	Target
Portfolio average credit rating	A

Liquidity: The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling one month period, without additional borrowing.

Liquidity Risk Indicator	Target
Total cash available within one month	£10m

Interest rate exposures: This indicator is set to control the Council's exposure to interest rate risk. The upper limits on the one-year revenue impact of a 1% rise or fall in interest rates will be:

Interest Rate Risk Indicator	Target
Upper limit on one-year revenue impact of a 1% rise in interest rates	£250,000
Upper limit on one-year revenue impact of a 1% fall in interest rates	-£250,000

The impact of a change in interest rates is calculated on the assumption that maturing loans and investments will be replaced at current rates.

Maturity structure of borrowing: This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of borrowing will be:

Refinancing rate risk indicator	Upper Limit	Lower Limit
Under 12 months	25%	0%
12 months and within 24 months	20%	0%
24 months and within 5 years	20%	0%
5 years and within 10 years	25%	0%
10 years and above	70%	25%

Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

Principal sums invested for periods longer than a year: The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end will be:

Price risk indicator	2020/21	2021/22	2022/23
Limit on principal invested beyond year end	£25m	£25m	£25m

Related Matters

The CIPFA Code requires the Council to include the following in its treasury management strategy.

Financial Derivatives: Local authorities have previously made use of financial derivatives embedded into loans and investments both to reduce interest rate risk (e.g. interest rate collars and forward deals) and to reduce costs or increase income at the expense of greater risk (e.g. LOBO loans and callable deposits). The general power of competence in Section 1 of the *Localism Act 2011* removes much of the uncertainty over local authorities' use of standalone financial derivatives (i.e. those that are not embedded into a loan or investment).

The Council will only use standalone financial derivatives (such as swaps, forwards, futures and options) where they can be clearly demonstrated to reduce the overall level of the financial risks that the Council is exposed to. Additional risks presented, such as credit exposure to derivative counterparties, will be taken into account when determining the overall level of risk. Embedded derivatives, including those present in pooled funds and forward starting transactions, will not be subject to this policy, although the risks they present will be managed in line with the overall treasury risk management strategy.

Financial derivative transactions may be arranged with any organisation that meets the approved investment criteria. The current value of any amount due from a derivative counterparty will count against the counterparty credit limit and the relevant foreign country limit.

In line with the CIPFA Code, the Council will seek external advice and will consider that advice before entering into financial derivatives to ensure it fully understands the implications.

Markets in Financial Instruments Directive: The Council has opted up to professional client status with its providers of financial services, allowing it access to a greater range of services but without the greater regulatory protections afforded to individuals and small companies. Given the size and range of the Council's treasury management activities, the Section 151 Officer believes this to be the most appropriate status.

Other Options Considered

The CIPFA Code does not prescribe any particular treasury management strategy for local authorities to adopt. The Director of Finance and Procurement, having consulted the Cabinet Member for Resources, believes that the above strategy represents an appropriate balance between risk

management and cost effectiveness. Some alternative strategies, with their financial and risk management implications, are listed below.

Alternative	Impact on Income and Expenditure	Impact on Risk Management
Invest in a narrower range of counterparties and/or for shorter periods.	Interest income will be lower.	Lower chance of losses from credit related defaults, but any such losses may be greater.
Invest in a wider range of counterparties and/or for longer periods.	Interest income will be higher.	Increased risk of losses from credit related defaults, but any such losses may be smaller
Borrow additional sums at long-term fixed interest rates.	Debt interest costs will rise; this is unlikely to be offset by higher investment income.	Higher investment balance leading to a higher impact in the event of a default; however long-term interest costs may be more certain.
Borrow short-term or variable loans instead of long-term fixed rates.	Debt interest costs will initially be lower.	Increases in debt interest costs will be broadly offset by rising investment income in the medium term, but long term costs may be less certain.
Reduce level of borrowing.	Saving on debt interest is likely to exceed lost investment income.	Reduced investment balance leading to a lower impact in the event of a default; however long term interest costs may be less certain.

Report for:	Shadow Executive
Meeting Date:	28th January 2020

Title of Report:	Revenues and Benefits Operational Policies
Shadow Portfolio Holder	Councillor Katrina Wood
Responsible Officer	Richard Ambrose
Report Author Officer Contact:	Andy Green 01494 421001 andy.green@wycombe.gov.uk
Recommendations:	That Shadow Executive agrees <ol style="list-style-type: none"> 1. To recommend to the Shadow Authority that effective from 1 April 2020, 100% of all income from War Disablement or War Widows Pension be disregarded when calculating entitlement to Housing Benefit in line with the resolution at Appendix A 2. To adopt the Discretionary Housing Payments & Discretionary Award Policy set out at Appendix B & B(ii) 3. To adopt the attached Council Tax Discretionary Discount Policy at Appendix C 4. To adopt the Business Rates Revaluation Support Scheme set out at Appendix D 5. To adopt the Business Rates Hardship Relief Policy set out at Appendix E 6. To adopt the Local Business Rates Discretionary Relief Policy set out at Appendix F.
Corporate Implications:	The financial and legal implications of the recommendations are set out in the report. The resolution on disregards for War Disablement or War Widows Pension must be agreed by the Shadow Authority. The other policies can be approved by the Shadow Executive and are legally required to ensure Buckinghamshire Council can deal with claims received from taxpayers under the relevant Council Tax and Business Rates legislation.
Options: (If any)	The Policies and schemes have been drawn up based on the existing policies & schemes of the current District Councils. These policies can be amended if required by Members
Reason:	To ensure that a consistent approach is taken in relation to the award of discretionary awards, discounts, payments and reliefs.

1. Purpose of Report

- 1.1 The Revenues & Benefits Service collects Council Tax, Business Rates and administers claims for Housing Benefit and Council Tax Reduction. Whilst much of the service is prescribed there is some local discretion. This report sets out the final set of policies where local discretion exists that need to be in place for Vesting day. The policies are required to ensure that a fair and consistent approach is taken for decision making across the Council's area, and to ensure the correct legal framework is in place.

2. Executive Summary

- 2.1 There are a number of matters that require Shadow Executive attention to help ensure that decisions and determinations made by the Revenues & Benefits Service are made consistently across the Buckinghamshire Council area. These matters include:
- Agreeing a local scheme resolution for awarding of Housing Benefit in respect of those in receipt of a War Disablement or War Widows Pension
 - Agreeing a policy for the awarding of Discretionary Housing Payments & Discretionary Awards
 - Agreeing a policy for the awarding of Council Tax discretionary discounts
 - Agreeing a Revaluation Support scheme for the awarding of relief to those local businesses affected by the 2017 national Rates revaluation
 - Agreeing a policy for the awarding of Business Rates Hardship Relief
 - Agreeing a policy for Local Business Rates Discretionary Relief

3. Content of Report

Each Policy is explained below:

Housing Benefit awards for those in receipt of War Disablement or War Widows Pension

- 3.1 Housing Benefit is a means tested benefit which is awarded to those on low income who need help with their rent. The Housing Benefit scheme is administered locally by the Council on behalf of government, which meets most of the costs of the awards.
- 3.2 Government has decided that certain income should be disregarded when calculating entitlement to Housing Benefit. This includes the first £10.00 per week of any War Disablement or War Widows Pension received by the claimant. Under Section 134 (8) of the Social Security Administration Act 1992, Councils have the discretion to increase the amount that is disregarded of such income.
- 3.3 Three of the four Bucks Districts completely disregard any War Disablement or War Widows Pension and one disregards 90% when calculating entitlement to Housing Benefit. Expenditure has reduced over the years. The additional cost to uprate this disregard across the whole County is £700.
- 3.4 Government funds 75% of the expenditure due to a Council voluntary disregarding War Disablement or War Widows Pensions, providing it is within a determined limit. The table below shows the voluntary expenditure in 2018/19 and the subsidy claimed, together with an estimated cost in 2020/21.

War Widows expenditure 2018/19			
	Expenditure	Government contribution	Local funding
AVDC	24,914	18,686	6,229
CDC	5,681	4,261	1,420
SBDC	5,613	4,210	1,403
WDC	24,976	18,732	6,244
Total	61,184	45,889	15,296

- 3.5 The full disregard of War Disablement Pension and War Widows Pension is in line with the principles of the Armed Forces Covenant as it can have a positive impact on the lives of those that have given much, such as the injured and the bereaved. It is, therefore, proposed that the Council agrees to disregard 100% of War Disablement Pension and War Widows Pension, effective from 1 April 2019, in line with the resolution set out at Appendix A.
- 3.6 The estimated cost of implementing the full disregard in 2020/21 is £16,000, which can be absorbed from within the overall existing budget provision.

Discretionary Housing Payments (Housing Benefit) Appendix B (i) & Local Discretionary Awards (Council Tax Reduction Scheme) Appendix B (ii)

- 3.7 **Discretionary Housing Payments (DHPs)** are payments that are made at the discretion of the Council to help those in receipt of Housing Benefit or Universal Credit with their housing costs.
- 3.8 In making an award of DHP the Council must be satisfied that:
- The claimant has a rental liability in respect of their accommodation and is receiving support with their housing costs through the payment of Housing Benefit or Universal Credit
 - There is a shortfall between the claimant's eligible rent (i.e. the actual rent less any ineligible service charges such as charges for water, heating, meals, etc) and the support they are receiving
 - Based on the claimant's circumstances (financial and otherwise) it is reasonable to provide additional support.
- The Policy is set out in Appendix B (i)
- 3.9 For the purposes of awarding a DHP, housing costs includes rent in advance, deposits and other lump sum costs associated with a housing need, such as removal costs. The Districts currently work closely with their Homelessness teams to prioritise DHP applications from claimants at risk of becoming homeless, and this is a continuing priority under the new policy. DHP's would not normally include ineligible service charges or increases due to rent arrears or where sanctions have been applied.
- 3.10 The Council receives a government grant allocation each year for DHPs. Any amount not spent must be returned at the end of the year. The Council can supplement the grant, from its own funds, up to a determined limit. The table below sets out the total DHP funding for Bucks District Council's in 2019/20.

DHP Funding 2019/20	
AVDC	302,207
CDC	103,579
SBDC	87,621
WDC	309,322
Total	802,729

- 3.11 The Policy that Officers will use to determine eligibility is set out at Appendix B (i) and are based on a combination of existing guidelines & Government (DWP) guidance. There are no additional financial implications.
- 3.12 Requests for a review of a decision not to grant a DHP will be carried out by an independent manager who was not involved in the original decision. Appeals against decisions not to grant relief can only be made via Judicial Review.
- 3.13 **Discretionary Awards** are extra amounts of Council Tax Reduction for claimants that need additional support and are funded locally. The Shadow Executive has already approved funding of £305,000 as part of the Council Tax Reduction Scheme. The policy sets out the criteria that needs to be met in order receive a Discretionary Award.
- 3.14 DHP/DA's are administered by the Council's Benefits Service as it is best placed to determine whether the applicant is eligible for additional support with their housing costs.
- 3.15 DHP/DA's can have a positive impact on the lives of claimants who are struggling to meet their housing and Council Tax costs. As the total that can be awarded each year is cash limited it is essential that applications are always considered based on their individual merits.
- 3.16 The Buckinghamshire District Councils have operated DHP for a number of years. The Policy that Officers will use to determine eligibility is set out at Appendix B (ii) and are based on a combination of existing guidelines. Guidelines may be updated in line with Government guidance for DHP or local demands, requirements.
- 3.17 Appeals against decisions not to grant relief can be made to the Valuation Tribunal.

Council Tax Discretionary Discounts (Appendix C)

- 3.18 Councils have the discretion to award Council Tax discounts of up to 100% of the amount due. Discounts can be awarded on an individual basis or in respect of a specific class of property or Council Taxpayer. An example of where this discretion could be used is where a property (or group of properties is flooded)
- 3.19 Applications for discretionary discounts must be considered on their individual merits and awards should only be made where the case is exceptional. The costs of any such discount awarded are met from the Council's General Fund (i.e. locally). This discretion has been rarely used by the Districts in recent years (1 case totalling £2,800 in the last 2 years), nevertheless a Policy needs to be in place to accommodate unusual circumstances that are outside the existing discounts and exemptions for council tax.
- 3.20 In order to ensure that a consistent approach is taken towards the award of discretionary discounts it is proposed that the Policy set out at Appendix C is

adopted. The Policy has been developed having regard to existing practices and similar policies established by Local Authorities.

- 3.21 Decisions on the award of relief will be made by Officers in accordance with the Policy agreed by Members and scheme of delegation. If there is a request for a decision to be reviewed this will be carried out by an independent Manager with, in exceptional circumstances, the Portfolio Holder for Resources. Appeals against a decision not to grant relief are made to the Valuation Tribunal.

Business Rate Revaluation Support Scheme (Appendix D)

- 3.22 In 2017, Government committed to provide Councils with funding of £300m nationally to help support those businesses that were facing significant rates increases, as a result of the 2017 revaluation. Government asked Councils to use their discretionary powers under Section 47 of the Local Government Finance Act 1988 to distribute this funding over the financial years 2017-21 through the award of rates relief.
- 3.23 2020-21 is the last year of this scheme. Government funding has reduced over the 4 years of the scheme, with only a small amount (£34,000) provided in the final year.
- 3.24 In developing their schemes for awarding the rates relief the Bucks Districts agreed the following common principles which are in line with Government guidance.
- That relief would only be awarded for those ratepayers who have a rates liability on both the 31/03/17 and 01/04/17
 - No relief would be awarded in respect of unoccupied premises
 - Relief would be awarded to local independent businesses and not to those businesses that are part of a franchise, national or multi-national in nature
 - Relief would not be awarded to financial institutions, education establishments, health organisations and public bodies.
- 3.13 As Central Government funding 2020/21 is significantly less than earlier years it is difficult for meaningful awards to be applied to a wide group of ratepayers. In view of this, a case by case approach is recommended, and will be applied in line with the proposed criteria based on those already used for assessing applications for hardship and the existing discretionary relief scheme (primarily if the organisation benefits the local community, including consideration of local employment impacts or the organisation's role in providing services not existing nearby).
- 3.25 The grant allocation for Buckinghamshire Council is £34,000 in 2020/21. To help ensure that support continues to be provided to those local ratepayers it is proposed that the scheme set out at Appendix D be adopted for 2020/21. This has been developed having regard to the schemes that were adopted by the District Councils and looks to ensure that the full grant allocation is utilised.
- 3.26 Relief awarded under the scheme will be subject to State Aid rules. Recipients will be made aware of their responsibility to notify the Council if their business has received State Aid of more than €200,000 over the last three years.

- 3.27 Decisions on the award of relief will be made by Officers in accordance with the Policy agreed by Members and scheme of delegation. If there is a request for a decision to be reviewed this will be carried out by an independent Manager with, in exceptional circumstances, the Portfolio Holder for Resources. The only formal appeal process for the ratepayer is via Judicial Review.

Business Rates Hardship Relief (Appendix E)

- 3.28 Section 49 of the Local Government Finance Act 1988 provides the Council with discretion to award rates relief in order to alleviate hardship. The cost of awarding relief is shared 50/50 between the national rating pool and the local Council Taxpayer. In view of this, no awards can be made unless the Council considers it to be in the interests of the Council Taxpayer to do so.
- 3.29 Although the relief is awarded at the Council's discretion, government has provided the following guidance.
- Each case should be considered on its own merits
 - The awarding of the relief should be the exception rather than the rule
 - Hardship need not be confined strictly to financial hardship. All relevant factors affecting the ability of the business to meet its rates liability should be considered
 - The "interests" of the local Council Taxpayers may go wider than direct financial interests, (e.g. where the employment prospects in the area would be worsened by the company going out of business, or the amenities of the area reduced, etc.)
 - Where the granting of the relief would have an adverse effect on the financial interests of the local Council Taxpayers, the case for awarding relief may still on balance outweigh the cost to the Taxpayer.
- 3.30 In order to ensure that a consistent approach is taken towards the award of Hardship Relief it is proposed that the Policy set out at Appendix E is adopted. The Policy has been developed having regard to existing practices and similar policies established by Local Authorities. This is not a discretion that has been used often in recent years. Only one of the 4 Districts has made awards in the last 2 years. One for £1,500 (2017/18), the other for £3,000 (2018/19).
- 3.31 Decisions on the award of relief will be made by Officers in accordance with the Policy agreed by Members and scheme of delegation. If there is a request for a decision to be reviewed this will be carried out by an independent Manager with, in exceptional circumstances, the Portfolio Holder for Resources. The only formal appeal process for the ratepayer is via Judicial Review.

Local Business Rates Discretionary Relief (Appendix F)

- 3.32 The Localism Act 2011 introduced a discretion for Councils to award Local Business Rate Relief of up to 100% of the amount due. Relief can be awarded in respect of any circumstances it sees fit, having regard to the effect on the Council Tax payers of its area.
- 3.33 These provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers.
- 3.34 This discretion has not been used in recent years by the existing Districts, mainly because the Government has introduced a number of national schemes to give extra help to businesses. Nevertheless it is good practice to have a

policy in place so that relief can be considered at any time. The Policy is set out in Appendix F.

- 3.35 Decisions on the award of relief will be made by Officers in accordance with the Policy agreed by Members and scheme of delegation. Any appeals will be considered by the Service Director in conjunction with the Portfolio Holder for Resources. The cost of relief is funded 50% Locally and 50% by the Government
- 3.36 The only formal appeal process for the ratepayer is via Judicial Review

4 Financial Implications

- 4.1 Financial implications are detailed in each of the headings above. All costs are expected to be contained within existing budgets / funding

5 Legal Implications

- 5.1 These policies are required as part of the legal requirement to administer Council Tax, Business Rate collection and Housing Benefits.

6 Other Key Risks

- 6.1 Having these policies in place reduces the risk of legal challenge. Having considered the risks associated with this decision, the level of risk has been identified as Low

7 Dependencies

- 7.1 There are no dependencies associated with the recommendations outlined in the report.

8 Consultation

- 8.1 Not Applicable.

9 Communications Plan

- 9.1 Details of all policies will be available on the Council's website. Where appropriate, and in line with Statutory requirements, information will be included in Council Tax/Business Rate Bills. Customer advisors will receive training to make customers aware of policies that are available.

10 Equalities Implications

- 10.1 Equalities Impact Assessments have been completed in respect of the Housing Benefit War Widows & War Disablement disregard, the Council Tax Discretionary Discount and the Discretionary Housing Payments/Awards policies and there are no implications arising. Assessments in relation to the

other areas covered in the report are not necessary as there are no identified negative, or unclear, impact on any of the protected characteristic groups.

11 Data Protection Impact assessment

11.1 Not required as this is already covered under existing Data Protection Impact statements. There are no new requirements

12 Next Steps

12.1 The recommendation on disregards for War Disablement or War Widows Pension will be referred to the Shadow Authority meeting on 27 February as part of the budget resolutions. The other policies will be used to determine claims made to Buckinghamshire Council for the respective awards, discounts, relief and payments.

Background Papers	None other than referred to in the report
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Housing Benefit War Disablement and War Widows Pension Policy

<p>Purpose</p>	<p><i>The purpose of the policy is to ensure that a consistent approach is taken when assessing Housing Benefit for claimants in receipt of War Disablement or War Widows pension</i></p>
<p>Scope</p>	<p><i>The Housing Benefit scheme is a national scheme that is administered locally by the Council on behalf of government, which meets most of the costs of the awards. Local Council's have the discretion to increase the amount of income that is disregarded in respect of any war disablement or War Widows pension, up to 100%.</i></p>

1. Background

In line with Sections 134(8) or 139(6) of the Social Security Administration Act 1992, Buckinghamshire Council has resolved to disregard 100% of the following prescribed incomes for both working age and pension age claimants, effective from 1 April 2020:

2. War disablement pensions

The war disablement pensions prescribed are:

- a) any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003
- b) any retired pay or pension payable, to a member of the armed forces of the Crown in respect of a disablement which is attributable to service, under:
 - I. an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865
 - II. the Army Pensions Warrant 1977
 - III. the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010
 - IV. any order or regulations made under section 2 of the Air Force (Constitution) Act 1917
 - V. any order or regulations made under section 4 of the Reserve Forces Act 1996
 - VI. any instrument amending or replacing any of the instruments referred to above or any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have

been disabled or have died in consequence of service as members of the armed forces of the Crown; and

- c) a payment made under article 14(1) (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.

3. **War widow's pensions**

The war widow's pensions prescribed are:

- a) any pension or allowance payable to a widow, widower or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- b) a pension payable, to a widow, widower or surviving civil partner of a member of the armed forces of the Crown in respect of death which is attributable to service, under;
 - I. an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865
 - II. the Army Pensions Warrant 1977
 - III. the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010
 - IV. any order or regulations made under section 2 of the Air Force (Constitution) Act 1917
 - V. any order or regulations made under section 4 of the Reserve Forces Act 1996
 - VI. any instrument amending or replacing any of the above or any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown; and
 - VII. a payment made under article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005
- c) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs.

- 4. **Pension paid by a Government outside of Great Britain analogous to the above** A pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in the sub-paragraphs above.

5. **Pension paid to victims of National Socialist persecution**

A pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

Discretionary Housing Payments for Housing Benefit

Purpose	<i>The purpose of the policy is to ensure that a consistent approach is taken when assessing applications for Discretionary Housing Payments (DHP) for Housing Benefit</i>
Scope	<i>The Housing Benefit scheme is a national scheme that is administered locally by the Council on behalf of Government, which meets most of the costs of the awards. Council's have the discretion to award Discretionary Housing Payments (DHPs) to help those claimants who receive either Universal Credit (Housing Costs) or Housing Benefit (HB) and who need further assistance with their housing costs.</i>

Background

Under the Discretionary Financial Assistance Regulations 2001, Buckinghamshire Council have the discretion to award Discretionary Housing Payments (DHPs) to help those claimants who receive either Universal Credit (Housing Costs) or Housing Benefit (HB) and who need further assistance with their housing costs.

In determining whether a DHP should be given the Council must be satisfied that the claimant qualifies for additional support with their housing costs and that, based on their circumstances, it is reasonable to make the award.

This policy sets out the factors that may be taken into account when applications for DHP are considered. It also provides the claimants review rights when they are dissatisfied with the decision.

The main features are that:

- The scheme is purely discretionary; a claimant does not have a statutory right to a payment
- The amount that can be paid out by the Authority in any financial year is cash-limited
- Administration of the scheme is managed by the Benefit Service
- DHP's are not a payment of housing benefit. However, the minimum amount of Universal Credit (Housing Costs) or Housing Benefit must be in payment in the benefit week that a DHP is awarded
- DHP is normally a short term ongoing payment to help claimants through a difficult period, and should not be regarded as a long term measure. However in some circumstances it can be awarded for longer periods.
- In certain circumstances a lump sum payment can be paid in respect of rent arrears

- All claims will be assessed on their individual merits

DHPs have a positive impact on the lives of those who are struggling to meet their housing costs. The Council will look to use DHPs:

- To prevent homelessness
- To help minimise hardship
- Keep families together
- Help young people in the transition to adult life
- To provide additional financial support to those in greatest need
- To safeguard residents in their homes where it would be considered unreasonable for them to find suitable, affordable, alternative accommodation
- To support vulnerable people in the community
- To encourage residents to obtain and sustain employment
- To help claimants to secure and maintain affordable tenancies
- To help claimants through personal crises and difficult events.
- Help those who are trying to help themselves;
- In accordance with DWP & Government guidance

Qualifying criteria for a DHP

DHPs can only be awarded if the claimant is entitled to either:

- Housing Benefit
- Universal Credit that includes housing costs towards rental liability; and
- There is a shortfall between the claimant's eligible rent (i.e. the actual rent less any ineligible service charges such as charges for water, heating, meals, etc.) and the support they are receiving.

DHPs cannot be awarded for:

- Any increase in rent due to outstanding rent arrears
- Mortgage costs
- Council Tax
- Shortfalls caused by overpayment recovery

The right to seek a review

DHPs are awarded at the discretion of the Council and are not subject to the same review process as Housing Benefit, meaning claimants will not have the right to appeal for their case to be heard by an independent tribunal.

The Council has set up its own review process to cover a refusal to award a DHP, a decision to award a reduced amount of DHP, and the effective date of the award or a decision that there has been an overpayment of a DHP.

Any such request should be made to the Benefits Service, within one month of the decision, giving reasons why the review should take place, this can be done either in writing, email or by going online.

The review will be carried out by an independent officer who was not involved in the original decision. When considering the review, the officer will have regard to any further evidence supplied. The claimant will be notified of the review decision as soon as possible after it has been made. This decision will be final. Unless a change in circumstances has occurred, the Officer dealing with the review may not recommend a reduction in an award already notified.

Appeals against decisions not to grant relief can only be made via Judicial Review.

Overpayments

The Benefit Service will seek to recover any DHP found to be overpaid as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise.

It is most unlikely that we would seek to recover any overpayment caused by an official error, unless it is reasonable to expect the claimant to know that they were being overpaid at the time.

Fraud Prevention

Buckinghamshire Council is committed to the fight against fraud in all its forms. A claimant who tries to fraudulently claim a DHP by falsely declaring their circumstances, or providing a false statement of evidence in support of their application, may have committed an offence. In such cases, the Council will look to take appropriate action.

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Report for:	Shadow Executive
Meeting Date:	28th January 2020

Title of Report:	Capital & Investment Strategy
Shadow Portfolio Holder	Katrina Wood
Responsible Officer	Richard Ambrose, Shadow s151 Officer
Report Author Officer Contact:	Mark Preston, Head of Finance Pensions, Investments & Projects (BCC); mpreston@buckscc.gov.uk ; 01296 383107
Recommendations:	<p>1. CONSIDER and APPROVE the Capital and Investment Strategy .</p> <p>2. APPROVE the MRP Policy set out in Section 7.</p>
Corporate Implications:	The Council's Capital and Investment Strategy is developed in line with the CIPFA Prudential Code for Capital Finance in Local Authorities (Prudential Code), which is also supported by guidance from the Ministry of Housing, Communities and Local Government (MHCLG).
Options: (If any)	N/A
Reason:	N/A

1. Purpose of Report

- 1.1 A draft Capital and Investment Strategy for the new Buckinghamshire Council is presented to the Shadow Executive for approval.

2. Executive Summary

- 2.1 The Council's Capital and Investment Strategy is developed in line with the CIPFA Prudential Code for Capital Finance in Local Authorities (Prudential Code), which is also supported by guidance from the Ministry of Housing, Communities and Local Government (MHCLG). It covers the Council's requirements for capital investment for service delivery, strategic place development and investment for a return.
- 2.2 The strategy will need to be updated to reflect any changes to the draft capital programme once this has been agreed.

3. Capital and Investment Strategy

- 3.1 The draft Capital & Investment Strategy is attached for consideration.

- 3.2 The general policy objective for this Council is the prudent investment of its treasury balances. The Council's investment priorities are the security of capital and liquidity of its investments. The Council will aim to achieve the optimum return on its investments commensurate with the proper levels of security and liquidity. The effective management and control of risk are prime objectives of the Council's treasury management activities.
- 3.3 Section 5.3 of the strategy covers commercial investments purely for a return. The County Council's professional property advisers had suggested that the County Council should aim for a commercial property investment portfolio of approximately £250m. Scaling this up for the new Council suggests a target portfolio of £300m, but this is something for the future Council to consider. Currently the consolidated portfolio is valued at around £173m. This target would exclude agricultural estates and other existing properties that are generating an income, properties held for regeneration purposes, as well as holdings in the joint venture vehicle Aylesbury Vale Estates. There is also no time imperative to reach this target level, and the ability to do so will very much be dependent upon the appropriate opportunities being available.
- 3.4 There is a limit proposed as part of the Capital Programme within the Medium Term Financial Plan, that proposes a limit up to which the Council will be able to prudentially borrow, where a strong spend to save (or deliver income) business case exists. All proposals to utilise this facility will go to Cabinet for approval as set out in the Financial Procedure Rules.
- 3.5 A key area for consideration will be the relative margins of return on any commercial investment property. The lowest yield, net of purchasing and borrowing costs should be 1.5%, which suggests currently that the lowest gross yields that should be considered should be between 5.5%-6.0%. With the recent additional 1.0% increase in PWLB borrowing rates, there are few opportunities in the market to deliver these levels of return.
- 3.6 The increase in PWLB rates also means that the Council will consider using the Municipal Bonds Agency or other alternative borrowing options, as stated in the Treasury Management Strategy, where it is prudent to do so and where rates are below PWLB rates. This will be subject to approval by Cabinet.
- 3.7 The proposed Governance arrangements are included in Section 8 and Appendix C of the strategy. It is proposed that separate governance boards are created for Property, Highways and ICT. A Corporate Investment Board will coordinate the development of the overall Capital Programme to feed into the annual Medium Term Financial Planning process, as well as monitor the overall delivery of the Council's Capital Programme. The Property and Highways Boards in particular will also feed information into the Growth Board where schemes are part of major growth programmes.
- 3.8 Although it is proposed that the governance boards can release approved capital allocations, it will be important to make sure that the relevant strategies (Property Asset Management Plan, Highways Asset Management Plan and ICT, Digital and Information Strategy) are in line with the new Council Corporate Plan before doing so. Each project is subject to an appropriate business case passing through the Capital Gateway process in line with Financial Procedure Rules and Financial Instructions.

4. Financial Implications

4.1 The adoption of the MRP Policy set out in section 7 of the Capital and Investment Strategy, leads to an MRP requirement that is £210k less than the existing MRP policies of the existing councils. This is reflected in the MRP budget that forms part of the Medium Term Financial Plan that will be agreed by the shadow Authority.

5. Legal Implications

5.1 There are no direct legal implications as a consequence of this strategy.

6. Other Key Risks

6.1 There are no risks as a result of this strategy and the risk of capital investment for a return is covered within the strategy itself.

7. Dependencies

7.1 There are no specific dependencies as a result of the recommendation, but this strategy has elements that need to be updated to reflect the draft capital programme once approved.

8. Consultation

8.1 Not Applicable.

9. Communications Plan

9.1 The strategy will need to be communicated as part of the communication of the suite of strategies that are developed for the new Council.

10. Equalities Implications

10.1 No equalities impact assessment is required as a direct result of this strategy.

11. Data Implications

11.1 No Data Protection Impact Assessment is required.

12. Next Steps

12.1 The Capital and Investment Strategy will go onto full Council for approval.

Background Papers	None
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Buckinghamshire Council
**Capital & Investment
Strategy**
v4.0

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1. Purpose of the Capital Strategy

- 1.1 The main purpose of the Capital Strategy is to define how the new Buckinghamshire Council will maximise the impact of its limited capital resources to deliver its key aims and priorities. It considers future capital investment needs, especially in relation to regeneration and the growth agenda and ensures the optimum impact of those investments.
- 1.2 In managing its Capital and Investment Strategy, the Council will have regard to its statutory obligations within the context of a changing operational environment, the longer term impact of its decisions, the delivery of value for money and the risks associated with any particular course of action.
- 1.3 The strategy is designed to fully comply with the Prudential Code of Practice for local authority capital investment by the Chartered Institute of Public Finance and Accountancy (CIPFA) in parallel with guidance to local authorities from the Ministry of Housing, Communities and Local Government (MHCLG). The main purpose of the Code is to ensure that capital investment proposals are affordable, prudent and sustainable.
- 1.4 By the very nature of capital investment it is necessary that this strategy takes a longer term view. However, the strategy also focusses on the medium term to fit in with the Medium Term Financial Plan (MTFP), the latest version of which covers the period 2020 – 2023, and includes the Capital Programme for the same period. The new Council will want time to review this strategy
- 1.5 By virtue of being a new Council there are a number of legacy strategies and programmes, especially in regards to regeneration, which the new Council will need to review and consider in light of the requirements of the entirety of the new Council geographical area (such as the Aylesbury Garden Town masterplan and Wycombe Regeneration Strategy). The importance of these strategies is recognised, but the new Council will need sufficient time to establish overarching strategies and determine the relative priorities of the substantial pipeline of schemes, taking into account the strategic direction developed with the Buckinghamshire Growth Board.
- 1.6 This Capital and Investment Strategy is underpinned by a number of other strategies and plans. The Council holds a wide range of assets, but two major classes of assets in particular for which it needs to have regard in maintaining their integrity. To this end there is a [Property Asset Management Plan](#) (PAMP) and a [Highways Asset Management Plan](#) (HAMP). There is also an [ICT, Digital and Information Strategy](#) to guide investment in what is an increasingly important asset class as the new Council enters into a significant period of transformation.
- 1.7 Following revisions to the Prudential Code and guidance from MHCLG in February 2018 this Strategy includes the Investment Strategy and needs to be read in conjunction with the [Treasury Management Strategy](#). This strategy is also cognisant of the latest guidance issued by CIPFA on Prudential Property Investment.

2. The Context of the Capital Strategy

2.1 The Council's Aims and Priorities

2.1.1 The Council's aims and priorities are set out in the [Corporate Plan](#), the latest version of which covers the period 2020-23, although the underpinning service delivery plans are refreshed annually.

The key priorities set out in the Corporate Plan are:

- Strengthening our communities
- Protecting the vulnerable
- Improving our environment
- Increasing prosperity

2.1.2 Of course, all that the Council does is set within a legislative context, so that meeting its statutory obligations is a key component determining the actions it takes. In the context of the capital strategy examples of the statutory requirements are the need to provide sufficient school places, to maintain the highway infrastructure to certain standards and to provide suitable disposal facilities for waste.

2.2 Growth and Demographic Change in Buckinghamshire

2.2.1 The population of Buckinghamshire is constantly changing and the Council needs to take account of these changes in planning its future service provision. The Council in partnership with other agencies, the Local Enterprise Partnership in particular, has responsibility for facilitating the infrastructure to promote economic growth. Current local plans indicate housing growth in Buckinghamshire of around 46,500 by 2033 leading to a population increase from c. 541,000¹ to 638,000. Indications from Government set expectations much higher than that, suggesting housing growth of 61,000 by 2033 and a further 42,000 by 2050. This would mean the population of Buckinghamshire growing by just over 50% between now and 2050 and may be larger still if Buckinghamshire needs to pick up growth targets from neighbours unable to hit their own targets. This level of growth not only has implications for new infrastructure, but also for the wear and tear on existing infrastructure.

2.2.2 Beyond the current confirmed plans for housing growth there are many pressures in the system to go further as indicated by the Government figures mentioned in the previous paragraph. The Council and its partners are already promoting a major development at the "Woodlands" site in south east Aylesbury. The Government has been keen to push forward housing growth through the concept of Garden Towns and the Council has submitted a Housing Infrastructure Fund (HIF) Forward Funding bid for around £180m to create the infrastructure to support these plans. Wycombe District Council was awarded £12m HIF funding for the Princes Risborough expansion area.

¹ ONS Mid-year estimate 2018

- 2.2.3 Notwithstanding the overall growth in the population the nature of the population is also changing. Buckinghamshire already has one of the highest rates of increase in people aged over 85 of all county areas in the country. The diversity of the ethnic and socio-economic make-up of Buckinghamshire is also increasing. These changes are likely to increase the demand on a range of public services, particularly care services. This too will need to be factored into the longer term planning of service provision.
- 2.2.4 The location of Buckinghamshire also creates a unique set of circumstances which impacts on economic development and other infrastructure demands which are likely to have capital implications. The high speed rail line (HS2) will run through the county and have significant knock-on impacts. The proximity of the south of the county to London and Heathrow Airport is likely to place an increased burden on transport infrastructure. The north of the county lies at the heart of plans to link Oxford and Cambridge with both an East-West Railway and major new highway. Few of these plans are yet firm, less so how they will be funded, yet the direction of travel is clear, so they cannot be ignored by this Capital Strategy, albeit presents a challenge to plan with absolute certainty.

2.3 Changes in Technology

- 2.3.1 As well as changes to the profile of the population, developing the economy needs to reflect changes to the way we work and better still to reflect the way we will work in the future. The pace of change in technological advancement appears to get ever faster, so keeping up with these changes presents a range of challenges.
- 2.3.2 The Council has a role in putting in place, or at least facilitating, enabling infrastructure. A good example of this currently might be the developing market in electric vehicles that need a more comprehensive network of charging points. However, as is often the case with emerging technologies there are a number of different options available, so identifying which particular solution to support is a key challenge if capital investment is not to be wasted.
- 2.3.3 By contrast the economic development role the Council plays may need to facilitate experimentation, such as creating space for start-up businesses in emerging technologies. The very nature of this means that there is likely to be a fair degree of failure and the Council needs to determine the degree of risk it is prepared to take and the mitigations that can be put in place.
- 2.3.4 The Buckinghamshire Integrated Care System is part of the wider Buckinghamshire, Oxfordshire and Berkshire West sustainable transformation partnership (STP) and provides an opportunity for the Council to collaborate with the Buckinghamshire Clinical Commissioning Group (CCG) and Buckinghamshire Healthcare NHS Trust in particular to work in partnership in the delivery of ICT services and deliver integrated or compatible technological solutions that provide excellent value for money for the local health sector and the Council.

2.4 The Changing Public Sector Landscape

2.4.1 From 1st April 2020, the new Buckinghamshire Council will replace the previous County Council and four District Councils. Implementing the Buckinghamshire Council Accommodation Strategy will involve the review, rationalisation and re-purposing of accommodation to allow flexible working and ensure the new Council has a countywide footprint for both Members and staff.

2.4.2 Over and above the asset requirements of the new unitary authority, there are other pressures in the existing system likely to lead to change. All public sector bodies are under financial pressure as well as there being a need to offer the public a more coherent means of accessing services, and the One Public Estate (OPE) project aims to achieve the rationalisation of publicly held assets. Also as part of this property rationalisation and in order to facilitate a more coherent service offer to the public the new Council is promoting the creation of Council and Community Access Points to enable residents to access services through a network of fixed buildings in communities across the county.

2.4.3 Those financial pressures on local authorities, caused in large part by huge cuts in Government grant funding, but also significant increases in demand for services, lead to the exploration of alternative sources of income. This in turn prompts consideration of investment in assets which can support the generation of additional income. This might mean investing in existing assets to facilitate their use to create income streams. It may also mean investing in assets purely, or significantly, for the purposes of making a return.

3 Capital Investment Objectives

3.1 The key objectives of capital investment will be to:

- Support service delivery in line with the Council's strategic objectives
- Facilitate the generation of income, be that from commercial assets held predominantly for their rental yield, or service based assets capable of generating income as a by-product.
- Enhance value for money by helping to reduce or avoid costs
- Support regeneration, economic development and the wider growth agenda

3.2 Where assets are held by the Council that do not fall into the above categories the Council will aim to dispose of such assets. However, it will seek to maximise the return in doing so and therefore will on occasions hold assets awaiting favourable market conditions. The retention of assets in this way will require an explicit decision to do so.

3.3 As well as the key objectives set out in 3.1 above there will also be regard for the following:

- Meeting legislative requirements, such as school place planning requirements, or health and safety, and the Social Value Act 2013.
- Maximise community benefits, working in partnership with other agencies.
- Ensure that investments are affordable and sustainable.

- Safeguard the on-going integrity of existing assets (property, highways, ICT, etc.) ensuring they remain fit for purpose, including reducing the maintenance backlog.
 - Be forward looking in terms of investing in future technologies and recognising societal behaviour patterns and not the ways of the past.
 - Ensure, where appropriate, that investments are in line with the Property Asset Management Plan, the Highways Asset Management Plan and the ICT, Digital and information.
- 3.4 Based on the above objectives it is envisaged that capital investment will fall into three main categories:
- Assets owned by the Council to support the direct delivery of services by the Council itself.
 - Assets owned by the Council to support the delivery of services by third parties where there is a strategic need/advantage in continuing to own the assets.
 - Assets held for a financial return to support the financial resilience of the Council.
- 3.5 In addition the Council may on occasions make capital investments in assets owned by third parties where doing so facilitates the delivery of Council objectives, or legislative requirements.

4 Key Areas for Investment

- 4.1 Given both the Capital Investment Objectives and the Corporate Priorities described above the following list, whilst not necessarily exhaustive, describes key areas where one might expect to see investment directed.
- Investments that facilitate growth, economic development and regeneration in the county, such as Aylesbury Garden Town, Wycombe and Princes Risborough growth areas, the Woodlands development, East West Rail and the Oxford-Cambridge Arc
 - Structural Maintenance of Highways Infrastructure.
 - Structural Maintenance of Properties in which the Council has a continuing interest, including schools within the local authority family of schools.
 - Meeting the statutory requirement to provide school places for all primary and secondary age children.
 - Investment to increase availability of specialised accommodation to meet needs of increasing numbers of highly vulnerable adults and children.
 - Assets which facilitate community involvement in services which meet corporate objectives.
 - New infrastructure such as roads and schools to support the growth in housing.

- ICT Infrastructure, both to facilitate modern service delivery from the Council and within the local community, e.g. Broadband connectivity across the community.
- The re-design/re-configuration of assets or services that permit lower on-going revenue costs, or halt a trend of increased revenue costs.
- New or enhanced existing assets that allow a secure revenue income stream to the Council.
- Assets that help the Council meet sustainability targets, such as reduced energy consumption/CO₂ emissions, reduced waste disposal via landfill and flood defence.
- Assets which facilitate easier access to services, including the Council's website.
- Assets which facilitate service improvements provided that these are identified corporate priorities and are financially sustainable on an on-going basis.
- Assets that facilitate the release of other assets, where the net effect is an increase in value to the Council.

4.2 Given that resources are limited it would not be expected that investments will be made in the following, although there might be exceptional circumstances that dictate otherwise.

- Assets which facilitate service improvements, but that are not corporate priorities.
- Assets which result in increased revenue expenditure unless meeting other key priorities.
- Assets that lead to an adverse environmental impact created by the Council unless this is unavoidable in achieving a statutory requirement, or Strategic Plan objective.
- Assets where the risk exposure exceeds the probable benefits.

5. Investments for a Return

5.1.1 Beyond those investments for cash management purposes and for service enhancement the Council may also make investments, with a range of economic, environmental and social objectives in mind, but with a key element being on making a return on the investment. It is these types of investments which are the focus of this section of the Strategy.

5.1.2 It must not be forgotten that the Council is an organisation heavily governed by statute and that it is not a commercial organisation with the purpose of making a financial return for shareholders. Nonetheless like any organisation it does need to fund its activities and with more traditional funding sources, such as government grants, substantially decreasing and local taxation being

heavily constrained by central government rules, there is a need to look to more innovative ways of generating income, the financial return on investments being one such approach in addition to other intangible social, economic, environmental and regeneration benefits these investments can yield.

- 5.1.3 Recognising the Council's core objectives to support its local community there may be a range of further objectives beyond a simple financial return that the Council seeks when making investments and in so doing may accept a lower rate of financial return in order to achieve, or facilitate these other objectives. Examples of this might be to promote local economic development, or to support partner organisations. The remainder of this section seeks to set out the nature of investments the Council will engage in and the circumstances in which it will do so.

5.2 Financial Investments

- 5.2.1 Financial Investments can fall into three categories, as defined by the Statutory Guidance issued under section 15(1)(a) of the Local Government Act 2003: Specified Investments; Loans and; Non-specified Investments.
- 5.2.2 Specified and non-specified investments are only likely to be undertaken on either a short, or a long term basis as part of managing the council's cash flows and are therefore covered by the [Treasury Management Strategy](#) rather than here.
- 5.2.3 Loans may also be used for treasury management purposes, but where they are used in support of service delivery objectives this is covered by the [Loans and Guarantees Financial Instruction](#).

5.3 Non-Financial Investments

- 5.3.1 For the purposes of this strategy a non-financial investment is a non-financial asset held by the authority primarily, or partially to generate a surplus. This might be through an anticipated appreciation in the capital value of the asset, or by way of delivering a regular income stream, or a combination of both. However, in the current financial climate the emphasis is likely to be on assets that generate a regular income stream.
- 5.3.2 Although the Council remains open minded to consider a range of opportunities the high likelihood is that non-financial investments will involve property assets. Chosen carefully, property offers the opportunity for a higher yield and less volatility than financial investments, however, it is an illiquid asset and carries with it the inherent risk of being unable to respond quickly enough to changes in market conditions.
- 5.3.3 The new council should aim to have a commercial investment portfolio of in the region of £300m, in order to achieve a suitably balanced portfolio of asset classes, locations, etc. so that risks are spread. A portfolio of this size at a

yield of 6% would produce a gross revenue income stream of £18m p.a. and an anticipated net income stream of at least 1.5% (or £4.5m p.a.). This may vary according to loan rates available to the Council at the time of acquisition.

5.3.4 When selecting suitable properties in which to invest the Council will have regard to the following criteria:

- Lot size to ideally be up to £30m in order to diversify holdings in the portfolio. Exceptions can be made for high value strategic purchases.
- The property provides diversification in the investment portfolio in terms of type, sector and location.
- Target rate of return for the portfolio is an average (i.e. the yield as measured across the Council's entire commercial property portfolio) running yield of 6.00% for the entire portfolio, after the deduction of purchaser's costs, with a minimum expected yield per property of 5.50%. In exceptional circumstances the yield could be below 5.5% when it may help with the overall risk profile of the investment portfolio and still delivers a positive net yield after the deduction of borrowing and operational costs. The gross yield is calculated before allowing for the cost of any borrowing and any management fees/costs.
- Lease length, or the average of lease lengths if multiple occupation, of existing tenants to be generally 5 years left to run or greater.
- Preferred maximum exposure to any one tenant should not exceed £500,000 p.a., unless there are compelling reasons why a higher exposure is acceptable.
- A preference for purchases to be in locations within but not limited to the County of Buckinghamshire, although they should be in close proximity to, and have an economic footprint that includes, the County.
- Only opportunities let to strong covenant tenants on full repairing leases will be considered based on Dun & Bradstreet ratings or similar, unless there are clear opportunities for regeneration or a suitable business case where a weaker covenant might be underpinned by a superior location or opportunity.
- Properties in strategic locations with good transport links.
- Properties that offer a marriage value with the existing portfolio.
- Properties and/or tenants consistent with the ethical values and aims of the public sector.
- Preference will be given to properties that offer the option of alternative uses through gaining planning permission for a change of use, or through redevelopment in order to enhance the capital value.
- A preference will be given to premises that offer the opportunity to increase income streams by infilling additional services e.g. coffee shop.
- Consideration will be given to emerging and established changes in the market e.g. retail investment.

- Consideration given to lease events across the entire portfolio to avoid 'cliff edges' where there are a significant number of lease events involving large rental income streams in a relatively short period of time.

5.3.5 The following risks associated with the purchase of commercial property are recognised:

- The relative illiquidity of property as an asset class compared with holding cash reserves or a share portfolio.
- As lease lengths erode the value of the asset will tend to diminish in most cases.
- The risk of a tenant failing financially, which will present the Landlord with a temporary loss of income coupled with the cost of re-letting the accommodation.
- Void rates and service charge liability whilst the property remains vacant.
- Obsolescence of the building and the cost of returning it to a tenantable condition at the end of a lease.
- Over time certain segments of the property market can weaken leading to a loss of both a revenue income stream and capital value.
- Potential capital expenditure when properties become vacant which is not met by a dilapidations settlement.

5.3.6 In order to mitigate the risks it will be essential to carry out full due diligence, and a template of the Investment Property Due Diligence Summary Report can be found at Appendix B. To this end investments in property will only be made following advice from suitably qualified and experienced specialist advisors. Adherence to the selection criteria set out in 5.3.4 will also be important to ensure that properties are well located and have tenants with a strong covenant. It will also be important that a diverse portfolio is established to reduce vulnerability to market fluctuations. A suitable balance needs to be found between yield rates and lease length and security. Active asset management will be essential to ensure that tenant obligations under the lease are fulfilled and regular rent reviews are carried out, as well as looking for opportunities to maximise income streams and reduce the likelihood of voids. Despite these measures it is inevitable in any portfolio of scale that there will be some level of voids from time to time. A reserve account has been created into which is paid 5% of all rental income in order to cover unforeseen void/default issues. The Council will look for opportunities to increase this provision where it is able to do so, to further reduce any void/default risk.

5.3.8 In addition, on occasions the Council may choose to purchase land or property for strategic reasons rather than just for a return and therefore the hurdle rates described above might not apply in those circumstances. This might be to protect existing service provision, but will most likely be linked to its community leadership role in accommodating and facilitating economic and housing growth. This will require well documented business cases and formal decisions.

6. Funding Capital Investment

6.1 There are a number of potential sources of financing for the capital programme. These can be described as follows:

6.1.1 **Grant Funding** (often specifically for capital purposes and also often from central government, but they may come from, or through, other agencies).

6.1.2 **Capital Receipts** (receipts arising from the disposal of existing assets are constrained to only be useable for the purposes of funding new assets. Such funds when generated are held in a Capital Receipts Reserve until such time as used).

6.1.3 **Developer Contributions** (S106 agreements and/or the Community Infrastructure Levy (CIL) effectively impose a tax on new development in order to fund infrastructure required as a consequence of the development).

6.1.4 **Partner Contributions** (some projects may be jointly funded between the Council and other agencies, such as schools, other councils, or the Buckinghamshire Local Enterprise Partnership (BLEP). Under current arrangements the Council is the accountable body for the BLEP and thus capital expenditure on behalf of the BLEP is included in the Council's Capital Programme and funded by resources available to the BLEP).

6.1.5 **Prudential Borrowing** (the Council is able to borrow in order to fund its capital expenditure provided that the revenue financing costs of such borrowing are affordable and sustainable. Prudential borrowing will be considered as a source of capital funding in accordance with the Government's guidelines and with regard to the Prudential Code for capital finance in local authorities).

6.1.6 **Revenue Contributions to Capital** (the Council is able to use its revenue resources to fund its capital expenditure, but obviously this then reduces the funding available for recurrent expenditure).

6.1.7 **Use of Earmarked Reserves** (essentially this is just a mechanism for deferring the application of one of the sources listed above, e.g. revenue contributions, or capital receipts. A typical example is the use of a Repairs and Renewals Fund).

6.1.8 **Leasing** (essentially this is a specialised form of borrowing linked directly to the asset).

6.2 The choice of funding for the capital programme and projects within it will depend upon the overall availability of resources and any constraints applicable to particular sources.

- Wherever possible external resources such as partner contributions, or grants will be the first preference for funding projects. It is likely that developer or partner contributions will only be available for specific projects. It is also possible that some grant funding is ring-fenced for specific purposes, although this tends not to be the case in recent times.
- Prudential borrowing will be the second choice of funding, but will only be used where there is a strong business case offering an appropriate rate of return. The use of the Prudential Borrowing allocation approved by Council

as part of the MTFP Capital Programme, will only be released following approval by Cabinet.

- Finally the Council's own resources (capital receipts and revenue contributions) will be used where available and affordable.
- 6.3 Given the recent 1% increase in margin above gilts for the PWLB borrowing rates, the Council will consider arranging borrowing via the Municipal Borrowing Agency (MBA) or other alternatives, providing it is prudent to do so and a rate below PWLB rates can be achieved. This borrowing route will be subject to approval by Cabinet before it is undertaken.
- 6.4 The Council will aim to maximise its funding for capital expenditure by bidding for grant funding, disposing of surplus assets, seeking to maximise its leverage with partners in respect of joint funding opportunities, etc. Indeed the ability to respond to the very substantial growth agenda will be heavily dependent upon the ability to attract additional resources. This may come in the form of additional funding from Government, such as is being sought via the HIF bid, developer contributions, or working in partnership with other bodies e.g. the BLEP, other public bodies, or the business community. A Location Asset Strategic Review (LASR) was carried out by the County Council which has identified opportunities to reduce the property estate and thus generate capital receipts. However this will need to be reviewed in the context of the new Council as there may be longer term strategic reasons to hold on to assets and/or the ability to improve the operational efficiency including the potential to generate income which need to be considered.
- 6.5 Although the Council will continue to bid for all the resources it can, the Government's austerity measures are leading to a tightening of grant funding. For Buckinghamshire this is particularly relevant in respect of Basic Need funding for school places.
- 6.6 Historically the Council has provided a reasonable level of revenue contributions to fund the capital programme. However, as part of measures to keep the revenue budget in balance in the face of reduced funding and increasing service pressures the capacity to do this has been reduced to a relatively low level for the future.
- 6.7 A £1.2m feasibility revenue budget has been identified and there are earmarked reserves available for feasibility work, but the new Council may want to increase the level of this once it has had chance to review the scale and overall priorities for capital investment. Generally feasibility work is a one-off revenue cost.
- 6.8 Given the nature and lead in times in relation to Regeneration and new road schemes, the new Council may want to develop a longer term capital programme to cover the longer timeframes relating these significant areas of capital investment.
- 6.9 Any capital investment decision which involves prudential borrowing must include the cost of servicing the debt as part of a robust business case. Investment decisions will be approved by Cabinet and will be supported when the cashable cost reductions (or increased income) exceed the financing costs of any borrowing needed to fund the investment over its life, with a reasonable tolerance to cover off risk.

7. Minimum Revenue Provision

- 7.1 Minimum Revenue Provision (MRP) is the charge to revenue made in respect of paying off the principal sum of the borrowing undertaken to finance the capital programme. MRP, which is largely defined by regulation is aimed at ensuring that the council does not have time expired/fully depreciated assets, but still has associated outstanding debt.
- 7.2 Where capital expenditure was incurred before 1 April 2008 MRP will be charged on a straight line basis over 50 years (from 1 April 2016) in accordance with the guidance. For capital expenditure incurred on or after 1 April 2008 and funded through borrowing, the Council will calculate MRP using the asset life annuity method. Using this method MRP is calculated in a similar way as calculating the capital repayment element of a fixed rate repayment mortgage. Where borrowing relates to historic balances from the former County and District Councils, the calculation will be based on the outstanding balances on 1 April 2020 and the remaining asset lives.
- 7.3 In accordance with provisions in the guidance, MRP will be first charged in the year following the date that an asset becomes operational.
- 7.4 The asset life annuity method calculation requires estimated useful lives of assets to be input in to the calculations. These life periods will be determined under delegated powers to the Service Director Corporate Finance, with regard to the statutory guidance. However, the Council reserves the right to determine useful life periods and prudent MRP in exceptional circumstances where the asset life annuity method would not be appropriate.
- 7.5 As some types of capital expenditure incurred by the Council are not capable of being related to an individual asset, asset lives will be assessed on a basis which most reasonably reflects the anticipated period of benefit that arises from the expenditure. Also, whatever type of expenditure is involved, it will be grouped together in a manner which reflects the nature of the main component of expenditure and will only be divided up in cases where there are two or more major components with substantially different useful economic lives.
- 7.6 Recognising the impact of MRP on the revenue budget is an important element in determining the affordability and sustainability of borrowing to fund an asset. Essentially, if there is no on-going capacity within the revenue budget to afford the MRP then one shouldn't take out the borrowing in the first place. This is why a robust business case demonstrating a rate of return in excess of costs (including MRP) is important.

8. Capital Governance and Processes

8.1 Overview

- 8.1.1 This Capital Strategy sets out the framework for the governance of capital assets for the organisation. Primary responsibility for the development of the Strategy rests with the Service Director Corporate Finance, although ultimate

accountability for its approval rests with Full Council in line with the Prudential Code.

8.1.2 The development or purchase of new assets, maintenance of existing assets and disposal of surplus assets are matters of operational and financial significance and therefore require robust governance arrangements. For this reason the Corporate Management Team (CMT) will play a pivotal role in these governance arrangements, providing co-ordination and consistency across the organisation.

8.1.3 Whilst this Strategy sets out the framework for identifying, approving, implementing and reviewing capital projects, the details are set out in the Financial Instructions for Capital.

8.2 Governance Boards

8.2.1 Although the assets held by the Council can be as diverse as the services it delivers they can be grouped into a few broad categories, namely: property; technology; and highways. For each of these broad categories this will be an appropriate governance board chaired by the relevant Cabinet Member and with further member representation. These are governance advisory Boards, Cabinet authority will still be required where a key decision is required. The relationship between these Boards is illustrated in Appendix C. Each Board will have an officer group that will review all business cases before they go forward to the relevant Board to ensure that all due diligence has been undertaken beforehand.

8.2.2 Although its role is still developing, the Growth Board will facilitate growth bids and the delivery of programmes of work to deliver the growth agenda across Buckinghamshire, working closely with partners. To this end, the Property and Highways Boards will feed into and advise the Growth Board where project delivery feeds into major growth projects they are considering, although the Growth Board is not a decision making body for the Council.

8.2.3 The Property Board will cover all land and property whether held for service delivery purposes, or as an investment for financial return. It will be responsible for all land and property regardless of which services are delivered from those premises at any point in time. So, for example, it will cover multi use offices, but also care homes, highways depots, waste processing sites and other single service premises.

8.2.4 The ICT Board will cover all technology assets, be that laptops, screens, phones, or servers, cabling and other hidden infrastructure. It will also include capitalisable software licences and assistive technology. This will apply to technology assets owned by the council whether they are within council premises, or elsewhere.

8.2.5 The Highways Board will cover all highways assets, such as roads and footpaths, but also bridges, signals, safety fences etc.

8.2.6 For any assets that do not fall readily into any of these major categories, potentially some items of plant and equipment, CMT will either allocate responsibility to one of the above Boards, or exercise that responsibility directly itself.

8.2.7 To ensure that appropriate technical financial advice is available to each of the boards, the relevant directorate Head of Finance will be a representative on each board.

8.3 Development of the Capital Programme

8.3.1 Each year the Capital Programme will be developed as part of the Medium Term Financial Plan, culminating in approval by full Council in February each year. The table below sets out the timeline to be followed.

Jun - Aug	Portfolio groups/Directorates develop capital bids (Robust business cases produced supported by the relevant Directorate HoF)
Early Sep	Corporate Finance consolidates bids and reports summary to CMT CMT advise on strategy to resolve any gap.
Mid Sep	Property/ICT/Highways Boards review bids and prioritise
Late Sept/ Early Oct	Service Director Corporate Finance convenes a Corporate Investment Board meeting of FDs and Board lead Members/officers to scrutinise bids in detail and arrive at a proposal for a balanced capital programme.
Mid Oct/Nov	CMT reviews SDCF proposal and agrees recommendation to Cabinet
Dec	Cabinet approves draft capital programme for consultation
Jan -Feb	Follows MTFP process in parallel with revenue

8.3.2 Bids to the capital programme should be prioritised by both Portfolio groups and the three governance boards taking guidance from this Capital Strategy and any relevant service priorities. The following criteria will be used to prioritise bids in order to close any gap to the available resources:

- a. Reductions from the previous programme
- b. Ring-fenced funding, e.g. S106 or genuinely ring-fenced grants (i.e. no call on Council resources)
- c. Strong financial business case, i.e. the savings arising from the investment will pay back the cost of the investment within 7 years (or less); or the capital receipt generated exceeds the cost of the investment.
- d. Statutory requirement (including Health & Safety)
- e. Strategic Plan priority
- f. Directorate, Service Plan priority

8.4 Monitoring of Progress

8.4.1 Once the Capital Programme is approved individual schemes will be allocated to the most appropriate governance board. Each Board will then have the authority to release resources on individual schemes to project managers in line with the Capital Gateway Process, subject to the necessary requirements at that stage, e.g. outline business case, full business case, etc.

- 8.4.2 Each Board will put in place appropriate arrangements to monitor progress and drive delivery of the individual projects both in financial terms and practical delivery, effectively carrying out a high level Programme Management Office role.
- 8.4.3 The Corporate Investment Board will be convened on a 6 monthly basis to review the delivery of the overall capital programme for the Council.

The Buckinghamshire Council Capital Programme for 2020/21-22/23 can be found here <Link>

Prudential and Performance Indicators**Prudential Indicators**

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Estimates of capital expenditure	Estimate	Years 1, 2 and 3 (and longer as necessary)	£m	194.41	162.89	200.81	129.99

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Capital Financing Requirement			£m	561.15	713.87	750.44	678.65

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Authorised limit (for borrowing) *	Estimate	Years 1, 2 and 3	£m	540	590	615	655
Authorised limit (for other long term liabilities) *	Estimate	Years 1, 2 and 3	£m	10	10	10	10
Authorised Limit (for total external debt) *			£m	550	600	625	665

* These limits can only be breached with the approval of the full Council to raise them

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Operational boundary (for borrowing)	Estimate	Years 1, 2 and 3	£m	482.50	530.00	555.00	595.00
Operational boundary (for other long term liabilities)	Estimate	Years 1, 2 and 3	£m	9.50	7.50	7.50	7.50
Operational Boundary			£m	492.00	537.50	562.50	602.50

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Gross Debt	Estimate	Years 1, 2 and 3	£m	484.48	508.78	535.74	573.01
Capital Financing Requirement			£m	561.15	713.87	750.44	678.65

Indicator			Unit	2019/20	2020/21	2021/22	2022/23
Financing costs to net revenue stream	Estimate	Years 1, 2 and 3	£m		3.98%	4.10%	4.27%

Investment Performance Indicators

Indicator	Target Level	Current Level
Debt Costs to Net Service Expenditure (NSE) ratio	3.1%	TBC
Commercial Income to NSE ratio	4.8%	TBC
Target Income Returns – average yield	6.00%	TBC
Gross Investment Income	£18m	TBC
Net Investment Income	£4.5m	TBC
Operating Costs as a proportion of Investment Value	5.0%	TBC
Weighted Average Unutilised Lease Term (WAULT)	5 Years	TBC
Vacancy Levels for Non-Financial Investments	MSCI Benchmark (currently 7.05%)	TBC

INVESTMENT PROPERTY DUE DILIGENCE SUMMARY TEMPLATE

Recommendation from Cabinet authorising the purchase:

[Cabinet Recommendation]

The purpose of this report is to comply with the authorities agreed by Cabinet and to allow exchange of contracts and completion.

INVESTMENT PROPERTY			
Property		Purchase Price	£
		Purchase Costs	£
		Total Purchase Price	£
Leasable Sq Ft	Sq Ft	Total Gross Rental Income p.a.	£
Gross Rent per Sq Ft	£	Gross Rent per £m Invested	£
Active Management Fees	£	Property Management Fee p.a.	£
5% Void Contribution p.a.	£	Annual Borrowing Costs p.a.	£
Gross Initial Yield %	X.XX%	Net Yield %	X.XX%
Net Annual Rental Income	£	Net Annual Rent as a % of Total Gross Rent	X.XX%
Comments			
LEGAL			
Restrictive Covenants? (Y/N)	Y/N	Drainage Search Issues? (Y/N)	Y/N
Third Party Rights Affecting Title? (Y/N)	Y/N	Water Search Issues? (Y/N)	Y/N
Full Repair and Insurance Lease? (Y/N)	Y/N	Subsidence Search Issues? (Y/N)	Y/N
Assignable Contracts/Warranties? (Y/N)	Y/N	Local Authority Search Issues? (Y/N)	Y/N
Site Roads Adopted? (Y/N)	Y/N		

Comments

SURVEY DUE DILIGENCE

Building Fabric Issues? (Y/N)	Y/N	Insurance Valuation Completed? (Y/N)	Y/N
Mechanical and Electrical Issues? (Y/N)	Y/N	Independent Valuation Confirms Value for Money? (Y/N)	Y/N
Warranties Issues? (Y/N)	Y/N		

Comments

ENVIRONMENTAL SURVEYS

Flood Risk Assessment Issues? (Y/N)	Y/N
Phase 1 Environmental Report	Y/N
Ground Search Issues? (Y/N)	Y/N
Utilities Search Issues? (Y/N)	Y/N

Comments

TENANCY					
	D&B Rating	Break Clause Date	Rent Review	Lease End Date	Rental Income
Building/Unit /Floor A					
Building/Unit /Floor B					
Building/Unit /Floor C					
Building/Unit /Floor D					
Building/Unit /Floor X					
Positive Net Yield Rental Tolerance			Weighted Average Unexpired Lease Term (Target 5 years+)		
Rent Free Periods					
Voids					
Service Charge Accounts/Arrears Checked					
Comments					
Location					
Impact on the Buckinghamshire Council Footprint					
Property Transport Links					
Alternative Use/Future Development Options					

Recommendation to Proceed		Yes/No
Comments		
Service Director of Property and Assets		
Head of Finance Resources & ACE		
Service Director Corporate Finance		
Service Director Legal & Democratic Services		

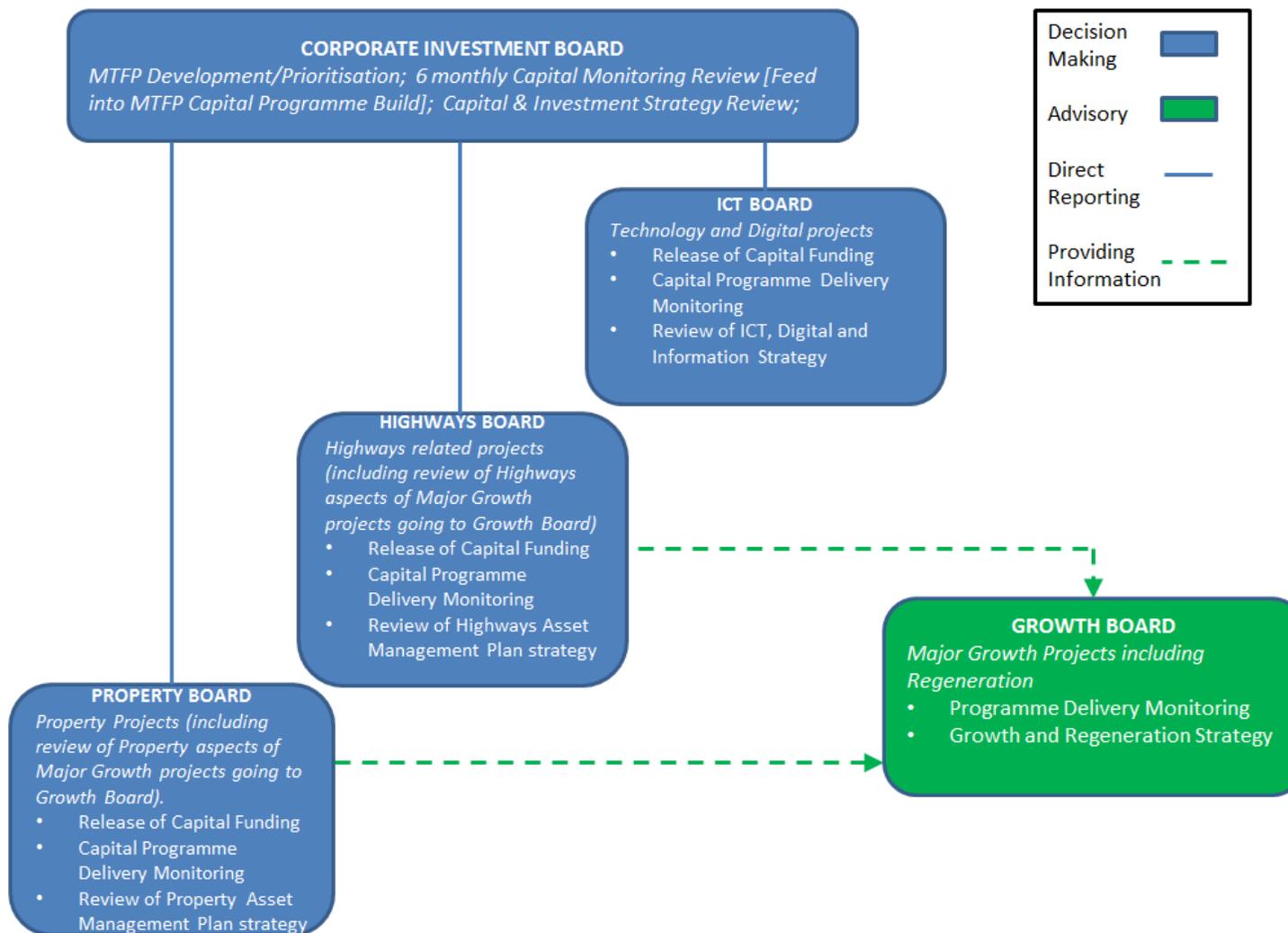
Decision Sign Off	Signature	Date
Corporate Director Resources		
Cabinet Member Resources		

Attachments:

For example

- Environmental Report
- Building Survey Report
- Legal Transaction Report
- Valuation Report

INVESTMENT GOVERNANCE BOARDS



Report for:	Formal Shadow Executive
Meeting Date:	28 January 2020

Title of Report:	Private Sector Housing – A Proposed Single Housing Enforcement, Improvement Grants and Adaptations Approach for Buckinghamshire
Shadow Portfolio Holder	Isobel Darby
Responsible Officer	Nigel Dicker
Report Author Officer Contact:	Amy Starsmore Private Sector Housing Team Leader – Wycombe DC Amy.starsmore@wycombe.gov.uk 01494 421706
Recommendations:	<p>(i) A single Private Sector Housing Enforcement Policy is agreed by the Shadow Executive for the new Authority to be <u>adopted for vesting day</u> (in addition to the proposed overarching Regulatory Enforcement Policy) (see Appendix A)</p> <p>(ii) HMO licence fees and housing enforcement charges are agreed by the Shadow Executive for the new Authority to be <u>harmonised for vesting day</u> adopting the model currently used by Wycombe District Council (see Appendix B)</p> <p>(iii) A single Housing Improvement and Adaptations Policy is agreed by the Shadow Executive for the new Authority to be <u>adopted for vesting day</u> (see Appendix C)</p> <p>(iv) A decision is made and agreed by the Shadow Executive for the new Authority to remove the separate grant offerings currently provided by Chiltern District Council and South Bucks District Council for measures funded by them separately and outside of the proposed harmonised Housing Improvement and Adaptations Policy (see Appendix D).</p>
Corporate Implications:	Initial comments from Legal and Finance Officers were received at the Fees and Charges Workshop. Further views have been sought. Legal advice confirms the risk from delayed harmonisation would be considered high.
Options: (If any)	Harmonisation of enforcement policies and the adoption of a single Housing Improvement and Adaptations Policy could be delayed to 2022 as per Transitional Arrangements, but following legal advice this is NOT recommended.
Reason:	Delayed harmonisation would have the potential for an inconsistent approach, which may be subject to legal challenge and reputational risk.

	<p>Only minor amendments are required to harmonise the majority of the content and offering of existing policies, which is achievable within the proposed timescale.</p> <p>Delayed harmonisation of fees presents a high legal and reputational risk as per the legal advice received.</p> <p>Opting to remove CDC/SBDC grant offerings does present a small risk of being detrimental to certain groups as identified in the EIA scoping paper</p>
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1. Purpose of Report

- 1.1 This report summarises the current position in the four districts with regard to Private Sector Housing Enforcement, related housing fees and charges and Housing Grants Policy matters, and the options for harmonising these arrangements looking forward to vesting day and beyond. This report has previously been to CIG on 11th December 2019 and takes note of comments made.

2. Executive Summary

- 2.1 The enforcement of private sector housing standards and licensing of Houses in Multiple Occupation (HMOs) are Statutory Functions undertaken by the Local Housing Authority. These duties and powers enable interventions to be made across all tenures to protect the health and safety of occupiers; and the policies set out how each Authority aims to undertake these functions. Government guidance recognises the contribution responsible landlords and good quality rented accommodation make to the provision of affordable housing within strategic housing provision, but also provides tools and impetus to take firm enforcement action against criminal landlords where standards fall short.
- 2.2 There are different enforcement policies, housing grant policies and fee arrangements in place across the District Councils. This report highlights options and proposes that we adopt a new harmonised Private Sector Housing Enforcement Policy from vesting day that sits within the framework of an overarching Regulatory Enforcement Policy, with harmonisation of housing related fees and charges set to support this policy. A decision is needed to agree to harmonise these from vesting day.
- 2.3 A common housing grant (Housing Improvement and Adaptations) policy is required to ensure that wherever applicants live, there is parity in terms of the available grant assistance, and assistance is targeted to maximise preventative actions. A decision is needed to agree to harmonise these from vesting day

3. Content of Report

- 3.1 The report contains four appendices:
- Appendix A – the proposed new Private Sector Housing Enforcement Policy
 - Appendix B – the proposed harmonisation of Private Sector Housing Enforcement and HMO licence fees;

- Appendix C – the proposed new Housing Improvement and Adaptations Policy; and
- Appendix D – information relating to the current Housing Grant Policies (including Disabled Facilities Grants).

4. Financial Implications

- 4.1 All fees collected under the Housing Act functions of the Local Housing Authority through the HMO licensing scheme and Housing Enforcement Action must be ring fenced for use in housing enforcement matters.
- 4.2 Under HMO licensing provisions, the Authority sets the level of fee, which can take account of the total processing costs of licences including all overheads and costs of future enforcement activity involved in policing such a scheme (a two-part fee).
- 4.3 The identified numbers of HMOs is significant and disproportionately higher in Wycombe District (up to 2000) and therefore, any change in fee will disproportionately affect this area and the predicted budget income.
- 4.4 To harmonise fees, there will be a cost implication for the changes to software to CDC/SBDC to alter the fee level; and for software for AVDC to split fee collection in two parts (see Appendix B; point 6).
- 4.5 Currently, central government grant funding for the Disabled Facilities Grants (DFGs) is passed onto District councils as part of the Integrated Better Care fund settlement. In our current two tier system, allocations are paid to the County Council, but individual amounts are specified by MHCLG to be allocated and forwarded to each District Council. The exception to this requirement is where there is the express agreement of all parties that any money is to be used for other identified social care capital projects, which meet the terms of the fund. For financial year 2020/21 and onwards, a budget commitment is required for DFG allocation so that grant commitment already approved can be delivered and future demand can be met.
- 4.6 The harmonisation of housing grant policies ahead of vesting day does not have any direct financial implication for the authority but will provide applicants across the authority area with parity of grant funding wherever they live.

5. Legal Implications

- 5.1 After vesting day, a Private Sector Housing Enforcement Policy must be in place by 01/04/2022 (as per the Transitional Arrangements regulations). Legal advice provided is that a high risk is presented by delayed harmonisation.
- 5.2 Failure to properly carry out statutory housing functions or mandatory Improvement and Adaptations functions may lead to a risk of Judicial Review.

6. Other Key Risks

- 6.1 The new Authority may be subject to reputational risk if there is inconsistent enforcement activity or grants offered leading to a perceived 'postcode lottery'. Retaining current area policies could result in different grant allocations decisions being made on housing adaptations for children with disabilities because of where they live.

7. Dependencies

- 7.1 There is a dependency on the Regulatory work stream – the Private Sector Housing Enforcement Policy would sit within the framework of the proposed overarching Regulatory Enforcement Policy for the new Authority and would be subject to the Executive functions and Scheme of Delegation agreed by that work stream.
- 7.2 Housing grants work requires joint working with adults and children’s services as the Welfare Authority (particularly Occupational Therapists) and Health.

8. Consultation

- 8.1 Not applicable.

9. Communications Plan

- 9.1 If grant policies are harmonised, communications with Registered Providers of Social Housing, Occupational Therapists and organisations like the Citizens Advice Bureau will be required.

10. Equalities Implications

- 10.1 The harmonisation of existing housing grant policies will reduce inequalities between current District Council areas. Existing policies have been subject to the EIA process. An EIA screening questionnaire has been completed with guidance from the Equalities Working Group, and a full EIA is being prepared. Recommendation (iv) may hold a risk of being detrimental to some groups if grants are removed.

11. Data Privacy Implications

- 11.1 This is not required at this stage as the proposed changes do not generate any data privacy impacts.

12. Next Steps

- 12.1 A proposed Private Sector Housing Enforcement Policy and a Housing Improvement and Adaptations Policy will be prepared and presented to the Shadow Executive for formal approval.
- 12.2 A proposed schedule of Fees and Charges issued under the Housing Act provisions will be prepared and presented to the Shadow Executive for formal approval.

Background Papers	Appendix A - Harmonised Private Sector Enforcement Policy Appendix B - Harmonised fees Appendix C – Housing Improvement and Adaptations Policy Appendix D – Information on current Grant Policies
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APPENDIX A - Buckinghamshire Council Private Sector Housing Enforcement Policy – DRAFT November 2019

1. Introduction / Background

- 1.1. One of the primary functions of central and local government enforcement work is to protect residents, consumers and workers through preventative interventions. It has long been established that there is a link between the standard of housing and health. Poor quality housing has a significant detrimental effect on both the physical and mental health and wellbeing of the residents of Buckinghamshire.
- 1.2. Private Rented housing provision in the UK has now outstripped that of the social rented sector, which means that the private sector is increasingly housing vulnerable tenants, families with children, and a significant number of workers. Due to rising housing costs, many residents are living in Houses in Multiple Occupation (HMOs) where facilities are shared with others and standards can be poor
- 1.3. Carrying out enforcement functions across all tenures in an equitable, practical and consistent manner, raising standards and driving out criminal landlords from the sector helps to maintain and promote better health of residents and a thriving local economy.
- 1.4. This policy supports the priorities in the Joint Strategic Needs Assessment for Buckinghamshire and underpins prevention at the heart of private sector housing interventions whilst seeking to reduce the burden on health and social care services.
- 1.5. This policy forms a harmonised enforcement policy for Buckinghamshire Council, and will be reviewed within 2 years or in accordance with changes in legislation.
- 1.6. The policy sits below the general enforcement policy of the Council.
- 1.7. The Council aims to protect and promote the health of the people of Buckinghamshire by improving private sector housing, public health, safety and the environment through the provision of advice, support and formal action where necessary.

- 1.8. Enforcement officers, by necessity, have considerable discretion in decision making and initiating enforcement action. This policy applies to all dealings, formal and informal, between officers and landlords and owners of residential property – all of which contribute to securing compliance with the law. It provides policy standards to aid professional judgements and decision making and ensure both consistent and effective enforcement
- 1.9. The purpose of this enforcement policy is to ensure that a consistent approach is adopted by enforcement officers throughout the District
- 1.10. The Council as the Local Housing Authority has extensive enforcement duties and powers to secure suitable standards in residential housing. The main legislation is summarised in Appendix 1.
- 1.11. The policy sets out what businesses and other regulated parties and individuals can expect from enforcement officers. It commits us to good enforcement policies and procedures. Additional statements of enforcement policy may supplement it
- 1.12. Good quality and safe housing is something that every tenant has a right to expect. The key objectives are to;
 - Improve the quality of the private housing stock across all tenures
 - Positively impact the health and wellbeing of those living in poor quality dwellings
 - Actively tackle criminal landlords

2. Complaints Procedure

- 2.1 If you have any comments or questions in relation to this policy, please contact:
- 2.2 INSERT - New Council details for complaints
- 2.3 The Council has a corporate complaints procedure in cases where disputes arising from this policy cannot be resolved.

Principles of Enforcement

- 2.1. The overarching enforcement policy for Buckinghamshire Council outlines the main principles of enforcement.

3. Enforcement Consideration

- 3.1. The following must be considered by Officers when deciding the most appropriate course of action to take:-

The relevant legislation

Government circulars and Guidance made under Section 9 Housing Act 2004,

Best practice notes (Building Research Establishment (BRE), Chartered Institute of Environmental Health (CIEH), Chartered Institute of Housing (CIH) etc)

All investigations into alleged breaches of legislation will follow best professional practice and the requirements of:

The Human Rights Act 1998

The Regulation of Investigatory Powers Act 2000

The Police and Criminal Evidence Act 1984 – Codes of Practice

The Criminal Procedures and Investigations Act 1996

The Code for Crown Prosecution

Other relevant statutory guidance notes.

4. Data Sharing Protocols

- 4.1. The Council shall set up appropriate data sharing protocols with partner agencies where appropriate to aid the detection and prevention of crime.

- 4.2. It is our policy to refer breaches of other legislation to relevant enforcing authorities e.g. HSE etc.

5. Authorisation of Officers

- 5.1. Only officers` who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. The Council's Constitution sets out matters delegated to the [insert role] under various pieces of legislation including the

Housing Act 2004. The internal scheme of delegation sets out the detail of the delegated powers given to Officers

6. Enforcement Options

6.1. There are a number of stages and options in the process of enforcement to be considered, including (but not restricted to):-

- Inspections
- Informal Action
- Statutory Notices and Orders (including Emergency Action)
- Default work
- Prosecution
- Issue of Civil penalty charge notice
- Compulsory Purchase
- Clearance/Demolition
- Simple Caution
- Rent Repayment Order
- Banning Orders.
- Interim and Final Management Orders

7. Informal Action

7.1. Informal action, that is either verbal advice, requests or warnings, or letters and inspection reports can be used when:-

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

- 7.2. It is not always possible to adopt an informal approach especially where the legislation requires formal action to be taken straight away. Informal advice may be issued in verbal format, or within a letter or email which states
- what legislation is contravened
 - what works are required and why
 - wherever possible agreed timescales
 - the nature of the enforcement action the authority may take in the future if the matter is not satisfactorily addressed
- 7.3. It is not always possible to adopt an informal approach especially where the legislation requires formal action to be taken straight away.

8. Statutory Notices and Orders

- 8.1. Where action is to be taken following the identification of a Category 1 or 2 hazard under the Housing Health and Safety Rating System, the most appropriate course of action must be taken in accordance with Government Guidance issued under Section 9 of the Act. A statement of reasons under section 8 of the Housing Act 2004 will be provided if a Notice or Order is served.
- 8.2. The Council is under a legal duty to take appropriate enforcement action if a Category 1 hazard is present in a dwelling.

The courses of action which are available are to:-

- serve an Improvement Notice (including suspended Notices)
- make a Prohibition Order (including Suspended Orders)
- serve a Hazard Awareness Notice
- take emergency remedial action
- make an Emergency Prohibition Order
- make a Demolition Order
- declare a Clearance Area

In determining the most appropriate enforcement action, consideration should be given to:-

- the current occupant(s) of the property (if any)
- the mode of ownership/tenure
- the views and wishes of the owners/landlords/tenants
- the past record of compliance by the owner/landlord
- the severity of the risk
- the extent of the remedial action required
- the views of other Agencies, eg the Fire Authority
- the potential occupancy/tenancy arrangements of the property
- the practicability of the remedial action required

8.3. The Council also has a power to take enforcement action where a Category 2 hazard is present in a dwelling.

The courses of action which are available are to:-

- serve an Improvement Notice (including suspended Notices)
- make a Prohibition Order (including suspended Orders)
- serve a Hazard Awareness Notice

8.4. In determining whether to take formal enforcement action in relation to a Category 2 hazard, consideration should be given to:-

- the banding of the hazard
- the severity of the risk
- the nature of the hazard
- the current occupant(s) of the property
- the mode of ownership/tenure
- the views and wishes of the owners/landlords tenants
- the past record of compliance by the owner/landlord
- the extent of the remedial action required
- the wider priorities and policies of the Council
- the practicability of the remedial action required

8.5. Where the property is let to tenants or occupied by vulnerable persons, action will usually be taken in respect of significant Category 2 hazards.

8.6. Where the service of a Notice/ Making of an Order requires Statutory Consultation (e.g with the Fire Authority) , this will be undertaken in advance of the Notice / Order being served/issued

9. Suspended Improvement Notices / Prohibition Orders

9.1. The Council has the power to suspend an Improvement Notice or Prohibition Orders issued under the Housing Act 2004 and will consider this course of action where it is reasonable, in all the circumstances, to do so.

9.2. The following are situations in which it may be appropriate to suspend a Notice or Order:

- The need to obtain planning permission (or other appropriate consent) that is required before repairs and/or improvements can be undertaken
- Works which cannot properly be undertaken whilst the premises are occupied and which can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided
- Personal circumstances of occupants, for example, temporary ill-health, which suggests that works ought to be deferred

9.3. When deciding whether it is appropriate to suspend a Notice or Order the Council will have regard to:

- The level of risk presented by the hazard(s)
- The turnover of tenants at the property
- The response or otherwise of the landlord or owner
- Any other relevant circumstances (e.g. whether the vulnerable age group as defined in HHSRS, is present)

10. Recovery of Expenses relating to serving Notices and Orders

10.1. The recovery of expenses incurred are enabled under s49 of the Housing Act 2004, and any monies recovered must be utilised

solely to fund housing enforcement purposes as defined under the Act.

- 10.2. A charge will normally be made where it has been necessary to take one of the enforcement actions listed from a) to i) below:
- a) serving an improvement notice under section 11 or 12
 - b) making a prohibition order under section 20 or 21
 - c) serving a hazard awareness notice under section 28 or 29
 - d) taking emergency remedial action under section 40
 - e) making an emergency prohibition order under section 43
 - f) making a demolition order under section 265 of the Housing Act 1985(c.68)
 - g) declaring a slum clearance area under section 47
 - h) reviewing a suspended improvement notice under section 17
 - i) reviewing a suspended prohibition order under section 26
- 10.3. The charge for the service of a Hazard Awareness Notice may be waived with the agreement of the appropriate Senior Officer, if there are extenuating circumstances for this and there is confidence the owner / person in control is taking action.

11. Other Statutory duties / powers

- 11.1. There may be occasions where enforcement action is appropriate using other associated legislation in order to address issues in domestic dwellings such as the Environmental Protection Act 1990, Public Health Acts, Building Act 1984, Prevention and Damage by Pests,, Local Government (Miscellaneous Provisions) Act 1982 and others.
- 11.2. In particular, where a more expedited course of action is required or necessary, consideration will be given to utilising the provisions of these and other relevant statutes to secure improvements or action.

12. Service of Housing Act 2004 Notices/Orders on owner-occupiers

- 12.1. Enforcement decisions will be made in full consultation with the owner and having regard to the owner's circumstances and eligibility for any financial assistance where available.
- 12.2. Formal action will not be limited to the service of Hazard Awareness Notices. The service of statutory notices and orders and the carrying out of emergency works will be considered where the condition of an owner-occupied property is such that:
 -
 - It is a danger or a serious health risk to the occupier or members of the public, or
 - It is having a detrimental effect on adjoining properties

13. Demolition Orders / Compulsory Purchase /Clearance Areas

- 13.1. In determining whether to issue a Demolition Order the Council will take account of Government guidance and will consider all the circumstances of the case.
- 13.2. Detailed consideration of a range of factors should to be undertaken in partnership with other departments and agencies to ensure that it was the most satisfactory method of dealing with a property or an area, with ultimately the decision being made by the Councils relevant constitutional arrangements. Any of these courses of action would be regarded as a last resort.

14. Simple Cautions

- 14.1. Under certain circumstances, a simple caution may be used as an alternative to prosecution and will usually be considered before making a decision to prosecute.
- 14.2. A simple caution is a serious matter. It may be used to influence any decision whether or not to prosecute should the individual, organisation or business offend again and it may be referred to in any subsequent court proceedings. The decision whether to offer a simple caution will be made by the Senior Officer in consultation with the [insert role].
- 14.3. Simple cautions are intended to:

- deal quickly and simply with certain, less serious offences where the offender has admitted the offence;
 - avoid unnecessary appearance in criminal courts;
 - reduce the chance of offenders re-offending
 - Record an individual's criminal conduct for possible reference in future criminal proceedings.
- 14.4. Before issuing a caution the following questions will be considered
- 14.5. Has the suspect made a clear and reliable admission of the offence either verbally or in writing?
- Is there a realistic prospect of conviction if the offender were to be prosecuted in line with the Code of Crown Prosecutors? Is it in the public interest to use a simple caution as the means of disposal?
 - Is a simple caution appropriate to the offence and the offender?
- 14.6. Where an individual chooses not to accept a simple caution the Council will normally prosecute.
- 14.7. The Officer shall ensure that decisions to issue a simple caution are notified to all known interested bodies, including tenants, managers, freeholders, leaseholders and mortgagees etc.

15. Default Works

- 15.1. Where the legislation permits work in default and the Officer is of the opinion that this is the appropriate course of action, the case must be discussed with the relevant Senior Officer as per the scheme of delegation
- 15.2. The decision whether to undertake such a course of action will depend upon:-
- The risk to public health, safety or wellbeing of individuals.
 - Whether reasonable progress has been made by the owner with regard to the works.
 - The ability of the owner to arrange for the works to be done.
 - The time which has elapsed for compliance with the notice.

- The history of the owner with regard to compliance with notices.
 - Whether default work may afford greater benefit than prosecution
 -
- 15.3. Works in default may be considered as well as prosecution or civil penalty notice.

16. Determining appropriate Sanction – Prosecution or Civil Penalty

- 16.1. The Authority may seek to apply a civil penalty charge as an alternative to prosecution for certain relevant offences under the Housing Act 2004 as defined in Schedule 9 of the Housing and Planning Act 2016
- 16.2. Relevant offences as stated in the Act which may attract a civil penalty are :
- Section 30 -Failure to comply with an Improvement Notice
 - Sections 72 and 95 –failure to license an HMO
 - Section 139(7) – failure to comply with an overcrowding notice
 - Section 234 –Breach of Management regulations in respect of HMOs
- 16.3. Additionally a civil penalty may be levied for :
- Breach of a banning order (s23 of HPA16).
- 16.4. In the case of a prosecution, it is necessary to establish that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of a conviction: a bare prima facie case is not enough. There must also be a positive decision that it is in the public's interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service should be considered.
- 16.5. Similarly, where a civil penalty is to be imposed and an appeal is subsequently made to the First Tribunal, the Authority would need to be able to demonstrate beyond reasonable doubt that the offence had been committed. For the sake of clarity and

consistency, the Authority will adopt the same approach when considering a matter for prosecution or civil penalty.

16.6. Where such circumstances have been identified, all relevant evidence and information must be considered to enable a consistent, fair and objective decision to be made. Prior to referring a case to the District Solicitor for a prosecution or civil penalty, the case officer must discuss the details of each case with the Senior Officer.

16.7. The Authority will take into account the following factors in deciding whether to prosecute or to impose a civil penalty :

- The seriousness of the offence

Prosecution may be the most appropriate option where an offence is particularly serious - for example where there is an imminent risk of serious personal injury; where there are numerous offences, or where the offender has committed similar offences in the past

- Culpability of the Landlord, Agent and/or Manager
 - Prosecution may be appropriate where the offender has a history of failure to comply with their obligations
 - Prosecution may be appropriate where the offence was deliberate, or occurred to make significant financial gain
 - Prosecution may be appropriate where the offender is operating a relevant business and as such should be expected to be aware of their legal obligations
 - Prosecution may be appropriate if the offender is deliberately obstructive, deceitful, abusive or threatening
- Circumstances of the tenant and the harm caused to them
 - Prosecution may be appropriate where actual harm has occurred, if the tenants are vulnerable, or when a significant number of tenants/persons are placed at serious risk
- The impact on the wider community

- Where prosecution is in the public interest, and would deter others from committing similar offences as it would be in the public domain
 - Relevant information from other local housing authorities where a landlord has committed breaches in more than one local authority area
- 16.8. Whichever option the Authority wishes to pursue the decision will be made on the merits of each case.
- 16.9. The final decision whether to prosecute or impose a civil penalty shall be made after consultation with the District Solicitor.
- 16.10. The Council may also seek to recover monies under the Proceeds of Crime Act as part of a prosecution case
- 16.11. Should a successful prosecution be undertaken and a conviction secured, then the details of the offence will be recorded in the Rogue Landlords database.

17. Determining the Level of Civil Penalty Charges

- 17.1. Local housing authorities have the power to impose a civil penalty of up to £30,000. The Authority has agreed this will be the level of maximum penalty
- 17.2. Where a civil penalty is to be imposed, the Authority will consult appropriate Statutory Guidance, and the following factors will be taken into account to help ensure the civil penalty is set at an appropriate level :
- a) Punishment of the offender
 - b) Deter the offender from repeating the offence
 - c) Deter others from committing similar offences
 - d) Remove any financial benefit the offender may have obtained as a result of committing the offence
 - e) Severity of the offence
 - f) Culpability and track record of the offender
 - g) The harm caused to the tenant
 - h) whether the offender admitted the offence at an early stage

- 17.3. The Authority will seek to make an assessment of the offender's assets and any income (not restricted to rental income) in order to determine an appropriate penalty.
- 17.4. Generally, the maximum amount will be imposed for the very worst offenders. The actual amount levied in any particular case will reflect the severity of the offence, as well as taking account of the landlord's previous record of offending. Each case will be analysed on its facts and the relevant evidence.
- 17.5. Appendix B of this document gives detailed guidance on factors to be taken into account when determining the penalty level. A departmental procedure note and matrix based on relevant and current guidance and case law precedents will be used to assist this process .
- 17.6. In accordance with Statutory procedure, the Authority will serve a Notice of Intent, and consider any representations made within 28 days from when the Notice of intent was given before deciding whether to impose a financial penalty.

18. Rent Repayment Orders (RRO)

- 18.1. The Authority has a legal duty to consider applying for a Rent Repayment Order if it becomes aware that a person is convicted of a relevant offence. These offences include :
 - Breach of Improvement Notice
 - Breach of Prohibition Order
 - Operating or managing an unlicensed HMO
 - Breach of Banning Order
 - Illegal eviction/harassment
- 18.2. Under the provisions of the Housing and Planning Act 2016, the Authority may choose to apply to the First Tier Tribunal to make a Rent Repayment Order in the event it has sufficient evidence that a relevant offence has been committed, but without first obtaining a conviction. Where rent has been paid further to an award of Universal Credit or Housing Benefit, an application for a RRO will generally be considered appropriate to underpin the principle that benefits should not be used to finance substandard accommodation.

18.3. An RRO would also be generally considered where there is evidence of harassment and/or illegal eviction. Additionally the Authority may consider a prosecution under the Protection From Eviction Act 1977.

18.4. If an application for a Rent Repayment Order is to be made, the following factors will be taken into account when considering how much rent the Authority will seek to recover :

- Punishment of the Offender

This should have a real economic impact on the offender, and the conduct of the offender, offending history and their financial circumstances will be considered

- Deter the Offender from repeating the offence

The level should be high enough to deter further offences being committed

- Dissuade others from committing similar offences
- Remove any financial benefit the offender may have obtained as a result of committing the offence

18.5. As per legal procedures, the Council will first issue a Notice of Intent stating they intend to apply for a RRO and consider any representations made during the notice period before determining whether to apply to the Residential Property Tribunal for the RRO.

19. Banning Orders

19.1. Where a person has been convicted of a Banning Order Offence as defined in Regulations, the Authority may apply to a First Tier Tribunal for a Banning Order to be made. If such a conviction has been obtained, it will be usual practice to apply for a Banning Order, taking into account all relevant guidance.

19.2. Any non-housing related banning order offence will be assessed in accordance with the relevance of the offence to the letting of residential accommodation and the likely risks posed to tenants.

20. Houses in Multiple Occupation (HMOs)

General

- 20.1. The Council will seek to ensure minimum standards are met in all HMOs (whether licensable or not) in relation to condition, fire precautions, amenities and management, as set out above in Section 2.00.
- 20.2. It will do this by undertaking regular routine inspections of all known HMOs in its area, by providing informal advice and by taking enforcement action where appropriate. The frequency of inspection will be determined by a risk rating system.

21. Identification of HMOs

- 21.1. The Council will seek to identify those properties which are being occupied as HMOs. It will do this by utilising powers under Section 237, by information in the public domain and other Council records.

22. Licensing of HMOs

- 22.1. The Council will seek to ensure that all Houses in Multiple Occupation that are required to be licensed under the provisions of the Housing Act 2004 and associated legislation are properly licensed and that they comply with their licence conditions.
- 22.2. The Council will require the licence application or renewal to be accompanied by a fee fixed by the Council..
- 22.3. An application will only be treated as being made when all of the necessary documents have been provided and the fee paid.
- 22.4. Licences will be granted where the house is reasonably suitable for occupation as an HMO, or it can be made so suitable by the imposition of conditions; the management arrangements are satisfactory, and the licensee and manager are fit and proper persons. The applicant must be the most appropriate person to hold the licence.

23. Fit and Proper Persons

- 23.1. The Council is required to assess whether the applicant and any manager and any person associated with them or formerly

associated with them are fit and proper people to own or manage an HMO. Further guidance on assessing Fit and Proper can be found in Appendix C

Duration of HMO Licence

23.2. Licences will usually be valid for five years. This period may be reduced if the Council is concerned that:-

- there is a history of problems at the property with regard to conditions or facilities or disrepair;
- there is a history of statutory enforcement action against the owner or manager;
- there are concerns about the current or proposed management arrangements for the property;
- the owner, licence holder or manager has unspent convictions other than those considered in the fit and proper person assessment;
- the owner or manager has failed to meet their statutory obligation, ie failed to make a licence application as required.
- the owner or manager has only made the application as a result of a written warning letter from the Council.
- If an application has been made for the Renewal of a Licence and the conditions of the existing licence have not been met at any relevant time during the period of the licence.
- If an application for a Renewal of a Licence is received after the original Licence expired
- If an application has been made for the Renewal of a Licence and Statutory Enforcement Action has been taken at any relevant time during the period of the existing licence.

24. Assessing Maximum Number of Occupiers

24.1. The occupancy number will depend on the number and size of rooms and the kitchen and bathroom facilities.

24.2. Regard will be had to national amenity standards, the statutory minimum room sizes and the Council's 'Standards in HMOs'

guide when assessing the maximum number of occupants to be permitted.

25. Procedure for Issuing a Licence

- 25.1. An applicant must complete an Application form for a Licence for a House in Multiple Occupation accompanied by all relevant documentation and appropriate fee.
- 25.2. The Licence shall be issued in accordance with the Statutory Provisions under the Housing Act 2004 and associated legislation

26. Contents of Licences

General

- 26.1. The licence will specify the length of time for which the licence is valid. This can be for a maximum of five years.
- 26.2. The licence will also specify the maximum number of occupiers and/or households.

27. Mandatory Conditions

- 27.1. Conditions as contained in Schedule 4 of the Housing Act 2004 specify conditions which must be included in licences.

28. Discretionary Conditions

- 28.1. The Council may apply Conditions to a licence to ensure:-
 - any works to the property are undertaken to meet the licensing standard within a reasonable period of time as specified by the Council.
 - the management arrangements for the property are suitable.
 - The Council may also apply additional conditions if they are relevant to a particular property.

29. Temporary Exemption from Licensing Requirements

- 29.1. The Council may grant a Temporary Exemption Notice (TEN) where:-

- (a) the person having control or managing the licensable HMO states in writing the steps he intends to take to ensure the house is no longer required to be licensed; and
 - (b) the Council is satisfied that it will be non-licensable as a result of taking these steps within 3 months of the date of receiving the written notice.
- 29.2. In deciding whether to issue a TEN, the Council will have regard to the steps proposed, including Planning and Building Regulation issues, the status of any such Planning or Building Regulation applications, and confidence in whether such steps would be taken by the person in control or managing the property in relation to such issues.
- 29.3. Previous actions by the person in control or managing the property may be taken into account to assess such confidence.
- 29.4. Further considerations will also be made to the arrangements for meeting the needs of occupiers including those likely to be displaced.
- 29.5. A further (and final) TEN can only be granted in exceptional circumstances, which would normally be unforeseen.

30. Mandatory HMO Licence Enforcement

- 30.1. In order to ensure landlords make an application for a mandatory licence, the Council will:-
 - Publicise the HMO licensing requirement through website information, attendance at Landlord Forums and visits to Letting Agents.
 - Produce factsheets to answer questions about the process and requirements.
- 30.2. The Housing Act 2004 stipulates a number of offences and penalties regarding mandatory licensing.

These include:-

 - The operation of a licensable HMO without a licence, when a TEN is also not in force.
 - Allowing an HMO to be occupied by more persons than a licence specifies as a maximum.
 - Breach of licence condition.

- Supplying false or misleading information to the Council.
 - Obstructing any authorised officer from performing their duties under the Act.
- 30.3. If any of these offences are suspected, an investigation will be undertaken in accordance with this policy.
- 30.4. The Council will also advise tenants of their rights, which may include that of applying for a Rent Repayment Order in respect of non-Housing Benefits rental payments.
- 30.5. Where there is no prospect of an HMO being licensed, the Act requires the Council to serve an Interim Management Order (IMO).

31. Enforcement of Conditions

- 31.1. All Licences will be subject to mandatory conditions as specified in the Act, and may be subject to discretionary conditions where appropriate.
- 31.2. If it is found that a licence holder is failing to comply with any of the conditions, the following action will be taken:-
- For less serious breaches, the licence holder will usually be advised in writing that he is failing to comply with a condition, and given a maximum period to ensure compliance. This period may be minimal if there is a significant risk posed to the occupants as a result of the breach.
 - If the licence holder fails to comply with the conditions, or the breach is considered serious then prosecution or imposition of a civil penalty may be considered.
 - If there is a successful conviction for a breach of a licence condition, or a breach is considered to be serious, or a repeated breach of such conditions occurs, the Council may consider revoking the HMO Licence.

32. Variation or Revocation of Licences

- 32.1. The Act enables the Council to vary or revoke an HMO Licence either with or without the agreement of the licence holder. The

Act specifies the procedure which must be followed should variation or revocation be considered. Management Orders (Interim and Final)

33. Management of HMOs

- 33.1. All HMOs (whether subject to licensing or not) must be properly managed in accordance with the Houses in Multiple Occupation (England) Regulations 2006.
- 33.2. Where there is evidence of a breach of the Regulations, enforcement action will be considered; where breaches are considered serious, are repeated breaches, or are numerous, then the imposition of a civil penalty (per offence) or a prosecution may be considered.

Other Sanctions

34. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 34.1. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 give a power for the authority to impose a financial penalty where a landlord has failed to comply with a Remedial Notice. The Council's agreed Statement of Principles in respect of imposing financial penalties under these regulations is contained in Appendix 1

35. The Estate Agents Redress Scheme

- 35.1. From 1 December 2014, any person engaged in letting agency or property management work must join one of the two government approved redress schemes.
- 35.2. Where a local authority is satisfied on the balance of probabilities that someone is engaged in letting or management work and is required to be a member of a redress scheme but is not, they can impose a fine of up to £5000.

36. Energy Efficiency (Private Rented Property) Regulations 2015.

- 36.1. From 1 April 2018,, landlords of privately rented domestic and non-domestic property must ensure that their properties reach at

least an Energy Performance Certificate (EPC) rating of E before granting a new tenancy to new or existing tenants.

- 36.2. The Council can issue fines of up to £5000 for landlords who do not comply with the regulations, including failing to properly register an exemption.

Appendix 1: Summary of Housing Legislation

Legislation	Summary of Powers
Protection from Eviction Act 1977	
Section 1	This section creates the offences of unlawful eviction and harassment of a residential occupier. The Local Housing Authority is a prosecuting authority for the purposes of this section and it is Housing Officers who investigate claims of unlawful eviction and harassment. The Council can prosecute landlords, agents or others who contravene this section.
Environmental Protection Act 1990	
Section 80	<p>Section 79 of this Act relates to statutory nuisances</p> <p>Once the Council is satisfied that a statutory nuisance exists or is likely to occur, it is under a duty to take action to deal with it. Officers must serve a notice requiring the abatement of the statutory nuisance within certain time limits or preventing the occurrence of a statutory nuisance.</p> <p>If such a notice is served and not complied with, the Council is able to carry out the necessary work in default and recharge the person upon whom the notice was served. Breaching the Notice is a criminal offence and the Council is able to prosecute on this matter</p>
Housing Act 1985	
Section 17	<p>Power to make a Compulsory Purchase Order</p> <p>The legal powers are contained in s17 Housing Act 1985 and s93 Local Government and Housing Act 1989.</p> <p>A compulsory purchase order may be served upon the owner of land or property by the Council to acquire the land for the public good, usually at a valuation set by the district valuer.</p>
Section 265	<p>Power to make a Demolition Order</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Demolition Order is one of the actions that can be taken.</p> <p>A demolition order requires the property to be vacated within a specific time and subsequently demolished. It is a criminal offence to allow the property to be occupied after the demolition order has come into effect. If the person upon whom the order</p>

	has been served does not demolish the building, the Council can demolish it instead and recharge the person accordingly.
Section 289	<p>Declaration of clearance area</p> <p>A clearance area is an area that is to be cleared of all buildings. The Council shall declare an area to be a clearance area if each of the residential building contains a Category 1 hazard and the other buildings in the area are dangerous or harmful to health and safety. The Council is required to consult on the declaration of a clearance area and publish its intentions. Owners and in certain cases occupiers of properties are compensated accordingly.</p>
Housing Act 2004	
Sections 11 and 12	<p>Duty / Power to serve an Improvement Notice</p> <p>Where a Council finds a property that has Category 1 hazards it is under a duty to take the most suitable course of action. The service of an Improvement Notice is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>An Improvement Notice under this section requires the recipient of the notice to carry out certain works within a specified time scale. If the notice is not complied with, the Council can carry out the work in default and recharge the person upon whom the notice was served. Breaching the provisions of the Notice is a criminal offence and the Council is able to prosecute the person who received the notice, or issue a financial penalty.</p> <p>An Improvement Notice can be suspended, varied or revoked.</p>
Sections 20 and 21	<p>Duty /Power to Serve a Prohibition Order</p> <p>Where a Council finds a property that has Category 1 hazards, it is under a duty to take the most suitable course of action. The making of a Prohibition Order is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Prohibition Order under this section requires persons to cease or limit the use of a property or part of the property for residential purposes. Prohibition Orders may also relate to the use of the premises by a specified number of people.</p>

	<p>Breaching an Order is a criminal offence and the Council is able to prosecute the person who received the notice, if he has intentionally failed to keep to it.</p> <p>An Prohibition Order can be suspended, varied or revoked</p>
<p>Sections 28 and 29</p>	<p>Duty /Power to Serve a Hazard Awareness Notice</p> <p>Where a Council finds a property that has Category 1 hazards it is under a duty to take the most suitable course of action. The service of a Hazard Awareness Notice is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Hazard Awareness Notice advises the person on whom it is served (usually the owner, but not in all cases) of the existence and the nature of the hazards identified, and the works considered to be required to address the hazard. The notice is advisory only - it does not require the recipient to take any action.</p>
<p>Section 40</p>	<p>Power to take Emergency Remedial Action</p> <p>Where a Council finds a property that has Category 1 hazards it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential premises, it can take Emergency Remedial Action.</p> <p>This means that the Council can arrange for works to be undertaken to remove the risk of harm. Within 7 days of starting the work, they must serve a notice under section 41 of the Act on the person having control of the house explaining the action taken. The Council have powers to recover expenses incurred in taking emergency remedial action.</p>
<p>Section 43</p>	<p>Powers to make an Emergency Prohibition Order</p> <p>Where a Council finds a property that has Category 1 hazards it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential premises, it can take Emergency Prohibition Order.</p> <p>This prohibits the use of the premises or part of the premises for residential use, with immediate effect.</p>

<p>Section 64</p>	<p>Licensing of HMOs and other houses</p> <p>The local authority must licence Houses in Multiple Occupation which meet a specified description They also have a discretion to introduce licensing schemes for other HMOs or other houses to address specific local issues.</p> <p>It is an offence to fail to licence a licensable HMO or house, for which the local authority may prosecute or issue a financial penalty.</p>
<p>Section 73</p>	<p>Power to apply to the FtT for a Rent Repayment Order</p> <p>Where a licensable HMO is not licensed, the Council can apply to the First-tier Tribunal for an order requiring the landlord of the HMO to repay any housing benefit paid in respect of the HMO.</p> <p>The Housing and Planning Act 2016 extended the power to apply for a Rent Repayment Order where a landlord has committed one of the following offences (it is not necessary that they have been convicted):</p> <ul style="list-style-type: none"> - Illegal eviction or harassment - failure to comply with an Improvement Notice - Failure to comply with a Prohibition Order - Control or management of an unlicensed HMO or house - Failure to comply with a Banning Order - Violence for securing entry under the Criminal Law Act 1977 <p>The local authority has a duty to consider applying where it becomes aware that a landlord has been convicted of a relevant offence.</p>
<p>Section 102</p>	<p>Interim Management Orders</p> <p>Where an HMO which is required to be licensed is not licensed and there is no reasonable prospect of it becoming licensed or action is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, the local authority may make an Interim Management Order (IMO).</p> <p>An IMO can last for up to 12 months and enables the local authority to take steps to secure the proper management of an HMO, or to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity.</p>

	<p>An IMO gives the council rights to collect rents and carry out works to the property.</p> <p>An IMO may also be made in respect of any other dwelling, but only with the authority of the Residential Property Tribunal.</p>
Section 113	<p>Final Management Orders</p> <p>A local authority can serve a Final Management Order following an Interim Management Order, where, on expiry of the IMO, the HMO is required to be licensed and there is still no reasonable prospect of it becoming licensed or the Order is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, on a long term basis.</p> <p>A Final Management order can last for up to five years.</p>
Section 139	<p>Overcrowding Notices</p> <p>Where the Council considers that excessive numbers of people are (or are likely to be) accommodated in a non-licensable HMO, they may serve an Overcrowding Notice on the owner or a person having control of the house.</p> <p>It is a criminal offence to breach an overcrowding notice, for which the Council may prosecute or issue a financial penalty.</p>
Section 234	<p>HMO Management Regulations</p> <p>Managers of HMOs are required to comply with the HMO Management Regulations which specify duties to keep the property and facilities within it safe, clean and in good repair.</p> <p>It is a criminal offence to breach the management regulations for which the local authority may prosecute or issue a financial penalty.</p>
The Smoke and Carbon Monoxide Alarm Regulations 2015	
Regulation 5	<p>Remedial Notice</p> <p>Where the Council has reasonable grounds to believe that a landlord is in breach of his/her duties under these regulations, they must serve a Remedial Notice on the landlord giving him/her 28 days in which to carry out the actions specified in</p>

	the notice.
Regulation. 7	<p>Duty to arrange remedial action</p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, it must arrange to undertake the actions in the Notice.</p>
Regulation 8	<p>Power to issue Penalty Charge Notice</p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, they may require the landlord to pay a penalty charge.</p>
Housing and Planning Act 2016	
Sections 14-27	<p>Power to apply for a Banning Order</p> <p>The local authority may apply to the First tier Tribunal for a banning order in respect of any person or corporate body who has been convicted of a banning order offence on or after 1 April 2018.</p> <p>The effect of a Banning Order is to ban that person/company from being involved in letting and/or management of property or being involved in any company which carries out those activities.</p>
Sections 28-29	<p>Database of Rogue Landlords and Agents</p> <p>A local authority has powers to maintain the database and must include details of any landlord who has received a banning order.</p> <p>They may include landlords who have been convicted of banning order offences, or who has received at least two financial penalties in 12 months for banning order offences, but authorities must first give notice to the landlord which may be appealed.</p>

Appendix B

Assessment of Culpability and Harm

In assessing seriousness there is a need to consider both culpability and harm.

There are 4 levels of culpability to be considered:

1. The offender has the intention to cause harm, the highest culpability ie where the offence is planned
2. The offender is reckless as to whether harm is caused i.e the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences even though the extent of the risk would be obvious to most people
3. The offender has knowledge of the specific risks entailed by his actions even though he does not intend to cause the harm that results
4. The offender is guilty of negligence

Culpability will be greater if

- The Offender deliberately causes more harm than necessary
- The Offender targets a vulnerable victim

Culpability will be lower if

- The Offender suffers mental illness
-

Harm will be greater when

- There are multiple victims or potential victims
- The victim(s) are particularly vulnerable
- There is an especially serious physical or psychological effect on the victim, even if unintended

Mitigating Factors

- Offender shows genuine remorse
- Admissions are given in interview
- Ready co-operation with the Council

Appendix C

Policy for assessing Fit & Proper Persons

The aim of this policy is to ensure that all licensable HMOs have appropriate arrangements in place to ensure that they are satisfactorily managed by Fit and Proper persons.

In deciding whether a licensable property can be licensed, the Council must be satisfied that there are acceptable management arrangements in place or that such satisfactory arrangements can be put in place by the imposition of conditions in the licence.

In considering whether the management arrangements are satisfactory, the Council must have regard to the following:

- The suitability of the proposed licence holder and manager (if different) and any other person involved in the management of the property; that is to say that they are in each case a 'Fit and Proper Person'
- The competence of the proposed licence holder/manager to manage the building
- The suitability of management structures
- The adequacy of financial arrangements

This Policy considers the meaning of Fit and Proper Person, the Council's approach to deciding whether a person is Fit and Proper and the factors that the Council will take into account when making such decisions.

This policy relates to applications for new licences, as well as to existing licences and applications for their renewal.

What is a fit & proper person test?

Before issuing an HMO licence, the Housing Act 2004 states that the Council must be satisfied that the proposed licence holder and manager of the property are a Fit and Proper Person. If not, the licence must be refused unless other satisfactory arrangements can be agreed.

The test is designed to ensure that those responsible for holding the licence and managing the property are of sufficient integrity and good character to be involved in the management of an HMO and that as such, they do not pose a risk to the welfare or safety of persons occupying the property.

A licence may be revoked where the Council no longer considers the licence holder to be a fit and proper person and/or that the management of the house is no longer being carried out by persons who are in each case fit and proper to be involved in its management.

What properties does this policy affect?

All properties within the Council's area requiring a licence under the Housing Act 2004.

What is meant by 'involved in the management'?

The Council must consider licence holders, managers and others involved in the management of the property.

A person involved in the management, is a person who is able to comply with any licence conditions and deal with the day-to-day issues that arise within an HMO as well as being able to deal with longer term management issues. Typically but not exclusively, these will include such matters as:

- Emergency repairs and other issues
- Routine repairs and maintenance of the property and its grounds
- Cyclical maintenance
- The management and the provision of services to the building and its grounds
- The management of tenancies or occupants, including dealing with rent matters and tenants' enquiries
- The management of the behaviour of tenants, occupants and their visitors to the property
- Neighbourhood issues (including disputes)
- Engagement with the local authority, Police and other agencies, where appropriate.

The licence holder and the manager can be two different people. Where this is the case, a decision will be made for each of them about whether they are a fit and proper person.

How will the Council decide if I am fit and proper?

Each licensing application must be accompanied by a Basic Disclosure certificate from Disclosure Scotland for each licence holder and all persons involved in the management of the licensable property.

The licence holder and manager (if different), and any other person involved in the management of the HMO must also sign the official declaration on the HMO licensing application form.

The Council may consult with other Councils and with council departments and may use any information contained within the database of rogue landlords and property agents under Chapter 3 of the Housing and Planning Act 2016.

The Council will consider a person to be 'Fit and Proper' if satisfied that:

- They have not committed an offence involving fraud or other dishonesty, or violence of drugs, or any offence listed under Schedule 3 to the Sexual Offences Act 2003 (Section 66(2)(a) of the Housing Act 2004).
- They have not practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in or in connection with the carrying on of any business (Section 66(2)(b) of the Housing Act 2004).
- They have not contravened any provision of the law relating to housing or landlord and tenant law (Section 66(2)(c) of the Housing Act 2004).
- They have not acted otherwise than in accordance with a Code of Practice under section 233 of the Act (regarding management of HMOs) (Section 66(2)(d) of the Housing Act 2004).
- They are not subject to a banning order under Section 16 of the Housing and Planning Act 2016

In addition to the above, the Council will consider any contravention of legislation relevant to housing. This may include where the Council has served a statutory notice, carried out works in default of a notice, taken a prosecution or issued a civil penalty. The nature of the contravention and its relevance to the management of an HMO and the potential harm associated with the contravention will be taken into consideration.

In relation to any contravention of a provision of the law relating to housing, the Council will take into account whether a proposed licence holder or manager:

- Has had a licence revoked or refused, or been convicted of breaching the conditions of a licence under Parts 2 or 3 of the Housing Act 2004
- Owns or manages, or has owned or managed an HMO or house which has been the subject of a control order under section 379 of the Housing Act 1985 in the five years preceding the date of the application; or any appropriate enforcement actions described in section 5(2) of the Housing Act 2004 (in relation to category 1 hazards).
- Owns or has previously owned a property that has been the subject of an interim or final management order whilst in their ownership, or a special interim management order under the Housing Act 2004.
- Is subject to a banning order under section 16 of the Housing and Planning Act 2016.
- Owns or has previously owned a property for which the Council has taken action as described in S5(2) of the Housing Act 2004, which includes the service of an Improvement Notice, Prohibition Order, Emergency Prohibition Order, Hazard Awareness Notice, Demolition Order or Emergency Remedial Action.

Each case will be decided on its own merits, taking into consideration the circumstances surrounding the contravention, where there has been more than one contravention, repeating nature of contraventions and of any evidence demonstrating good character since the contravention(s).

How will the Council make their decision?

Where there is evidence of a relevant offence, unlawful discrimination, contravention, banning order or breach of the Code of Practice, the Council may decide that the person is not fit and proper. Each case will be decided on its own merits and such evidence will not necessarily lead to a conclusion that a person is not a fit and proper person. The Council will act reasonably, proportionately and consistently in its approach to making a decision. It will take into account those factors considered to be relevant to a person's fitness to hold a licence and/or manage an HMO and disregard those which it considers are not relevant.

Consideration of 'persons associated or formerly associated' with the proposed licence holder or manager

Where there is evidence that a person associated, or formerly associated with a proposed licence holder or manager has committed any offence specified in Section 66(2) of the Housing Act 2004, that evidence may be taken into account in determining the proposed licence holder's or manager's fitness. The purpose of this requirement is to ensure that only fit and proper persons hold licences or are in any way involved in the management of licensed properties. It would not be appropriate for a licence to be granted to someone, or for someone to be the manager of a property, if that person was merely acting as a front for someone else, who would be considered to be unfit to be the manager or licence holder.

Duration

If someone is determined by the Council not to be a Fit and Proper Person, this will usually remain the case for a period of 5 years.

The Council may consider it appropriate (in the event of lesser offences or particularly relating to management failings) to apply a condition to the licence to allow the licence to operate for a reduced term, e.g. 12 months. The conduct of the licence holder can then be monitored and this taken into consideration in subsequent licensing applications. The Council will, in doing so, have regard to this policy and the applicant will need to provide sufficient evidence that they are now a fit and proper person.

If the licence holder or manager is found to not be Fit and Proper, the Council will notify them in writing.

What happens if the licence holder fails the Fit and Proper test during the duration of the licence?

Should the Council become aware that a licence holder or manager of an HMO commits an offence or breach which would result in the failure of the Fit and Proper test during the duration of the licence, the Council may revoke the licence. At all times the Council will consider all evidence available and make decisions in accordance with this policy.

Should the licence holder be subject to a banning order under section 16 of the Housing and Planning Act 2016 during the duration of an existing licence, the licence holder will fail the fit and proper test and the Council must revoke the licence.

Residential Property Tribunal

Where a proposed licence holder has been refused a licence they can appeal directly to the residential property tribunal, this application must be made within 28 days of the notification of the Council's decision.

Extent of any determination

Where any person involved in the management of a licensable property is deemed not to be a Fit and Proper person then that determination will apply not only to the licence application under consideration but to all licences to which that person is a party. This information may also be shared with other Councils which may have an involvement with the persons assessed.

Data sharing

Information obtained and used for the purpose of determining whether a licence holder or manager is a fit and proper person may be shared with other Councils, council department or statutory bodies. Licence applicants agree to this when they sign the application form.

Appendix D

Statement of Principles in respect of Smoke and Carbon Monoxide Regulations

The Council has agreed the maximum level of £5000 as a penalty for this offence

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Appendix E Statement of Principles: Determining the amount of a Financial Penalty under the Energy Efficiency (Private Rented Property) Regulations 2015

Background

From the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property). From the 1st April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property). In both cases this is referred to in the Regulations as the prohibition on letting sub-standard property.

Where a landlord wishes to continue letting property which is currently sub-standard, they will need to ensure that energy efficiency improvements are made which raise the EPC rating to a minimum of E. In certain circumstances landlords may be able to claim an exemption from this prohibition on letting sub-standard property. This includes situations where the landlord is unable to obtain funding to cover the cost of making improvements, or where all improvements which can be made have been made, and the property remains below an EPC rating of Band E. Where a valid exemption applies, landlords must register the exemption on the national PRS Exemptions Register.

The local authority enforces compliance with the domestic minimum level of energy efficiency. A local authority may check whether a property meets the minimum level of energy efficiency, and may issue a compliance notice requesting information where it appears to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it).

Where a local authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties. The authority may also publish details of the breach on the national PRS Exemptions Register.. A local authority may also serve a penalty notice for the lodging of false information on the Exemptions Register.

The suggested starting penalty levels are as follows:

Letting a substandard property for less than 3 mnths	£2000
Letting a substandard property for more than 3 months	£4000

Registering false or misleading information on the exemptions register	£1000
Failed to comply with a compliance notice	£2000

The maximum fine per breach is £5000.

Principles in relation to decision to serve a penalty notice

The authority will seek to serve compliance notice on the most appropriate person in all cases where a rented property is identified to be in a Band F or G and there does not appear to be a valid exemption registered on the Exemption Register.

The authority will proceed to issue a penalty **unless** satisfactory evidence is provided within the stated compliance period that either:

- The Regulations do not apply (eg no requirement for an EPC, the tenancy is outside of the regulations)
- The person on whom the compliance notice is served is not responsible for carrying out energy efficiency measures/registering an exemption
- There have been technical or other mitigating reasons why an exemption has not been registered
- An up to date EPC shows that the property is no longer sub-standard

Principles in relation to level of penalty

The fine levels will be determined on a case by case basis by taking into account the culpability of the offender, the severity of the breach, the ability for the penalty to act as a punishment and a deterrent to repeat offending.

The recommended starting penalty levels will be initially assessed by the use of the table above, taking aggravating and mitigating factors into account.

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APPENDIX B - Proposed harmonisation of Private Sector Housing Enforcement and HMO licence fees

Introduction

1. The four District Councils currently utilise three policies covering private sector housing enforcement across the county. AVDC have a single overarching generic regulatory enforcement policy which covers general principles in respect of all environmental health functions. Chiltern, South Bucks and Wycombe have specific Private Sector Housing Enforcement Policies with explicit references to the full range of housing enforcement options and penalties, which include, for example, HMO (Houses in Multiple Occupation) licensing, Housing Act Statutory Notices and Orders, civil penalties, Rent Repayment Orders and Banning Orders.
2. Statutory guidance requires a Local Housing Authority to publish a policy on how it applies the penalties available under the Housing and Planning Act 2016; namely civil penalties as an alternative to prosecution, use of Rent Repayment orders, Banning Orders and use of the Rogue Landlord Database
3. An overarching county wide Enforcement Policy has been prepared by the Private Sector Housing sub-workstream with the involvement of all Authority partners, including Adult Social Care and Children's Services. This Policy is presented for agreement and adoption by the new Authority.
4. If the current policies remain live beyond vesting day, there is a risk of inconsistency of approach across the county, and it may prove difficult to robustly defend enforcement action and civil penalty levels

Charging Arrangements and Licence fees

HMO Licence fees:

Under the Housing Act 2004, The Local Housing Authority has a duty to licence HMOs of a certain definition. Prior to 2018 this related only to larger HMOs of three storeys in height.

In October 2018, the Government changed this definition to include all HMOs with 5 or more people in them, which significantly increased the numbers subject to licensing provisions.

1. In WDC, a desktop exercise was undertaken in advance of the 2018 licensing extension to accurately estimate the numbers of potentially licensable HMOs in the District. The intelligence gathering operation identified a significant number of HMOs in the Wycombe District (up to 2000), with a significant number estimated to be licensable. The market in Wycombe is within a challenging enforcement environment.
2. In AVDC, a District wide discretionary additional licensing arrangement was already in place which was not substantially affected by the new change in legislation. This scheme covered all HMOs including those that will now not be covered by the mandatory definition. Their fees were set in advance of the launch of their scheme in 2014, and approximately 160 HMOs were part of this scheme over the five-year period. The additional licensing scheme lapsed in September 2019.
3. The numbers of identified HMOs in CDC and SBDC are lower, with 46 licensed in total, and 135 HMOs estimated in total across both Districts.

4. The Housing Act 2004 allows the Local Housing Authority to set the appropriate level of fee and prescribes what can be taken into account. This can include the costs to administer the scheme including software and administrative costs, team structures, staffing levels and costs, and other overheads. The Fee can also take into account the predicted level of future enforcement costs to identify all unlicensed HMOs and to take appropriate enforcement action. The fee must only cover costs and must not generate additional income.
5. Wycombe DC revised its HMO fees in 2018 utilising the evidence base and predicted costs to set the level of fees; building in reductions for renewal applications and incentives for landlords to join Landlord Association schemes, and higher fees if applications have been made following enforcement actions. A desktop exercise looked at property level data and identified an estimated 2000 HMOs within Wycombe town centre. Software to accommodate online applications and payments was introduced, and staffing and enforcement costs to meet demand for application processing and enforcement were estimated.
6. A further legal precedent was set in the Divisional Court in 2018 [R \(Gaskin\) v Richmond-upon-Thames LBC](#) [2018] EWHC 1996 (Admin) which stated that if the fee is made up of the two strands of processing costs and enforcement charges, then the fee must be separated and collected in two parts.
 - WDC, CDC and SBDC currently split their fee, with a £500 processing fee in the first stage, and a second enforcement fee charged at the point of issue of a licence.
 - At AVDC the fee is collected in one stage and only currently covers the processing costs, and is one flat fee across all applications.

The current charging arrangements by district are summarised in the table below:

	New		Renewal		Renewal		Additional		Reduction	
	(proactive)		(proactive)		(Enforcement)		rooms cost		for Landlord	
	£	£	£	£	£	£	£	£	£	£
AVDC	595	595	595	595	595	595	34		80	
CDC	875	1,040	795	960			-		-	
SBDC	875	1,040	795	960			-		-	
WDC	700	1,000	500	700			25		100	

Proposal to harmonise licence fees

It is proposed to harmonise fees to match those currently charged by Wycombe DC.

This is because the method for fee calculation is evidence based, robust and recent; it reflects lower fees for renewals for existing licence holders, and incorporates a cost to fund enforcement of the scheme to identify unlicensed properties.

It is noted that due to the significantly higher numbers of identified HMOs in the Wycombe area, that any change away from these fees would affect the budgetary position much more significantly than in other areas. WDC have received 164 applications in the last 12-month period.

Housing Enforcement costs

Under the provisions of s49 of the Housing Act, the Authority may charge for the recovery of costs incurred whilst undertaking certain prescribed types of enforcement action. This income must be ring fenced for enforcement costs.

Currently, the Districts recover costs using a mix of fixed costs and hourly recharge rates, as seen in the table below:

	Enforcement charge
AVDC	£41 per hour cost incurred for Notice issued
CDC	£100 for first Notice , £50 for additional Notices
SBDC	£100 for first Notice , £50 for additional Notices
WDC	£50 per hour cost incurred for Notice issued

Enforcement recovery costs are calculated based on the costs incurred of time taken for inspections and associated administration, thus differences reflect different district team structures, salaries and overheads.

Proposal to harmonise Enforcement Costs

As per advice provided by Legal and Finance at the Fees and Charges workshop, it is proposed to harmonise the enforcement charge fees as per the charging arrangements proposed for the Planning Service. This will utilise a charging matrix, to calculate a 'blended fee' for costs incurred based on Officer grade (including on costs) and a calculation of time invested in each case, on a case by case basis.

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APPENDIX C - Buckinghamshire Council Housing Improvement and Adaptations Policy – DRAFT

1. Introduction/ Background

- 1.1. The Council is committed to promoting the health and wellbeing of all residents and working together with its partners to improve quality of housing and deliver better housing outcomes. In recognising the value people place on leading fulfilling lives and staying independent for longer, the Council understands that living in poor housing has an adverse effect on health and increases the risk of both physical and mental illness, disability and premature death.
- 1.2. This Policy explains how the Council will support local people and work with other agencies, both statutory and voluntary, to provide assistance to keep people safe and independent at home. It is driven by a shift in focus towards using more preventative and proactive measures as opposed to those which are reactive often at the point of crisis.
- 1.3. The Buckinghamshire Joint Strategic Needs Assessment 2016-2022 (JSNA) sets out a key priority to “support communities to enable people to achieve their potential and ensure Buckinghamshire is a great place to live”
- 1.4. The JSNA outlines the main areas where housing and poor health are linked. It is designed to identify key issues relating to the health and wellbeing of Buckinghamshire residents, along with inequalities in health for specific population groups.

<https://www.buckscc.gov.uk/services/health-and-wellbeing/joint-strategic-needs-assessment-jsna/>

- 1.5. In 2014 the Government recognised the contribution good, accessible, warm and safe housing makes to improved health and social care outcomes, and passed the DFG Allocation capital funding to the Department of Health to be included in the Better Care Fund (BCF).
- 1.6. The inclusion of the Disabled Facilities Grant (DFG) Allocation within the BCF and the new focus on housing assistance being better aligned to support prevention in health and social care. Guidance from Foundations encourages the use of innovative preventative assistance within a discretionary policy, so help prevent hospital admissions and aid speedy discharge.
- 1.7. It is known that poor quality housing can have an impact on the health of the occupants and on the quality of life in an area; the Building Research Establishment (BRE) has calculated that poor housing costs the NHS at least £600 million per year. Some householders, particularly the elderly and most vulnerable, do not have the necessary resources to keep their homes in good repair.

2. Policy purpose and scope

- 2.1. This Policy sets out the Council's provisions under the Regulatory Reform (housing assistance) (England and Wales) Order 2002.
- 2.2. This aim of this policy is to set out how the Council will use the various powers available, including the provision of financial assistance to provide a consistent approach to the use of capital resources for adapting the homes of vulnerable people in order to maintain their independent living for longer.

3. MONITORING AND REVISION OF THE POLICY

- 3.1. The Council will review the policy within 2 years, or when there is a legislative or funding change.

Relevant legislation

4. Housing Grants, Construction and Regeneration Act 1996

- 4.1. This Act is the main legislation relating to Disabled Facilities Grants. The Act details the situations in which the Council must approve an application for a mandatory Disabled Facilities Grant. In addition to this it details the requirements for means testing applicants, approving or refusing applications and gives Local Authorities powers to require grant funding to be repaid upon disposal of the property

5. The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

- 5.1. The Regulatory Reform (Housing Assistance) (England and Wales) Order repealed much of the existing legislation governing the provision of grants to homeowners and replaced it with a new wide-ranging power to provide suitable mandatory and discretionary assistance for housing renewal.

6. General Eligibility Conditions

- 6.1. Assistance will not normally be given where works have commenced before the Council has given its approval in writing.
- 6.2. Applications for assistance will not normally be approved for works which fall outside the policy below. However, exceptional cases may be considered by appeal on an individual basis.
- 6.3. All applications for financial assistance from the Council must be accompanied by valid UK photographic identification for adult applicant(s), along with proof of their current address. For child applicants, an original birth certificate must be provided. The Council may investigate where it is believed that the applicant does not reside at the address for which an application for financial assistance has been made in their name.

- 6.4. The Council may use credit check and on-line or other fraud investigator systems to check whether or not an applicant for any grant or loan (detailed below) has other bank accounts or outgoings that they have not declared to us.
- 6.5. The amount of funding available to pay for grants and loans is strictly limited and assistance can only be approved where financial resources permit.

7. Enquiries, Comments or Complaints

- 7.1. Enquiries about this policy should initially be made to INSERT DETAILS
- 7.2. Comment or complaints about this policy must be set out in writing and sent to INSERT DETAILS
- 7.3. The Council has a formal complaints procedure, should you need to make a formal complaint in relation to this policy. A copy of the procedure can be obtained from INSERT DETAILS

8. Mandatory Disabled Facilities Grant (DFG)

8.1. Purpose of Grant

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

9. Eligibility Criteria

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

10. Eligible Works

- 10.1. The need for adaptation is determined by an Occupational Therapist from the Council. The Council will only act on recommendations made by the Occupational Therapist, where the work is
- mandatory under s23 of the Housing Grants, Construction and Regeneration Act 1996 (see Appendix A), and
 - confirmed by the Occupational Therapist as being necessary and appropriate to the disabled person's needs, and
 - considered reasonable and practicable.

11. Amount of Mandatory Grant

- 11.1. Except where the disabled person is a child or young person as defined in the Act, the Council must carry out a test of the financial resources of the disabled person to assess how much they have to pay towards the work. Where the applicant is an owner-occupier or a tenant, the test of resources set out in the Housing Renewal Grants Regulations 1996 will be applied. Where the applicant is a landlord their contribution will be assessed based on the assessed increase in rental value.
- 11.2. The amount of grant is equivalent to the reasonable cost of the work (or the maximum statutory grant level, currently £30,000, where the cost of work required exceeds this), less the applicant's contribution.
- 11.3. Where the applicant has a contribution to pay or is undertaking privately funded work in addition to grant funded elements, the Council will expect these amounts to be paid in full to the contractor prior to any grant funds being released. Confirmation will be required from the contractor that all monies owed to them by the applicant has been paid in full

12. Fees and Charges

- 12.1. The following fees and charges may be eligible for assistance within the maximum grant calculation—
- Fees in connection with provision of Proof of Title
 - Specialist contractor's fees in relation to information required in support of an application. This may include Gas Safe or Electrical Contractors report fee, a structural Engineer's fee etc.
 -
 - The fees of an architect or surveyor or other services for preparing drawings, detailed specification and overseeing the works

- Any other fees and charges which the Council determine to be eligible

13. Repayment -

- 13.1. For owner-occupiers the Council will register a charge against under the Local Land Charges arrangements on properties where a grant is being paid.
- 13.2. For a mandatory DFG, the charge is only registered against adapted properties of owner occupiers where the mandatory grant exceeds £5,000. The maximum charge registered is limited to £10,000.
- 13.3. The DFG charge will be payable where the property is disposed of within 10 years (whether by sale, assignment, transfer or let).
- 13.4. The conditions set out in the Housing Grants, Construction and Regeneration Act 1996 will apply.
- 13.5. Consideration of the following will be given in determining the amount of the grant to be repaid.
 - the extent to which the recipient of the grant would suffer financial hardship were he/she to be required to repay all or any of the grant.
 - whether the disposal of the premises is to enable the recipient of the grant to take up employment, or to change the location of his employment.
 - whether the disposal is made for reasons connected with the physical or mental health or wellbeing of the recipient of the grant or of a disabled occupant of the premises; and
 - whether the disposal is made to enable the recipient of the grant to live with, or near, any person who is disabled or infirm and in need of care, which the recipient of the grant is intending to provide, or who is intending to provide care of which the recipient of the grant is in need by reason of disability or infirmity.
- 13.6. Given the pressures on DFG funding and high property values locally, the presumption will have made that it is reasonable to require repayment in the circumstances described in b), c) and d) above, unless the grant recipient would suffer financial hardship in doing so.

Repayment of preventative assistance applies as per the conditions of each specific type of assistance.

14. GRANTS PANEL-

- 14.1. For complex cases or those subject to appeal, applications for assistance will be considered by the Council's grants panel. This panel will consist of the relevant case officer and relevant officers from other services. Where relevant the panel may also include a representative from the Council Occupational Therapy service and/ or other services.

15. APPEALS

- 15.1. Appeals about how the policy is operated in individual cases, for example, where an enquiry or application for assistance is refused, will be considered by the [insert role] or nominated deputy. Appeals must be set out in writing and must include the specific grounds on which the appeal is based. Appeals will be considered only on the following grounds:
 - that the policy has not been applied correctly in the case in question, for example there has been a mistake, or
 - that the case in question is exceptional in some way that justifies and exception to the general policy.
- 15.2. The [insert role] will thoroughly review the application and advise the applicant in writing of the outcome of this review.
- 15.3. Appeals will not be considered on the grounds that the appellant simply disagrees with the policy. However, any written comments and complaints about the policy will be considered.

16. Preventative Assistance

- 16.1. Guidance issued with the terms of the Better Care Fund allocation encourages the use of funds to actively provide preventative assistance to provide innovative ways of addressing health priorities.
- 16.2. The table below summarises the assistance available, including Preventative assistance subject to resources.
- 16.3. Preventative Assistance is provided to underpin the principles of good early interventions to vulnerable persons to prevent injury or ill health. This is focused to reduce the need for hospital admission, additional medical interventions and services etc , and to reduce the burden on health and social care services through both direct and indirect savings.
- 16.4. The key outcomes for each type of assistance are detailed, in addition to the eligibility criteria and conditions, and maximum assistance values.

- 16.5. On occasion it may be appropriate for grant funding to be allocated to specific projects or initiatives where the objectives and preventative outcomes of the Better Care fund and this Policy are met.

1. Types of assistance offered

Summary of housing assistance measures available to private owners and tenants:

Tool	Key Outcome	Eligibility criteria	Eligible Works	Conditions(Max £/case	Notes
Mandatory DFG	To provide essential adaptations to the homes of disabled people	Must be applicants permanent home Must be eligible for a DFG	Need for adaptations identified by an Occupational Therapist Examples include ramps, stair lifts, wet rooms	Interest free, local land charge placed on property equivalent to level of assistance provided, repayment, repayable within 10 years (in some cases) or when the property is sold (if sooner)	£30,000	No change
Top up for Mandatory DFG	To enable adaptation works recommended by an OT to be completed when mandatory DFG does not cover full funds	Must be eligible for a DFG Same means test as mandatory DFG applicable	Top up of up to £20,000 to cover additional costs for recipient of a Mandatory DFG (which is currently limited to £30,000)	Interest free, local land charge placed on property equivalent to level of assistance provided. Repayable when the property is sold or transferred/let Property must be occupied on a permanent basis by applicant unless hospital OT advises appropriate to discharge to another property	£20,000	
Financial assistance towards the costs of relocation to a more suitable home	To enable client in an unadaptable home to relocate to a home that meets the clients' needs	As above plus: OT report confirming that new home is suitable to meet the person's needs. Council must deem rehousing as the most suitable and cost effective solution	Relocation costs including Estate Agent fees, Conveyancing fees and removal costs	Cost/benefit analysis of options available including relocation to a more suitable property New property must be occupied on a permanent basis by applicant	£15,000	

Tool	Key Outcome	Eligibility criteria	Eligible Works	Conditions(Max £/case	Notes
Small Scale DFG	A simpler process for applicants who require only minor adaptations	Eligible for a DFG and in receipt of council tax support Only 1 quotation for works required	Adaptations costing <£10,000 (for example this may include stair lifts, ramps and simple adaptations) NOT ELIGIBLE FOR ALTERNATIVE SCHEMES	Repayable as per mandatory DFG terms i.e. over £5k	£10,000	
Other DFG assistance	Preventative works outside the scope of a Mandatory DFG	Means tested as per DFG	Works outside of mandatory DFG list as agreed by Grants Panel as necessary and preventative	Repayable	£15,000	
Healthy Homes On Prescription	To provide small scale works to a person's home to help enable hospital discharge, prevent emergency hospital admissions, hospital re-admissions and repeat GP appointments. Savings to the health and social care system are assessed and predicted (Housing Health Cost Calculator)	Home environment is presenting hazard to health or threat of injury under principles of HHSRS Owner occupier (tenant in exceptional cases where enforcement action is not appropriate e.g. identified tenant responsibility issue e.g. floor coverings) Referred via a health or social care professional (e.g. Occupational Therapist, GP etc.) Direct or indirect cost savings predicted	Small scale adaptations, repairs or other improvements which are specifically required to enable hospital discharge or help reduce the likelihood of hospital admission or repeat GP appointments	Non-repayable Payment on completion of works More than one application can be made but no more than £5000 will be paid out in any 5-year period	£5,000	

Tool	Key Outcome	Eligibility criteria	Eligible Works	Conditions(Max £/case	Notes
Flexible Home Improvement Loan (FHIL)	<p>Over 60's home improvement loan for works to improve the safety, comfort and security of their property</p> <p>Empty Property Loans</p> <p>Rented Property Loans</p> <p>To enable owners of empty homes to undertake repairs and renovations and bring properties back into use</p>	<p>Owner Occupiers who are over 60 years old (in the case of joint occupiers one must be at least 60 and the second owner at least 55).</p> <p>There must be sufficient equity in the property</p> <p>The Council must be satisfied that the required works are appropriate</p>	<p>Repair or replacement works to the building structure</p> <p>Energy efficiency and heating improvements</p> <p>Works to improve security e.g. alarm installation</p> <p>Adaptations to enable a disabled person to continue to live in the property</p>	<p>Flexible repayment terms. Loan to be repaid in full at sale of property</p> <p>For Empty Home loans, Loan must be repaid within 5 years</p>	Variable depending on available funds which are allocated quarterly by the Flexible Home Improvement Loan Company	No change
Deep Clean Fund	To enable discharge from hospital or healthcare setting	Referred by medical/social care professional agreed by the Housing service Client awaiting discharge at time of referral.	Deep Clean Decluttering Waste disposal	Non-Repayable Referrals must be approved by Housing service to ensure link to other housing conditions is assessed	Intended for small scale works <£1500 but no set maximum	
Better Homes Better Health Grant	Grant available following referral from health professional for energy/heating improvements	Must be an owner occupier Referred by a health professional	Works may include; Heating improvements Insulation Works to remedy Damp and mould	Non-repayable Required measures to be confirmed by Housing Enforcement Officer	£2500	Scheme is administered by the National Energy Foundation

Tool	Key Outcome	Eligibility criteria	Eligible Works	Conditions(Max £/case	Notes
Handy Helper	Small scale early intervention to prevent falls, accidents in own home and people becoming victims of scams/rogue traders, tackling social isolation	Any tenure Minimum 3 risk factors from defined list	May include: Security measures, moving furniture, fitting light bulbs and smoke alarms etc.	Non repayable Measures identified and supplied through service provider to cover labour but not fittings//fixtures	Non applicable	Pilot Scheme for 2019/20 Grant provided to Community Impact Bucks

Appendix D – Information relating to the current Housing Improvement and Adaptations Grant Policies (including Disabled Facilities Grants)

Statutory requirements

1. **The Housing Grants, Construction and Regeneration Act 1996** places a mandatory duty on the local housing authority to provide grants towards the costs of works required for the provision of facilities for disabled people. Disabled Facilities Grants (DFGs) are provided to adapt the home environment to restore or enable independent living for individuals with a disability. The maximum amount of grant funding that can be awarded under a mandatory DFG is currently £30,000.
2. **The Regulatory Reform Order (RRO) 2002** provides powers to local authorities to give assistance for housing renewal to any person in their area for the purposes of acquiring living accommodation and adapting, repairing or improving living accommodation. Under the RRO each of the Districts were required to adopt and publish a policy setting out how the powers would be used. These policies were co-developed by District Council officers working in partnership and have more similarities than they do differences.
3. Any money paid under the DFG capital grant determination must only be used for the specific purpose of providing adaptations for disabled people who qualify under these schemes (or for other social care capital projects where otherwise agreed as detailed above).
4. Each of the Districts provide a range of adaptation grants which facilitate a flexible and holistic approach based on the needs of the person with the disability
5. Currently the policies in place in the district areas enable the flexible use of DFG funding (as permitted in the RRO), for preventative interventions. Broadly the policies across the Districts are similar but this paper recommends that the remaining minor differences should be harmonised for vesting day.
6. Applications for mandatory DFGs that are made on behalf of a disabled child are not means tested. However, across the Districts there is a different policy in respect to the means test for 'top up' grants for adaptations required for children and young people (CYP).

7. The similarities of grant offerings are shown in the table below:

	DFG Grant type	AVDC	CDC/SBDC	WDC	Harmonisation requirement
Disability based Housing Grants	Ordinary DFG	30k	30k	30k	None
	Top up DFG	20k	15k	15k	Increase 'top up' to 20k and remove means test for the top up for CYP applications
	Minor Works DFG	10k	10k		WDC to do the same as the others ahead of and after vesting day. Change name to Small Scale DFG.
	Healthy Homes on Prescription	5k	5k	5k	None

8. The far right column indicates areas of the grant policies are required to change in the immediate term for vesting day. In the main the policies are consistent but there are some easily remedied minor differences that will have minimal financial impact and eliminate any area inequalities for applicants.

Grant Differences

In CDC / SBDC, the current grant policy provides further assistance funded under a separate capital pot provided by those Districts. In the main these relate to grants for Mobile Homes, and for Small Repairs Grants, of which there have been a total of 16 applications this financial year to date. The majority of these could be helped by the harmonised policy. The data amalgamated for the last **3 years** is presented below:

Safer Homes Grants

	Chiltern	South Bucks
Number completed	14	8
Expenditure	£38K	£26K
Number of these which could potentially be dealt	7	6

with under other grants		
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Mobile Home Grants

	Chiltern	South Bucks
Number completed	4	3
Expenditure	£17K	£7K
Number outstanding	3	0
Commitment	£10K	0
Number of these which could potentially be dealt with under other grants	-	-

A Decision is recommended to remove the Mobile Homes and Small Repairs grant offerings but to review any gaps in need when the review of the Improvement and Adaptations Policy is undertaken post vesting day

9. There is an opportunity to better integrate housing grants into the new Integrated Care System for Buckinghamshire. Studies in a range of disciplines confirm that the home environment is a quantifiable determinant of health, quality of life and well-being. The quality and suitability of the home environment is particularly important for disabled people, older people, those living with a chronic disease (e.g. dementia) or the consequences of a serious injury and those who experience functional and cognitive difficulties. Home adaptations directly reduce health and social care costs, help to reduce risk of further injury (e.g. from falls), enable faster hospital discharge, delay onset of admission to residential care and reduce care costs (e.g. for people with dementia).

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Report for:	Shadow Executive
Meeting Date:	28 January 2020

Title of Report:	New cemetery, Penn Road – request to increase the project budget and for delegated authority to enter into a build contract.
Shadow Portfolio holder	Councillor Isobel Darby
Responsible Officer	Nigel Dicker, Wycombe District Council.
Report Author Officer Contact:	Nigel Dicker, nigel.dicker@wycombe.gov.uk
Recommendations:	<p>1. That the Shadow Executive notes the content of this report.</p> <p>2. That the Shadow Executive:</p> <p style="padding-left: 40px;">(a) Consents to a project budget increase of £253,210.</p> <p style="padding-left: 40px;">(b) Consents to the release other project funds of £389,790.</p> <p style="padding-left: 40px;">(c) Consents to the grant of delegated authority to enter into a build contract for the project.</p> <p style="padding-left: 40px;">(d) Consents that the £50,000 annual maintenance cost of the new facility will be contained within the Special Expenses Reserve (SER) precept.</p> <p>3. Notes that this matter is also being reported to Wycombe District Council’s Cabinet on February 3rd 2020.</p>
Corporate Implications:	<p>Monitoring Officer: There is a requirement to provide burial spaces in a burial authority area and this report fulfils that obligation.</p> <p>S.151 Officer: This decision is required due to the spending protocol. The financial implications are picked up within the report at paragraphs 3.1 and 3.2.</p>
Options: (If any)	The Shadow Executive may not wish to proceed with the cemetery project, however there is a need for new burial spaces as the existing cemetery is reaching full capacity, and it should be noted that there is a legal obligation for a Burial Authority to provide burial spaces.
Reason:	Wycombe is running out of burial capacity, and the project is needed to meet the legal requirement to be able to provide burials for the High Wycombe Town area.

1.0 Purpose of Report

- 1.1 This report seeks the consent of the Shadow Executive to proceed with the Penn Road cemetery project, as described in Appendix 1 – Report to Wycombe District Council's Cabinet of 3rd February 2020.

2.0 Content of Report

2.1 Background and Issues

- 2.2 Although in the Hazlemere South ward of Wycombe District, the proposed Penn Road cemetery is within the remit of the High Wycombe Town Committee and so the report at Appendix 1 was considered by the High Wycombe Town Committee at its meeting on 21st January 2020. The recommendations were approved by the committee.
- 2.3 High Wycombe is in need of more burial space for the town to fulfil its obligation to provide burial areas for its residents. Planning permission was given for a new cemetery at Penn Road, in Sept. 2019. (see Appendix 2 – site plan of proposed new cemetery)
- 2.4 A competitive tender process was undertaken in November 2019 to select a contractor. Resulting tender returns revealed a 15% increase on the original budget requirement, which was originally set in March 2017.
- 2.5 The cost of the project has therefore increased from £1,679,790 to the current figure of £1,933,000, owing to the fact that the original budget was based on an estimate of costs prevalent at the time and also due to inflation because of time elapsed. Permission is now required to increase the overall project budget by £253,210.
- 2.6 At the time of the Cabinet decision in 2017, only £1,290,000 of the total project budget of £1,679,790 was approved, with remaining funding of £389,790 to be approved in future. Consent is therefore sought from the Shadow Executive for the proposal to authorise funds from the High Wycombe Town Committee's SER of £143k and CIL funding of £500k to cover both these sums, consent for the request for delegated authority to enter into a build contract and also consent that the £50,000 p.a. cemetery maintenance cost will be contained within the SER precept.

3.0 Financial Implications

- 3.1 HWTC / WDC Cabinet approved an initial budget for a new cemetery at Penn Road in March 2017 and were informed of a potential outturn cost of £1,679,790. The costs for the works have increased by £253,210 now bringing the total cost of the works to £1,933,000.

Allocated funds to date and the final required commitments are as follows: -

£404,000 Special Expenses Reserve commitment (March 2017)

£886,000 WDC HWTC CIL commitment to date

£389,790 Acknowledged funding gap needing a decision on confirmation of final cost (March 2017)

£253,210 Additional cost to be funded following tendering

Total £1,933,000 Project cost

3.2 The funding can be met from the High Wycombe Town Committee CIL allocation and from the High Wycombe Special Expenses Reserve (HW SER). If the proposed allocation is decided, then the HW SER would stand at £336k which is 94% of the proposed net cost of services.

4.0 Legal Implications

4.1 Subject to procurement and decision making processes being followed, the Council has power under S111 of the Local Government Act 1972 to undertake the development described in this report.

5.0 Other Key Risks

5.1 None

6.0 Dependencies

6.1 None

7.0 Consultation

7.1 Consultation for this project was carried out with Penn, Hazlemere, Hughenden & Chepping Wycombe Parish Councils. Two public consultations were held on 16th and 25th October 2018 in Hazlemere and High Wycombe, when developing the cemetery designs. A statutory Public Consultation was carried out in September 2019 as part of the planning process.

8.0 Equalities Implications

8.1 An equalities impact assessment has been carried out for the proposed development. This is attached at appendix 3 to this report.

9.0 Data Implications

9.1 None

10.0 Next Steps

10.1 Following the High Wycombe Town Committee's meeting, and the Shadow Executive's consideration of this report, a report will be presented to the Cabinet of Wycombe District Council on 3rd February 2020. This Cabinet report recommends that the request for additional funding be approved and that delegated authority to enter into a build contract for the new facility be given. (draft report at appendix 1)

Appendix 1 – draft report to Wycombe District Council's Cabinet – 3rd February 2020

Appendix 2 – Site plan of proposed new cemetery

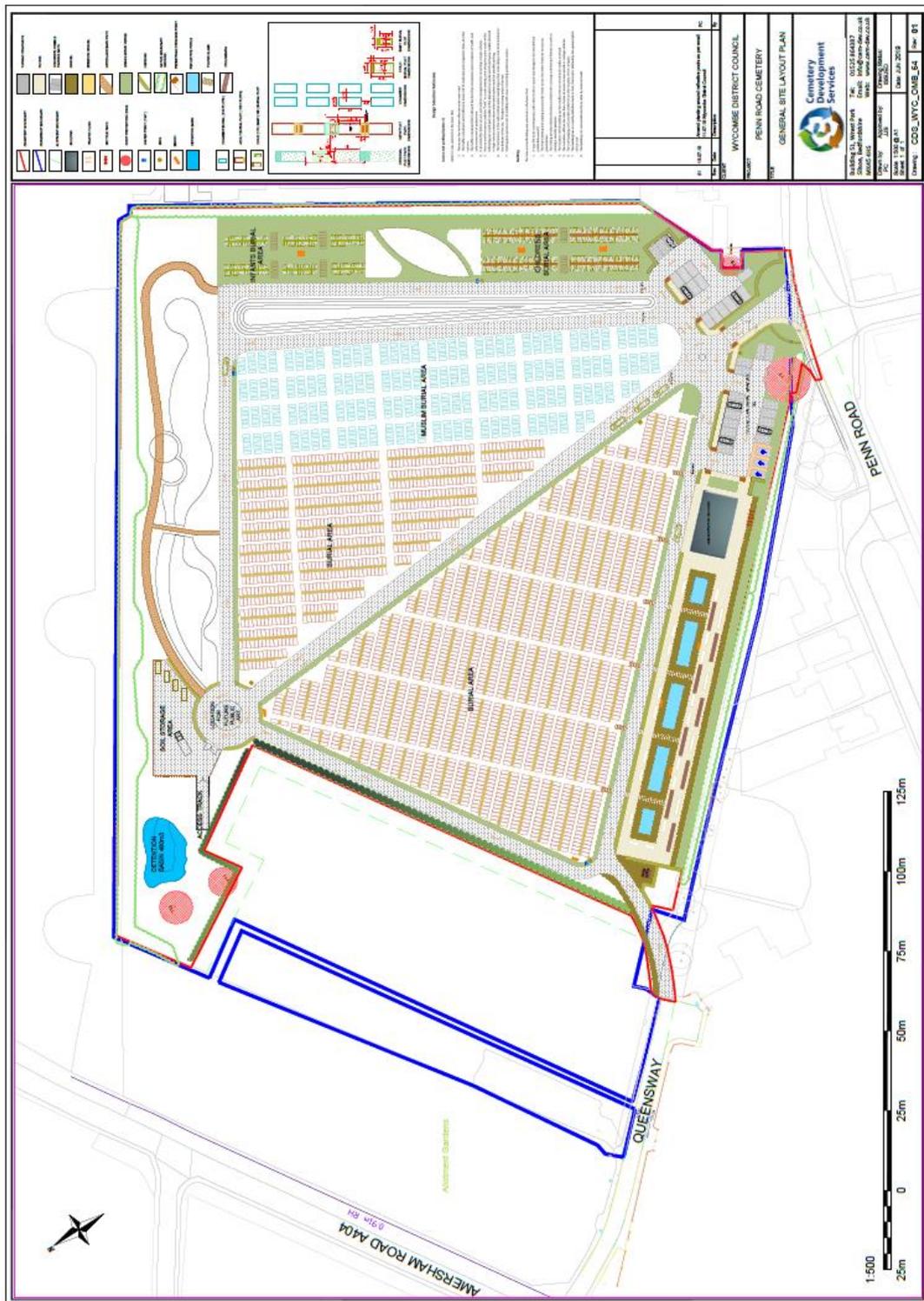
Appendix 3 – Equalities impact assessment

Background Papers	None
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Appendix 2

1. General Cemetery Site plan as agreed by Planning Sept 2019



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Report For:	Cabinet
Date of Meeting:	Cabinet 3 February 2020
Part:	Part 1 - Open

SUMMARY	
Title of Report:	NEW CEMETERY, PENN ROAD – REQUEST TO INCREASE THE PROJECT BUDGET AND FOR DELEGATED AUTHORITY TO ENTER INTO A BUILD CONTRACT.
Cabinet Member: Officer Contact: Direct Dial: Email:	Councillor Graham Peart Nigel Dicker 01494 423701 nigel.dicker@wycombe.gov.uk
Wards affected:	All High Wycombe Town unparished wards and Hazlemere South.
Reason for the Decision:	<p>Wycombe is running out of burial capacity, and the project is needed to meet the legal requirement to be able to provide burials in the High Wycombe Town area.</p> <p>WDC’s Cabinet approved an initial budget to build the new cemetery in March 2017 and was informed of a potential outturn cost of £1,679,790. The cost of the works has increased by £253,210 resulting in total revised cost of £1,993,000.</p> <p>Allocated funds to date and final required commitment are as follows: -</p> <p style="padding-left: 40px;">£404,000 SER commitment (March 2017) £886,000 CIL commitment to date £389,790 Acknowledged requirement (March 2017) <u>£253,210</u> Additional cost to be funded</p> <p>Total: £1,933,000 project cost</p> <p>Options for funding are either from: 1) CIL (in full or in part) 2) Loan from the Council or 3) Special Expenses Reserve (topped up with CIL).</p> <p>The project was granted full planning permission on 18th September 2019 and tenders for a build contract were returned in November 2019.</p> <p>Delegated authority is now requested to enter into the build contract for up to £1.933m to ensure final designs are concluded within the budget, without referring back to Cabinet.</p>

<p>Proposed Decision:</p>	<p>That:</p> <ul style="list-style-type: none"> (i) Cabinet agrees to enter into a build contract with the successful bidder to build the new cemetery at Penn Road, High Wycombe; (ii) delegated authority be granted to the Acting Chief Executive to agree and approve the contract and final designs and sign the build contract on behalf of WDC; (iii) Cabinet acknowledges and approves the increase in the cost of £253,210, resulting in total project cost of £1,933,000; (iv) the remaining funding of the project from the Special Expenses Reserve: £143k and CIL: £500k be agreed; and (v) the £50,000 annual maintenance cost of the new facility be built into the budget setting process.
<p>Sustainable Community Strategy/Council Priorities - Implications</p>	<p>Risk:</p> <ul style="list-style-type: none"> (i) Failing to proceed will risk Wycombe District Council not fulfilling its legal duty and obligation to provide burial areas for its residents within the district. (ii) Not giving delegated authority to enter into a build contract might delay delivery, resulting in increases to the current tender prices, received in November 2019. <p>Equalities:</p> <ul style="list-style-type: none"> (i) Section 149 of the Equality Act 2010 places a duty (“the public sector equality duty”) on the Council, in the exercise of its functions to eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act; to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and to foster good relations between persons who share a relevant protected characteristic and those who do not. One of the protected characteristics is religion or belief. (ii) An Equalities Impact Assessment describing steps taken to comply with this duty has been completed and is appended to this report for members to duly consider. (Appendix B)

	<p>Health & Safety:</p> <ul style="list-style-type: none"> (i) Surveys carried out include: topographical, ecological, environmental and geotechnical investigations on the proposed site to ensure it is safe and fit for purpose. (ii) A CDM officer has been appointed and a Pre-Construction CDM file has been prepared Oct 2019.
Monitoring Officer/ S.151 Officer Comments	<p>Monitoring Officer: Subject to procurement and decision making processes being followed, the Council has power under S111 of the Local Government Act 1972 to undertake the development described in this report.</p> <p>S.151 Officer: The remaining funding of £643k for this investment will be met from the special expense reserves and local CIL allocation for HWTC. The ongoing maintenance costs will need to be factored into the budget setting process.</p>
Consultees:	<p>Penn, Hazlemere, Hughenden & Chepping Wycombe Parish Councils.</p> <ul style="list-style-type: none"> (i) Statutory formal Public Consultation was carried out as part of the planning permission awarded for the Cemetery, in September 2019. (ii) Two public consultations were held on 16th and 25th October 2018 in Hazlemere and High Wycombe, when developing the cemetery designs.
Options:	Options for the location of new cemetery for High Wycombe were considered by HWTC in 4 March 2014. A final site was selected by HWTC on 23 rd June 2015.
Next Steps:	Sign off cemetery designs, award a building contract for the new cemetery, and start on site.
Background Papers:	<p>4 March 2014 HWTC New Cemetery options paper 23 June 2015 HWTC New Cemetery options paper 7 March 2017 HWTC New Cemetery funding paper 13 March 2017 WDC Cabinet paper new Cemetery Funding 4 February 2019 Cabinet Budget papers</p>
Abbreviations:	<p>HWTC High Wycombe Town Committee WDC – Wycombe District Council CIL – Community Infrastructure Level CDM – Construction Design Management</p>

Background and Issues

1.0 This report was considered by the High Wycombe Town Committee at its meeting on 21st January 2020 and it was agreed that the remaining funding of the project from the Special Expenses Reserve: £143k and CIL: £500k be authorised.

1.1 Background and Issues

1.2 Wycombe District Council is in need of more burial space so that it can continue to fulfil its obligation to provide burial areas for residents. Options for the cemetery location were considered in the HWTC paper in 2014, and a site was selected in 2015.

1.3 Designs were developed and a public consultation took place in October 2018. A further statutory public consultation was carried out in 2019 as part of the planning process, and planning permission was awarded for the new Penn Road Cemetery in September 2019. A general plan of the new cemetery can be found at Appendix A.

1.4 A competitive tender process was undertaken in November 2019 in order to select a contractor. This resulted in tender returns at circa 15% higher than the original budget requirement, set in March 2017. The cost of the project has increased from the estimated £1,679,790 to £1,933,000. The original budget was an estimate only, and the revised requirement reflects inflation between 2017 and 2019 and the current state of the market, i.e. actual costs quoted by bidders in tender returns. Permission is therefore now required to increase the overall project budget by £253,210.

1.5 In the March 2017, HWTC and WDC Cabinet approved the total project budget of £1,679,790. From this approved budget, the funding of phases 1 & 2 for £1,290,000 was agreed at the time. It was also agreed that the remaining funding for phase 3, of £389,790, would be approved at a future date.

1.6 Officers are therefore now seeking authorisation for the use of funds from the Special Expenses Reserve (SER) of £143k and for the use of CIL funding of £500k, to cover the remaining funding requirement for phase 3 and the additional costs revealed by the tendering exercise.

2.0 Revenue Costs

2.1 The new cemetery planning permission requires that *'maintenance arrangements are arranged and agreed before any works commence on site, that might otherwise be left unaccounted for'*. In time, the new cemetery will generate income and this will help offset the costs of burial services and maintenance. However, the March 2017 HWTC and WDC cabinet report noted that the new cemetery will generate a cost to Special Expenses Reserve. This includes grounds maintenance, overheads for buildings, maintenance costs, business rates, repairs, and renewals. With an adjustment for inflation, this additional annual revenue requirement is now estimated to be £50,000 and it is requested that this requirement is built into the budget setting process.

3.0 Conclusions

3.1 HWTC and WDC Cabinet are requested to agree the recommendations above to enable construction to start on the new cemetery at Penn Road.

Appendices:

Appendix A: Site Plan, Proposed Penn Road Cemetery.

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Equality Impact Assessment

Name of project/strategy/service being assessed	Proposed new Penn Road Cemetery – Queensway, Hazlemere	Cabinet meeting date <i>If applicable</i>	
Service area	Community Services	Date EIA created	04/07/16 Reviewed 20/12/19
Name of Completing Officer	Andy Sherwood		
Approved by Head of Service	Nigel Dicker	Date approved	

Equality Impact Assessments (EIA's) are designed to ensure that Wycombe District Council complies with all relevant legislation and fulfils its duty under the Public Sector Equality Duty (PSED). This comprises of three limbs which are set out in Section 149(1) of the Equality Act 2010. This requires that all public bodies, in the exercise of its functions, to have '**due regard**' to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Each service area has an Equality Champion (see the Equalities tab on WySpace for an up to date list). Please ensure that the relevant Champion is aware that an EIA is being undertaken as, if needed, your Equality Champion can provide advice and guidance on completing the EIA. Guidance on the completion of an EIA, along with information on the PSED and protected characteristics can be found in the documents section of the Equality page on WySpace (via the Corporate tab), along with a quick reference guide located here as Appendix 1.



Stage 1 – Initial Scope of the Equality Impact Assessment

Please answer the five questions below to determine whether a full EIA needs to be conducted.

Will the service/policy/strategy affect any people or groups of people directly (including staff/members of the public)?	Yes	Yes	No	
Will it affect how other services are provided?	Yes		No	No
Will it have employment implications?	Yes		No	No
Do you have information suggesting that this service/policy/strategy will affect particular groups of people?	Yes	Yes	No	
Do you need further information or to undertake further research to answer any of the above questions?	Yes		No	No

If the answer to any of the above is ‘yes’, then a full EIA will need to be carried out and Sections 2- 4 will need to be completed.

If the answer to all of the above is ‘no’ then a full EIA does not need to be carried out, but to ensure consistency in approach, the EIA will need to go through the Challenge Process. Then, if following the Challenge Process:

- a) it is agreed with the Policy Officer that no further stages need to be completed the Head of Service needs to approve the assessment and return a Word electronic copy to the Policy Officer for publication.

OR

- b) it is agreed with the Policy Officer that Stages 2 - 4 need to be completed, then the Head of Service will need to approve only once the full EIA is completed at which point a Word electronic copy should be returned to the Policy Officer for publication.



Stage 2 – Information Gathering/Data Collection

<p>What are the aims of the strategy/policy/procedure? Why is it necessary? What is it trying to achieve?</p>	<p>The creation of a new cemetery at Queensway in Hazlemere.</p> <p>The current cemetery within High Wycombe is close to reaching capacity. The children’s burial area will be full in approximately 3 to 4 years; non Church of England burials will reach capacity in 8 – 10 years and Church of England burials will be at full capacity in 15 – 18 years. There are on average a 150 burials a year at the current cemetery; this figure is likely to increase as the population increases within the High Wycombe Town Committee (HWTC) area over the next decade.</p> <p>The building of a new cemetery within Wycombe District will enable burials to take place within the District and is funded and supported by High Wycombe Town Committee. The new cemetery will, in the future, also feature designated columbaria enabling people to have a specific location to inter ashes.</p>
<p>Which aspects of the policy/strategy/procedure are relevant to equalities? NB A list of impacts is NOT required at this stage, just identify areas – can be a bullet point list.</p>	<p>New cemetery will impact on the following: Religion Age Disability</p>
<p>Identify the main data sources/information gathered e.g. Workforce reports, census data, staff survey etc.</p>	<p>Current burial rates at the cemetery in High Wycombe. Over the last two years (2018 & 2019) the average number of burial remains relatively constant at a 150 burials a year.</p> <p>Census (2011) and demographic data (including population forecasts provided by BCC in 2014) for Wycombe District area. The 2011 Census¹ showed that 171,644 people were resident within Wycombe District which is an increase of 6% since the last census (2001)¹.</p> <p>Buckinghamshire County Council published additional demographic work in 2015, and calculated that in 2014 the population of Wycombe District had increased to 174,878 people².</p>



WDC Equality Assessment form

people ● place ● pounds

	<p>In addition, they have projected that the population of Wycombe District is likely to increase to 186,500 people by 2025, an increase in the population of over 11,000 people in ten years.</p> <p>From the 2011 census data¹ – 57% of those who responded within Wycombe District identified as affiliated to the Christian religion (98,182 people). The size of the group who stated that they had no religious affiliation has increased by 64% since 2001, from 16% (25,279) to 24% (41,582) in 2011. Other religions accounted for 11% of the Wycombe District population in 2011 and those who did not state a religion accounted for 7%.</p> <p>The ethnic makeup of the district (according to the 2011 census¹) is 81% White British, Irish or European with the remaining 19% coming from a wide ethnic/ heritage base which includes, but is not limited to Pakistani, Black Caribbean, Chinese, Indian and Black African people, most of whom live in High Wycombe. 12% of people identified as either Asian, or Asian British (including Chinese); 3% of Wycombe residents identified as Black or Black British and 3% identified as having a Mixed or Multiple Ethnic Heritage. No other group comprise more than 1% of the total population.</p> <p>(¹ http://www.buckscc.gov.uk/community/research/2011-census-profiles/ & accessed 29th June 2016 & ² http://www.buckscc.gov.uk/media/2906123/Appendix-Projections-Dec2014-.pdf accessed 28th June 2016)</p>
<p>How have you engaged with service users/members of the public/staff? e.g. staff forums, consultations, questionnaires etc.</p>	<p>Planning permission was granted in Sept 2019. The permission included a consultation on the project and considerations on the design.</p>
<p>Is the responsibility for this strategy/policy/procedure shared with another service/organisation/agency?</p>	<p>The site shares boundaries with other local Parishes Councils: Hazlemere Parish Council, The Parish Council of Chepping Wycombe, The Parish Council of Penn & The Parish Council of Hughenden</p>
<p>Is further consultation/research or data collection planned or required? Is so, what is the aim of the research? Why is it needed?</p>	<p>Planning permission was agreed in Sept 2019.</p>



Stage 3 – Impact Assessment & Analysis

Areas to consider	Impact Identified Y/N	Description of impact and likelihood of occurrence (positive, negative, no impact; high/medium/low likelihood)
<p>Protected Characteristics (i.e. age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief, sex and sexual orientation)</p>	<p>Y</p>	<p>Age (Positive impact) – The current Snowdrop Burial garden is close to reaching capacity. Once this has reached capacity, there would be no designated area for baby and child burials within Wycombe District. Whilst, some such burials could be accommodated within the current main cemetery site, this would not be ideal. By building a new cemetery a separate designated area can be designed to enable an appropriate burial and memorial area for baby & child burials for people within the High Wycombe Town Committee area. This would enable local residents to have a local burial area, rather than being required to travel out of area (as would happen once the current cemetery has run out of space).</p> <p>In addition, the new Cemetery site is predominantly flat. This will enable ease of access for all people, but is something which older people may particularly find helpful when navigating the Cemetery.</p> <p>Disability (Positive impact) – the current cemetery within High Wycombe is set on a hill and the cemetery features steep slopes and terraced burials. Whilst the site is accessible, it can be difficult for people with limited mobility to access and visit particular grave sites. Whilst every effort is made to assist those with mobility requirements, some areas of the current cemetery are still difficult to access. In contrast, the new cemetery at Queensway is a mainly flat site. Considerations for those with limited mobility/disabilities will be incorporated into the design enabling people to access the majority of the site without restriction (including wheelchair accessible toilets, a flatter layout, and wheelchair accessible routes).</p>



WDC Equality Assessment form

people ● place ● pounds

		<p>Religion (Positive Impact) – Muslim burial spaces at the current cemetery will reach capacity within the next 8 – 10 years. Once capacity is reached, any additional Muslim burials would need to take place out of the High Wycombe Town Committee area which would not be ideal for local residents. The new cemetery at Queensway will have an allocated area for Muslim burials ensuring that the burial vaults are orientated correctly towards Mecca.</p> <p>In addition, burial spaces will be available for Church of England, Catholic and Jewish faiths which can be consecrated at time of burial as well as non-consecrated burial spaces. This will enable burials for people of all religions and faiths and those of no religion or faith.</p> <p>There will also be columbaria where people can inter the ashes of their loved ones should they wish to do so. This again can be used by people of all religions and faiths</p>
<p>Other relevant groups (E.g. low income, ex-armed forces personnel, homeless people etc.)</p>		<p>Low Income (Positive Impact) - the building of a new cemetery within the Wycombe District area should have a positive impact on people with low incomes. Once the current cemetery reaches capacity, residents would be required to travel out of the Wycombe District Council area for funerals and/or to visit burial plots. An out of area burial is also likely to incur additional non-resident fees. By providing a cemetery within the district, High Wycombe Town Committee is ensuring a local service is provided and that residents will only have to pay a resident burial fee rather than an out of area burial cost.</p>

NB. Please note that when considering impacts in relation to marriage & civil partnership - the duty is solely to ensure that there is no unlawful discrimination against this protected characteristic.



Stage 4 - Equalities Improvement Plan

Protected Characteristic/Other relevant groups	Impact Identified Y/N	Measures identified to reduce/mitigate impact (Also include all positive actions included in your proposals)	Review date	Review update/ monitoring comments	Officer/Service Responsible
Disability	Y	<p>Positive – ensure design of new cemetery is easily accessible to those with limited mobility/disability.</p> <p>Positive – ensure all signage and layout information is clean and simple.</p> <p>Positive – 2 x wheelchair accessible toilets could be provided.</p> <p>Positive – The design and number of car parking spaces at the new cemetery will create better parking conditions for those with disabilities.</p>			
Religion	Y	<p>Positive - design of the burial spaces will enable people to choose appropriate burial spaces:</p> <ul style="list-style-type: none"> • Muslim burial vaults appropriately orientated; • Burial spaces for those of Church of England/Catholic/Jewish faith which can be consecrated at time of interment; • Non-consecrated burial spaces for those of no religion or faith. 			



WDC Equality Assessment form

people ● place ● pounds

		In addition, interment of ashes within columbaria will also be available to all.			
Age	Y	Positive – the creation of a designated Children’s Burial area within the Cemetery will enable these burials to take place close to town. In addition, the design of this burial area will be separated enabling people to leave appropriate tributes to children & babies as required.			

Area of Consideration	How are/will we work to: (Also include all positive actions included in your proposals)	Review date	Review update/ monitoring comments	Officer/Service Responsible
Eliminate discrimination, harassment & victimisation	N/A			
Advance equality of opportunity	<ul style="list-style-type: none"> By offering different burial options (for different religious beliefs) High Wycombe Town Committee is ensuring that, as far as practically possible, people with differing faiths are able to inter their loved ones within the District. The aim is to ensure that the site is easily accessible to all people and that all information and signage regarding the cemetery will be clear and easy to read. 			
Promote good relations between groups (including community cohesion)	Within the scope of the cemetery, a woodland walk is being incorporated along one of the edges. It is hoped that the design of this			



WDC Equality Assessment form

people ● place ● pounds

	woodland walk will be enjoyed by local residents and users of the cemetery.			
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NB. Please note that when considering impacts in relation to marriage & civil partnership - the duty is solely to ensure that there is no unlawful discrimination against this protected characteristic.



Appendix 1 – Quick Reference Guide

For full guidance and further suggested reading please refer to documents located under the Corporate Equalities tab on WySpace. Documents include ‘Completing an Equality Impact Assessment.’ Below are a list of the key terms and definitions:

Protected Characteristics

There are 9 specified Protected Characteristics as listed below:

Age – to include all age groups.

Disability – a person is considered to have a disability if they have a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities. People with progressive illnesses such as cancer, multiple sclerosis (MS) and HIV are considered to be disabled from the point of diagnosis.

Gender Reassignment – any person, who has undergone, is undergoing or is considering gender reassignment. A person does not need to be seeing a doctor or under medical supervision to be covered by the Act.

Sex – both men and women are covered.

Maternity & pregnancy – the Act applies during a woman’s pregnancy and any statutory maternity leave.

Marriage & civil partnership – for both marriage and civil partnerships, the PSED only extends to ensuring that due regard is given in relation to eliminating discrimination.

Race - this includes all ethnicities, races, colours, national origins as well as nationalities. This includes Roma & Traveller communities as well as refugees/migrants.

Religion and belief (including no belief) – Religion refers to any religion with a defined structure and belief system. Belief refers to any religious or philosophical belief. The Act also provides protection for those with no belief (e.g. agnostic/atheist).

Sexual Orientation - the Act protects heterosexual, homosexual and bisexual people.



Types of Discrimination

Direct Discrimination occurs when a person in the same situation as others is treated less favourably because of a protected characteristic they have (or are thought to have – perceptive discrimination) e.g. their age, race, sex etc.

Indirect Discrimination occurs when a condition or requirement, although applied equally, excludes, penalises or treats a person less favourably because of their race, disability etc.

Institutional Discrimination is the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin (taken from the *MacPherson Report, 1999*).

Harassment is defined in the Equality Act as ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual.’ In deciding whether harassment has occurred the following must be considered; the perception of the person; the other circumstances of the case and whether it reasonable for the conduct to have that effect.

Victimisation is defined in the Equality Act as treating someone badly because they have done (or you believe they are going to do) a protected act. These include making a complaint of discrimination and helping someone else make a claim. NB The less favourable treatment does not need to be linked to a protected characteristic.

Associative Discrimination - This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.



Quick Guide to the Stages

Stage 1

The questions in this section are there to help you decide whether a full EIA should be undertaken. The questions should also help you to decide whether you have all the relevant information needed and if not, what further data/research is required to continue with the EIA.

Stage 2

Stage 2 is to help you consider the policy/strategy/service under assessment, analyse the data available, highlight areas requiring further research as well as encourage you to consider how equalities (across all strands and including community cohesion) is, in broad terms, relevant and/or impacted by this policy.

Stage 3

Within Stage 3, all protected characteristics should be considered and the Officer should consider each group individually to see if the policy/strategy/service will have an impact. Additionally, the Officer must consider whether there will be any impact to other relevant groups such as those on a low income, ex-armed forces personnel, and homeless people. It is important that **active consideration and thought** are given to ensure that all possible impacts (negative, positive and no impact) are considered and thought is given to the likelihood of these impacts occurring.

Stage 4

Stage 4 comprises of two action plan tables. In the first table any impacts identified in Stage 3, need to be considered and the steps/actions that are to be taken to mitigate or reduce these impacts, or if positive impacts are required and necessary how these are to be sustained, are to be documented. In addition, the second table requires Officers to consider how the policy/strategy/service under assessment will impact on any of the three main PSED duties and what positive steps could be taken.

These steps need to be concise, measureable and have a realistic timeframe for completion alongside the name of the Officer and service responsible for the action plans. Additionally, there is a requirement for a review date and space for updates to be input into this table to show continuous monitoring and action planning in relation to the required steps.

Continuous monitoring and improvement can include consideration of how actions implemented will be measured, how any results will be analysed and over what time period will the actions/results be reviewed.

Report for:	Shadow Executive
Meeting Date:	28 January 2020

Title of Report:	Buckinghamshire Unitary Council Programme Update
Shadow Portfolio Holder	Councillor Martin Tett
Responsible Officer	Rachael Shimmin, Interim Head of Paid Service, Chief Executive Buckinghamshire Council, Chief Executive Buckinghamshire County Council
Report Author Officer Contact:	Roger Goodes, Programme Manager 01296 674486; rgoodes@buckscc.gov.uk
Recommendations:	That the update is noted
Corporate Implications:	n/a
Options: (If any)	n/a
Reason:	This report provides an update on the progress made with the programme to establish the new unitary council for Buckinghamshire.

Introduction

1. This report provides an update on the progress made with the programme to establish the new unitary council for Buckinghamshire.

Overview

2. Following the appointment of the Corporate Directors, appointments have now been made to the Service Directors positions and work is now progressing to finalise the alignment of staff under the new Service areas. A search is currently being undertaken to appoint to the Corporate Director Resources role, final interviews for this post are expected to take place in March.
3. A set of employee values have also been agreed together with underlying behaviours. These will be linked to the OD strategy and rolled out to staff within the new organisation.
4. Members have agreed new Customer Services standards and a Complaints, Compliments & Comments policy. They have also agreed 16 Community Boards following an extensive public consultation. Work is now progressing on a Town and

Parish Council charter which will shape the future relationship between the new council and town and parish councils.

5. Members have been working to finalise a budget for the new council which will be agreed by the Shadow Authority when it meets in February. This has included a series of challenge sessions with members of Overview and Scrutiny.
6. Members have also agreed that the new council will be members of the Buckinghamshire Local Enterprise Partnership (BLEP) and that Aylesbury Vale District Council will withdraw from the South East Midlands Local Enterprise Partnership (SEMLEP).
7. We have also confirmed with Members the arrangements for the Interregnum period (1st April 2020 to 11th May 2020).

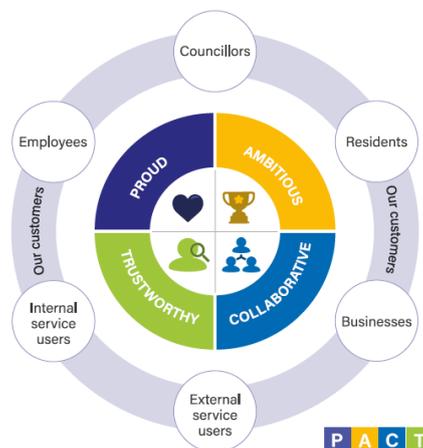
Organisational Structure

8. Following an internal open recruitment exercise we have now recruited to the majority of Service Director roles in our new council structure. These roles will support the corporate management team to create the foundations for the new council and work with their services and teams to get ready for April this year.
9. Out of the 34 Corporate and Service Director roles five (14%) remain vacant and are being actively recruited for externally. The vacant posts are listed below:
 - Corporate Director Resources
 - Service Director Legal and Democratic Services
 - Service Director Adult Social Care
 - Service Director Integrated Commissioning
 - Service Director Education
10. Details of the new Corporate and Service Directors are attached at Appendix A.
11. In addition to these appointments, Joe O'Sullivan, appointed as the Corporate Director Resources for the new Buckinghamshire Council, has left the council.
12. We have now started the recruitment to this post which will conclude early in March 2020. As an interim arrangement, Neil Gibson (currently the county council Executive Director for Transport, Environment and Economy) will work in a caretaking role as the Executive Director for Resources for the county council and for the Resources Unitary Programme Board. Sarah Ashmead (Deputy Chief Executive) will also attend the Resources Board for transition to ensure continuity.
13. In February the new Service Directors will undertake a series of staff meetings with staff who have been aligned to their service areas. These meetings will be important to reassure staff and to start to think about some of the practical arrangements required for 1st April 2020. By 1st April all staff will have a clearly identified Service Director and where appointments have not yet been made will be clear about the Acting Service Director arrangements. Service Directors will also be asked to complete a day 1 planning template to identify how their service will operate, and

ensure we have captured any remaining issues. The information captured will also be used to develop the Service Plan which will sit underneath the new Council Plan.

Progress

14. We currently have 116 individual 'must haves' which we are working on. Of these 26 have been closed and 11 are identified as 'amber' due to spillage deliverables. None however are at this stage at risk of non-delivery. One of the main issues we are looking to manage is the number scheduled to be delivered in March, this currently stands at 37. Many of these have to occur then as they are linked to the date the new council is established, others however we are looking to bring forward.
15. The Shadow Executive has recently agreed 16 Community Boards as part of the new council's localism arrangements. This followed an extensive consultation which attracted over 520 responses.
16. This was the final strand of the three key themes of our localism work following agreement to 17 customer access points and our devolution offer.
17. We are also finalising a Town and Parish Council Charter which will help develop our future relationship with these organisations. This has been developed with the help of representatives of town and parish councils.
18. Members have agreed a set of organisational values which we will shape our work with employees to create a new culture. These are Proud, Ambitious, Collaborative and Trustworthy (PACT). These are illustrated below.



19. Work on the Council Plan has also progressed and was considered by the Shadow Executive at their formal meeting on 7th January. At the same meeting Members considered the new Council's budget. Following this Overview and Scrutiny have held a series of public budget challenge sessions. Their feedback will then be considered by the Shadow Authority when it meets to agree the budget on 27th February 2020.
20. Work on the new constitution is progressing with a draft constitution now written. As part of this Members have agreed the structure for planning and licensing committees

in the new council. The constitution will also be agreed at the Shadow Authority meeting in February.

21. Other decisions made by Members recently include a new set of customer service standards and a new Complaints, Compliments & Comments policy. We are now developing a comprehensive training plan to ensure all appropriate staff are prepared for when the council comes into force.
22. Members have also agreed that the new council will only be a member of the Buckinghamshire LEP and that Aylesbury Vale District Council will withdraw from the South East Midlands Local Enterprise Partnership (SEMLEP). A letter confirming this arrangement has now been sent to MHCLG and the Department for Business, Energy & Industrial Strategy.
23. We are planning some testing of our day one plans with our critical friend Ameo. At the end of January/early February they will be carrying out a number of reviews on key service areas to ensure we have robust plans in place.
24. We will also starting to consider how we will prioritise and develop service improvement plans which we will be working on once the new council has been established.
25. Finally the elections teams across the county ran a very successful general election last month and are now planning for the new council election in May 2020. At this time we will also be running the election for town and parish councils and the Police and Crime Commissioner.

Members

26. The Overview and Scrutiny Committee met in November and discussed the draft Council Plan, programme communications and general progress on the programme.
27. Earlier this month the Scrutiny Budget Task and Finish Group met over four days in public to review the proposed budget with members of the Shadow Executive and senior officers. Following these meetings Overview and Scrutiny will provide feedback for the consideration by the Shadow Authority when it meets to agree the budget on 27th February 2020.
28. The Shadow Executive has recently discussed and agreed the arrangements for the Interregnum period (1st April 2020 to 11th May 2020). These are based on very practical arrangements using existing committee arrangements where these committees need to meet during this period.

Communications

29. We are developing our day one communications plan. Branding guidelines have been agreed and we will be introducing the new brand as part of these communications. Members can therefore expect to see the new brand appearing over the coming months in the run up to April. The plan is to raise awareness of the new council with a particular focus on residents and other service users.

- 30. The next series of staff roadshows are planned for January and February which will include members of the new Corporate Management Team.
- 31. We are also undertaking a staff and Members' survey to understand what more we can do to improve communications to these groups, as well as a health and wellbeing survey of our staff.
- 32. Subject to Members' support we also plan to introduce a new residents' magazine in May once the new council is established. This will be issued three times a year and will be delivered to every household in the county. This will be part of our plan to engage with residents about the new council.

Summary/Conclusions

- 33. We remain confident that we are on track for April next year, with just over 60 days to go until Vesting Day our focus is now on looking at the operational arrangements for day one and to start to think about our improvement programme once the new council is established.

Background Papers	None
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Appendix A – Corporate and Service Directors

Deputy Chief Executive senior management team

- Corporate Director – Sarah Ashmead
- Service Director Localities and Strategic Partnerships – Claire Hawkes
- Service Director Policy and Communications – Roger Goodes
- Service Director Service Improvement – Joanna Baschnonga
- Service Director Legal and Democratic Services – *Vacant*

Resources senior management team

- Corporate Director – *Vacant*
- Service Director HR and OD – Sarah Murphy-Brookman
- Service Director ICT – Tony Ellis
- Service Director Service Finance – David Skinner
- Service Director Business Operations – Lloyd Jeffries
- Service Director Corporate Finance – Richard Ambrose
- Joint Strategic Director, Information Assets and Digital Development – Balvinder Heran

Planning, Growth and Sustainability senior management team

- Corporate Director – Ian Thompson
- Service Director Economic Growth and Regeneration – Lisa Michelson
- Service Director Planning and Environment – Steve Bambrick
- Service Director Property and Assets – John Reed
- Service Director Strategic Transport and Infrastructure – Joan Hancox

Communities senior management team

- Corporate Director – Richard Barker
- Service Director Culture, Sport and Leisure – Sophie Payne
- Service Director Transport Services – Sara Turnbull
- Service Director Neighbourhood Services – Martin Dickman
- Service Director Highways and Technical Services – Rob Smith

Adults, Health and Housing senior management team

- Corporate Director – Gill Quinton
- Service Director Quality Performance and Standards – Jenny McAteer
- Service Director Public Health and Early Prevention – Jane O’Grady
- Service Director Housing and Regulatory Service – Nigel Dicker
- Service Director Adult Social Care – *Vacant*
- Service Director Integrated Commissioning – *Vacant*

Children’s Services senior management team

- Corporate Director – Tolis Vouyioukas
- Service Director Children’s Social Care – Richard Nash
- Service Director Education – *Vacant*