

Council Offices
Argyle Road
Sevenoaks
Kent
TN13 1HG



Despatched: 17.02.20

I hereby summon you to attend the meeting of the Sevenoaks District Council to be held in the Council Chamber, Council Offices, Argyle Road, Sevenoaks commencing at 7.00 pm on 25 February 2020 to transact the under-mentioned business.

Chief Executive

AGENDA

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

Apologies for absence

1. To approve as a correct record the minutes of the meeting of the Council held on 19 November 2019. (Pages 1 - 6)
2. To receive any declarations of interest not included in the register of interest from Members in respect of items of business included on the agenda for this meeting.
3. Chairman's Announcements.
4. To receive any questions from members of the public under paragraph 17 of Part 2 (The Council and District Council Members) of the Constitution.
5. To receive any petitions submitted by members of the public under paragraph 18 of Part 2 (The Council and District Council Members) of the Constitution:
 - a) Petition for SDC to compulsorily purchase the site of the former farmers public house. (Pages 7 - 8)
6. Matters considered by the Cabinet and/or Scrutiny Committee:
 - a) Calculation of Council Tax Base and other tax setting issues. (Pages 9 - 18)

- b) Treasury Management Strategy 2020/21 (Pages 19 - 70)
 - c) Capital Strategy 2020/21. (Pages 71 - 82)
 - d) Budget and Council Tax Setting 2020/21. (Pages 83 - 154)
 - e) Property Investment Strategy Update. (Pages 155 - 176)
7. Matters considered by other standing committees:
- a) Licensing Act 2003 - Statement of Licensing Policy. (Pages 177 - 230)
 - b) Sexual Establishments - Statement of Licensing Policy. (Pages 231 - 278)
 - c) Statement of Hackney Carriage & Private Hire Policy. (Pages 279 - 376)
 - d) Monitoring Officer's Annual Report. (Pages 377 - 396)
8. To consider the following reports from the Chief Executive or other Chief Officers on matters requiring the attention of Council:
- a) Pay Policy Statement. (Pages 397 - 408)
9. To consider any questions by Members under paragraph 19.3 of Part 2 (The Council and District Council Members) of the Constitution, notice of which have been duly given. (Pages 409 - 410)
10. To consider any motions by Members under paragraph 20 of Part 2 (The Council and District Council Members) of the Constitution, notice of which have been duly given.
11. To receive the report of the Leader of the Council on the work of the Cabinet since the last Council meeting. (Pages 411 - 414)

EXEMPT ITEMS

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Contact Officer named on a report prior to the day of the meeting.

COUNCIL

Minutes of the meeting held on 19 November 2019 commencing at 7.00 pm

Present: Cllr. Edwards-Winser (Chairman)

Cllr. Esler (Vice Chairman)

Cllrs. Abraham, Andrews, Bayley, Ball, Barnes, Barnett, Dr. Canet, Carroll, Cheeseman, Clack, Clayton, Penny Cole, Perry Cole, Coleman, Collins, G. Darrington, P. Darrington, Dickins, Dyball, Eyre, Fleming, Foster, Fothergill, Griffiths, Hudson, Hunter, Kitchener, Layland, London, Maskell, McArthur, McGarvey, McGregor, Harrison, Mrs. Morris, Osborne-Jackson, Parkin, Pearsall, Pender, Piper, Purves, Raikes, Reay, Roy, Thornton and Waterton

Apologies for absence were received from Cllrs. Brown, Firth, Grint, Hogarth, Pett and Williamson

26. To approve as a correct record the minutes of the meeting of the Council held on 23 July 2019

Resolved: That the Minutes of the meeting of the Council held on 23 July 2019, be approved and signed as a correct record.

27. To receive any declarations of interest not included in the register of interest from Members in respect of items of business included on the agenda for this meeting

No additional declarations of interest were received.

28. Chairman's Announcements

The Chairman announced that in September he had hosted a charity wine tasting evening and tour at the Mount Shoreham, which highlighted a local business in the district. The event was well supported by Mayors and Chairman from Kent and Surrey and colleagues which raised £570 for Demelza. On 24 November 2019, he would be hosting a charity curry lunch at the Rajdani in West Kingsdown which looked like it would be another successful event with nearly all 100 tickets sold.

The Chairman reported that since the last meeting in June, he and the Vice Chairman had attended over 100 community events within the district. The Council joined in with fundraising for Children in Need on Friday 15 November and he had been invited to judge the bake off entries, and fancy dress, which raised over £600.

The next 'Run, walk or push against Dementia' event was taking place on 10 May 2020, and encouraged everyone to sign up to take part. The Big Sing would also be taking place on 4 May 2020, and groups had until 28 February to register.

Finally, the Chairman announced exciting news that the Council was finalists in two categories in the Investors in People Awards. The first was for Investors in People Platinum Organisation of the Year and Leader of the Year for the Council's Chief Executive, Dr. Pav Ramewal.

29. To receive any questions from members of the public under paragraph 17 of Part 2 (The Council and District Council Members) of the Constitution.

No questions had been received.

30. To receive any petitions submitted by members of the public under paragraph 18 of Part 2 (The Council and District Council Members) of the Constitution.

No petitions had been received.

31. Matters considered by the Cabinet

- (a) Christmas Parking 2019

Councillor Fleming moved and Cllr Dyball seconded the recommendation from Cabinet, which sought funding for free parking to be provided for two weekends leading up to Christmas, on Saturdays and Sundays, 14 & 15 and 21 & 22 December 2019.

Resolved: That the cost in terms of loss of income for free Christmas parking be met from Supplementary Estimates.

32. Matters considered by other standing committees

- (a) Review of Polling Districts, Polling Places and Polling Stations

Councillor Eyre moved and Councillor Pearsall seconded the recommendation from Governance Committee. The report sought approval for minor adjustments to a Polling District and polling places.

Councillor Eyre spoke to the motion stating that all district councils were required by law to complete a review of polling districts and places every 5 years. Supporting responses were received from Acting Returning Officers for the Parliamentary constituencies representing Sevenoaks District Council and 11 further consultation responses were received. As a result of feedback and submissions some changes to polling places were recommended and agreed at the Governance Committee.

Some Members disagreed with the recommendation as some residents were disadvantaged and had to travel a long way to the polling station. Members

discussed that this could happen where ever the polling station was located and there was the opportunity to elect for a postal vote.

Resolved: That

- a) the minor adjustment to the boundary between polling districts BZ (Lower St. John's) and CC (Upper St. John's), be agreed
- b) all other polling district boundaries be retained and unchanged; and
- c) the proposed polling places as set out in Appendix C to the report be agreed.

(b) Report of the 'Chairman Role' Working Group

Councillor Eyre moved and Councillor Pearsall seconded the recommendation from Governance Committee. The report sought for the adoption of the working group recommendations.

Resolved: That

- a) the report of the Members working group and its recommendations be noted;
- b) the Member working group recommendations be adopted subject to any necessary growth item being approved through the formal budget-making progress; and
- c) any recommendations for growth be referred to the next meeting of the Finance Advisory Committee for consideration.

(c) To approve the minutes of the Appointments Committee held on 7 November 2019

Councillor Fleming moved and Cllr Dyball seconded that the Minutes of the Appointments Committee held on 7 November 2019, be agreed and signed by the Chairman as a correct record.

Resolved: That the Minutes of the Appointments Committee held on 7 November 2019, be agreed and signed by the Chairman as a correct record.

33. To consider the following reports from the Chief Executive or other Chief Officers on matters requiring the attention of Council:

(a) Net Zero Report

Councillor Fleming moved and Councillor Dickins seconded the report which sought the agreement of the Council's aspiration to reach Net Zero by 2030.

The Leader spoke to the motion stating that the Council was a forward thinking authority which led by example for implementing policies which improved the District and embraced innovation and therefore the Council would unambiguously commit to working towards Net Zero 2030 and set out two stages to achieve this. Stage 1 would be the actions for the Council to fully to move to Net Zero 2030 by the undertaking of the immediate actions and commitments and stage 2 would be the actions and commitments to be further investigated by the working group.

Councillor Kitchener moved and it was seconded to establish an additional cross party task and finish group.

Councillor Fleming responded that he was committed to take the Net Zero 2030 forward working across the parties once the Terms of Reference had been established by Cabinet.

The motion was put to the vote and it was lost.

Members discussed the report and welcomed the commitment to achieve net zero by 2030. Members discussed some of the actions suggested in the report and if some of the actions and commitments could be developed further. Councillor Fleming advised that the actions set out were deliverable ideas and initiatives that could be undertaken by the Council, however until there were changes within the National were planning system the Council could only do what was permitted by law but the local planning policies can be changed within the Council's control. The Council would lead the way for long term change with practical solutions.

Resolved: That

- a) the aspiration to reach Net Zero by 2030 be endorsed; and
 - b) it be recommended to Cabinet to develop an action plan to support the delivery of the proposed staged actions in support of Net Zero 2030.
- (b) Draft Calendar of Meetings 2020/21

Councillor Fleming proposed and Councillor Dickins seconded the report which sought approval for the draft calendar of meetings 2020/21.

Resolved: That the draft calendar of meetings for 2020/21 be approved subject to formal adoption at the Annual Meeting on Council on 12 May 2020.

34. To consider any questions by Members under paragraph 19.3 of Part 2 (The Council and District Council Members) of the Constitution, notice of which have been duly given.

Two questions had been received from two Members in accordance with paragraph 19.3 of Part 2 (The Council and District Council Members) of the Constitution.

Question 1: Cllr Clayton

“What consultation has Sevenoaks District Council taken in preparing its response to the Climate Emergency declared by National Government and KCC, and will the District Council support and promote the measures identified in more local initiatives such as the Sevenoaks Neighbourhood Plan and the Otford Neighbourhood and Traffic Plans which aim to bring together action closer to individual communities?”

Response: Leader of the Council

Appendices A and B to the Net Zero report set out the direction of the Council. A Green Summit in spring/summer 2020 would bring together groups, organisations, companies and experts to engage and inspire residents. The Local Plan, Neighbourhood plans and environmental plans would all be considered for the district.

No supplementary question was asked.

In accordance with the Constitution, no further discussion was allowed.

Question 2: Cllr Dr Canet

“What measures can this Council action to encourage the development of diverse housing for the needs of residents? Particularly, suitable housing for older private owner residents to enable them to manage the extra needs of their increasing age, without the necessity of being in a care home?”

Response: Leader of the Council

The majority of older people had expressed the desire to continue to live independently as they aged, as reflected within the Local Housing Needs Study, Strategic Housing Market Assessment, the Council’s latest Housing Strategy and latest Draft Local Plan. A Key aim was to enable the delivery of smaller housing that was well designed with older age and accessibility in mind and which people would be better abled and more willing to downsize to in the future.

Housing that was designed to the Lifetime Homes Standard would be convenient for most, without the necessity for substantial alterations. A lifetime home would meet the requirements of a wide range of households, and was helpful to everyone in ordinary daily life. Policy SP5 of the Core Strategy specifies the District Council would seek homes that meet the Lifetime Homes Standard (now Building Regulation Part M4(2)). Bellway and West Kent Housing Association were fully compliant with his request.

42 properties in Oakley Park, Edenbridge were all built to the Lifetime Homes Standard’ and future work will involve looking at mobile home parks across the District.

No supplementary question was asked.

In accordance with the Constitution, no further discussion was allowed.

35. To consider any motions by Members under paragraph 20 of Part 2 (The Council and District Council Members) of the Constitution, notice of which have been duly given.

No motions had been received.

36. To receive the report of the Leader of the Council on the work of the Cabinet since the last Council meeting.

The Leader of the Council reported on the work that he and the Cabinet had undertaken in the period 8 July to 1 November 2019.

In response to a question, the Leader confirmed that other Councils with the exception of those with transport in their remit, were currently not progressing with climate change policies.

THE MEETING WAS CONCLUDED AT 8.04 PM

CHAIRMAN

**PETITIONS FROM MEMBERS OF THE PUBLIC - PETITION FOR SDC TO
COMPULSORILY PURCHASE THE SITE OF THE FORMER FARMERS PUBLIC HOUSE**

Council - 25 February 2020

Report of	Chief Officer Customer & Resources
Status	For Consideration
Key Decision	No

Recommendation to Council: That, in accordance with the Council's Petition Scheme, the Council consider the petition submitted by the lead petitioner John Stabollouian, on 18 June 2015 and determine any action that it wishes to take in response.

Introduction and Background

1 The lead petitioner John Stabollouian has submitted a petition with 1463 signatures in the following terms:

'We the undersigned petition the council to make a Compulsory Purchase Order to enable the District Council to acquire the site of the former Farmers public house opposite the Sevenoaks Railway Station on London Road so as to bring it into productive use at an early date with a residential development which includes affordable housing.

Permission was first given in 2005 on appeal for the demolition of the Farmers, a much loved local pub, and the construction of 23 flats and maisonettes. In 2015 a second permission was given, again on appeal, for a revised scheme, the construction of 39 flats together with retail units on the ground floor. During all that time the site has lain as it remains today, unused and unkempt, an eyesore surrounded by scruffy hoardings contributing no rates or Council Tax.

It is time for the Council to follow up what they have said in the Local Plan about getting vacant sites into development and act to put an end to this eyesore. In collaboration with the right development partner or housing association much needed homes could be provided on this site including an element of affordable housing.'

2 This ePetition and concurrent paper petition ran from 24/09/2019 to 24/01/2020 and has now finished.

The Council's Petition Scheme

- 3 The Council's Petitions Scheme provides for petitions containing more than 1,000 signatures to be debated at full Council and also that petitions which relate to an issue which affects a particular area of the District and have a significant level of support from people who live, work or study in that area are also likely to be debated at a full Council meeting.
- 4 The Council can take whatever action it deems appropriate to respond to the petition which could include referring the petition to Cabinet or any council committee, to commission further investigation or to take no action at all for reasons put forward in the debate.

Key Implications

Financial

Any financial implications would depend any action taken.

Legal Implications and Risk Assessment Statement.

None directly arising from this report.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users

Conclusions

The Council is asked to consider the petition and to determine what action it wishes to take in response.

Appendices

None

Background Papers

[Sevenoaks District Council Constitution](#): Appendix Y - Petition Scheme

[Petition for SDC to compulsorily purchase the site of the former Farmers public house](#)

Jim Carrington-West

Chief Officer Customer Resources

Item 6 (a) - Calculation of Council Tax Base and other Tax Setting Issues

The attached report was considered by the Cabinet, and the relevant minute extract is below:

Cabinet (Minute 50, 9 January 2020)

The Finance and Investment Portfolio Holder presented the report which set out details of the calculation of the District’s tax base for council tax setting purposes. These figures are used to determine tax rates for each of the council tax bands once the Council’s budget requirement is known. The report set out that the tax base for 2020/21 would be 51,207.88, an increase of 0.86%. A collection rate of 99.4% had been included which was the same as the rate used in 2019/20.

The Principal Accountant set out the report and also advised Members of the timetable for setting the 2020/21 council tax. He explained that the major precepting authorities’ Council Taxes should be known in advance of Council setting the tax for the whole District on 25 February 2020.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that

- a) the report of the Chief Officer Finance & Trading for the calculation of the Council’s tax base for the year 2020/21 be approved;
- b) pursuant to the report of the Chief Officer Finance & Trading and in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) the amount calculated by the Sevenoaks District Council as its council tax base for the whole area for the year 2020/21 shall be 51,207.88;
- c) pursuant to the report of the Chief Officer Finance & Trading and in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) the amount calculated by the Sevenoaks District Council as the council tax base for 2020/21 for the calculation of local precepts shall be:

<u>Parish</u>	<u>Tax Base</u>
Ash-cum-Ridley	2,459.75
Badgers Mount	334.98
Brasted	778.10

Agenda Item 6a

Chevening	1,456.01
Chiddingstone	604.75
Cowden	449.88
Crockenhill	659.12
Dunton Green	1,321.92
Edenbridge	3,697.28
Eynsford	948.87
Farningham	666.28
Fawkham	292.04
Halstead	778.40
Hartley	2,556.57
Hever	620.75
Hextable	1,698.15
Horton Kirby & South Darent	1,302.24
Kemsing	1,853.31
Knockholt	634.27
Leigh	961.50
Otford	1,720.71
Penshurst	837.74
Riverhead	1,247.77
Seal	1,303.53
Sevenoaks Town	9,690.61
Sevenoaks Weald	617.77
Shoreham	683.97
Sundridge	937.54
Swanley	5,663.91
Westerham	2,066.03
West Kingsdown	2,364.13

- d) any expenses incurred by the Council in performing in part of its area a function performed elsewhere in its area by a parish or community council or the chairman of a parish meeting shall not be treated as special expenses for the purposes of section 35 of the Local Government Finance Act 1992.

CALCULATION OF COUNCIL TAX BASE AND OTHER TAX SETTING ISSUES

Council - 25 February 2020

Report of the: Chief Officer Finance & Trading

Status: For Decision

Also considered by: Cabinet - 9 January 2020

Key Decision: No

Executive Summary:

This report sets out details of the calculation of the District’s tax base for council tax setting purposes. These figures are used to determine tax rates for each of the council tax bands once the Council’s budget requirement is known. The report also advises Members of the timetable for setting the 2020/21 council tax.

This report supports the Key Aim of efficient management of the Council’s resources.

Portfolio Holder Cllr. Matthew Dickins

Contact Officer Roy Parsons, Principal Accountant - Ext 7204

Recommendation to Cabinet: That it be recommended to Council that:

- (a) the report of the Chief Officer Finance & Trading for the calculation of the Council’s tax base for the year 2020/21 be approved;
- (b) pursuant to the report of the Chief Officer Finance & Trading and in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) the amount calculated by the Sevenoaks District Council as its council tax base for the whole area for the year 2020/21 shall be 51,207.88;
- (c) pursuant to the report of the Chief Officer Finance & Trading and in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended) the amount calculated by the Sevenoaks District Council as the council tax base for 2020/21 for the calculation of local precepts shall be:

<u>Parish</u>	<u>Tax Base</u>
Ash-cum-Ridley	2,459.75
Badgers Mount	334.98

Agenda Item 6a

Brasted	778.10
Chevening	1,456.01
Chiddingstone	604.75
Cowden	449.88
Crockenhill	659.12
Dunton Green	1,321.92
Edenbridge	3,697.28
Eynsford	948.87
Farningham	666.28
Fawkham	292.04
Halstead	778.40
Hartley	2,556.57
Hever	620.75
Hextable	1,698.15
Horton Kirby & South Darenth	1,302.24
Kemsing	1,853.31
Knockholt	634.27
Leigh	961.50
Otford	1,720.71
Penshurst	837.74
Riverhead	1,247.77
Seal	1,303.53
Sevenoaks Town	9,690.61
Sevenoaks Weald	617.77
Shoreham	683.97
Sundridge	937.54
Swanley	5,663.91
Westerham	2,066.03
West Kingsdown	2,364.13

- (d) any expenses incurred by the Council in performing in part of its area a function performed elsewhere in its area by a parish or community council or the chairman of a parish meeting shall not be treated as special expenses for the purposes of section 35 of the Local Government Finance Act 1992.

Recommendation to Council: That the various calculations detailed above be approved.

Reason for recommendations: As part of the tax setting process for 2020/21, the Council needs to formally approve the tax base at individual town and parish level as well as for the District as a whole.

Introduction and Background

- 1 The Local Authorities (Calculation of Council Tax Base) Regulations 1992, made under powers of the Local Government Finance Act 1992, specify formulae for calculating the council tax base which must be set between 1 December and 31 January.
- 2 The council tax base is a measure of the number of dwellings to which council tax is chargeable in an area or part of an area. It is used for the purposes of calculating a billing authority's and other precepting authorities' band D council tax.
- 3 Under the regulations, the council tax base is the aggregate of the relevant amounts calculated for each valuation band multiplied by the Council's estimated collection rate for the year.
- 4 The Council is required to calculate a tax base figure for the Ministry of Housing Communities & Local Government (MHCLG). This is based on the valuation list as at 9 September 2019 and occupancy information at 7 October 2019. The tax base for tax setting purposes is based on information available in December 2019. In addition, other factors may be taken into account to reflect likely changes to the tax base during 2020/21. These factors include:-
 - An allowance for changes in the amount of disabled relief
 - An allowance for changes in the number of exempt properties
 - An estimate of the number of new properties liable to council tax
 - An estimate of the number of properties ceasing to be liable to council tax
 - An allowance for changes in the number of single person discounts
 - An allowance for the effect of appeals by taxpayers on the banding of their properties
- 5 It has always been the practice to assume that these items will be self-balancing and hence no adjustment to the overall tax base was made other than the usual allowance for non-collection. Over the last few years the tax base has been rising due to new properties being built.

Detailed Tax Base Calculations

- 6 The current year’s tax base calculation assumes a 99.4% collection rate, which also allows for some movement in the items mentioned in Paragraph 4. Having assessed previous years’ collection rates plus the effect of changes to council tax support, it is considered prudent to maintain the assumed collection rate at 99.4% for 2020/21.
- 7 The second column of the table below sets out the number of band D equivalents based on the valuation list and occupancy information at 1 December 2019 for each parish, together with a summary for the District. The figures are then subjected to the collection rate adjustment in column 3 to arrive at the tax base for council tax setting purposes appearing in column 4. The corresponding figures for 2019/20 appear in column 5.

<u>(1)</u> <u>Parish</u>	<u>(2)</u> <u>Band D</u> <u>Equivalents</u>	<u>(3)</u> <u>Collection</u> <u>Rate</u> <u>Multipliers</u>	<u>(4)</u> <u>Tax base</u> <u>2020/21</u>	<u>(5)</u> <u>Tax base</u> <u>2019/20</u>
Ash-cum-Ridley	2,474.60	0.994	2,459.75	2,460.65
Badgers Mount	337.00	0.994	334.98	334.28
Brasted	782.80	0.994	778.10	778.50
Chevening	1,464.80	0.994	1,456.01	1,450.74
Chiddingstone	608.40	0.994	604.75	602.66
Cowden	452.60	0.994	449.88	435.77
Crockenhill	663.10	0.994	659.12	660.41
Dunton Green	1,329.90	0.994	1,321.92	1,323.31
Edenbridge	3,719.60	0.994	3,697.28	3,556.04
Eynsford	954.60	0.994	948.87	945.99
Farningham	670.30	0.994	666.28	664.59
Fawkham	293.80	0.994	292.04	283.39
Halstead	783.10	0.994	778.40	782.28
Hartley	2,572.00	0.994	2,556.57	2,555.38
Hever	624.50	0.994	620.75	610.42
Hextable	1,708.40	0.994	1,698.15	1,666.94
Horton Kirby & South Darent	1,310.10	0.994	1,302.24	1,299.56
Kemsing	1,864.50	0.994	1,853.31	1,839.00
Knockholt	638.10	0.994	634.27	634.77

Leigh	967.30	0.994	961.50	948.18
Otford	1,731.10	0.994	1,720.71	1,709.88
Penshurst	842.80	0.994	837.74	835.95
Riverhead	1,255.30	0.994	1,247.77	1,249.06
Seal	1,311.40	0.994	1,303.53	1,253.83
Sevenoaks Town	9,749.10	0.994	9,690.61	9,637.63
Sevenoaks Weald	621.50	0.994	617.77	615.09
Shoreham	688.10	0.994	683.97	685.46
Sundridge	943.20	0.994	937.54	932.07
Swanley	5,698.10	0.994	5,663.91	5,607.45
Westerham	2,078.50	0.994	2,066.03	2,068.71
West Kingsdown	2,378.40	0.994	2,364.13	2,344.35
TOTALS	51,517.00		51,207.88	50,772.34

- 8 The Council has previously resolved that its expenses are to be treated as general expenses. In addition the Council has formally to approve what are to be regarded as special expenses now that parish precepts are treated as part of the District Council's general fund and therefore its budget requirement.

Timetable for Setting the Tax

- 9 The County Council, Police & Crime Commissioner and Fire and Rescue Service have advised me of their budget meeting dates for 2020/21:

County Council	13 February 2020
Police & Crime Commissioner	6 February 2020
Fire and Rescue Service	14 February 2020

- 10 The council tax for the Sevenoaks area cannot be set before the County, Police and Fire precepts have been ratified. There are several dates laid down in regulations on, or by which, certain tasks in relation to the budget process and tax setting have to be carried out. These key dates appear in the Appendix.
- 11 As part of the tax setting process, the Council is required to make an estimate of the collection fund surplus or deficit at 15 January 2020 or the first working day after this, for the year ending 31 March 2020.
- 12 The amount of any surplus or deficit which a billing authority estimates in its collection fund will not remain in the collection fund but will be shared and taken into account by both billing and major precepting authorities in calculating their basic amounts of council tax for 2020/21.

Agenda Item 6a

- 13 In estimating any surplus or deficit, items relating to community charge will not be taken into account. These are to remain with the billing authority and will be taken into account by it in calculating its basic amount of council tax for the year.
- 14 An authority's share of any surplus or deficit relating to council tax is to be in the same proportion as its demand bears to the total demand and precepts on the collection fund for 2019/20. Payment is to be made during 2020/21 on the same dates as precept payments.

Key Implications

Financial

There are no financial implications.

Community Impact and Outcomes

There are no community impacts arising from this report.

Legal Implications and Risk Assessment Statement

Calculation of the tax base for the District is a statutory requirement. The information is used by other authorities in setting their precepts. The actual tax base will vary during the year as new properties are built and exemptions and discounts are granted or withdrawn. Any difference in the revenue raised to that needed to pay precepts remains in the collection fund to be distributed to or collected from major precepting authorities in the following year.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

Members are asked to approve the calculation of the District's tax base for council tax setting purposes and to note the timetable for setting the 2020/21 council tax.

Appendix: Key dates in the council tax setting process

Background Papers: None

Adrian Rowbotham
Chief Officer Finance & Trading

APPENDIX

KEY DATES IN THE COUNCIL TAX SETTING PROCESS

- | | | |
|-------|---|---|
| i) | By 11 October 2019 | Notify tax base for grant settlement purposes to the Ministry of Housing Communities & Local Government (MHCLG) |
| ii) | During December 2019 | MHCLG notifies schedule of payment dates for Revenue Support Grant (RSG) and Non-Domestic Rates (NDR). DCLG notifies the NDR multiplier (rate in £) for 2020/21 |
| iii) | By 31 December 2019 | Issue proposed schedule of payment dates to precepting authorities |
| iv) | By 31 January 2020 | Agree actual schedule of precept payment dates |
| v) | Between 1 December 2019 and 31 January 2020 | Notify tax base for tax setting purposes to KCC, Fire & Rescue Service and Police & Crime Commissioner |
| vi) | On 15 January 2020 | Estimate collection fund surplus or deficit for year and calculate the amount to be shared between SDC, KCC, Fire and Police (where applicable) |
| vii) | By 22 January 2020 | Notify KCC, Fire and Police of their shares of the surplus or deficit and when amounts are to be paid or transferred during 2020/21 (where applicable) |
| viii) | During January and February 2020 | Notify Town/Parish Councils of tax bases for their areas within 10 days of them making such a request |
| ix) | During February 2020 | MHCLG notifies entitlements and payment dates of Formula Spending Share (FSS), RSG and NDR |
| x) | By 1 March 2020 | KCC, Fire & Rescue Service, Police & Crime Commissioner and Town/Parish Councils issue their precepts |
| xi) | By 11 March 2020 | District sets council tax for 2020/21, taking account of its own budget requirement and those of the precepting authorities. |

This page is intentionally left blank

Item 6 (b) - Treasury Management Strategy 2020/21.

The attached report was considered by the Cabinet, and the relevant minute extract is below:

Cabinet (Minute 60, 4 February 2020)

The Finance & Investments Portfolio Holder presented the report which sought Members comments on a report seeking adoption of the Treasury Management Strategy 2020/21.

The Principal Accountant advised Members that no major changes had been made to the investment strategy for 2020/21 except for the addition of Bond, Equity, Property and Multi-Asset Funds as available investment instruments. These were collective investment vehicles, intended as longer term investments over which returns could significantly outperform fixed term investments with banks or building societies. However, returns over the short term could be volatile and there were entry and exit fees. The Finance & Investment Advisory Committee had considered the same report.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that the Treasury Management Strategy for 2020/21 be approved.

This page is intentionally left blank

TREASURY MANAGEMENT STRATEGY 2020/21

Council - 25 February 2020

Report of the: Chief Officer Finance & Trading

Status: For Decision

Also considered by: Finance & Investment Advisory Committee - 23 January 2020
Cabinet - 4 February 2020

Key Decision: No

Executive Summary: The Local Government Act 2003 (the Act) and supporting regulations requires the Council to 'have regard to' the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable.

The Act therefore requires the Council to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by investment guidance issued subsequent to the Act). This sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

The Annual Investment Strategy remains largely the same as for 2019/20 with the addition of Bond, Property, Equity and Multi-Asset Funds as an alternative investment option.

This report supports the Key Aim of efficient management of the Council's resources.

Portfolio Holder Cllr. Matthew Dickins

Contact Officer Roy Parsons, Principal Accountant - Ext 7204

Recommendation to Finance & Investment Advisory Committee: That the report be noted and comments forwarded to Cabinet.

Recommendation to Cabinet: That, subject to the comments of the Finance & Investment Advisory Committee, Cabinet recommend that Council approve the Treasury Management Strategy for 2020/21.

Recommendation to Council: That the Treasury Management Strategy for 2020/21 be approved.

Reason for recommendations: To ensure that an appropriate and effective annual Treasury Management Strategy is drawn up in advance of the forthcoming financial year, which meets both legislative and best practice requirements.

Background

- 1 The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that 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.
- 2 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.
- 3 The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.
- 4 Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities (arising usually from capital expenditure) and are separate from the day to day treasury management activities.
- 5 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines treasury management as:

“The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

Introduction

Reporting requirements - Capital Strategy

- 6 The CIPFA 2017 Prudential and Treasury Management Codes require all local authorities to prepare a capital strategy report, which will provide the following:
 - a high-level long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services;
 - an overview of how the associated risk is managed; and
 - the implications for future financial sustainability.
- 7 The aim of this capital strategy is to ensure that Members fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.
- 8 This capital strategy is reported separately from the Treasury Management Strategy Statement; non-treasury investments will be reported through the former. This ensures the separation of the core treasury function under security, liquidity and yield principles, and the policy and commercialism investments usually driven by expenditure on an asset. The capital strategy will show:
 - the corporate governance arrangements for these types of activities;
 - any service objectives relating to the investments;
 - the expected income, costs and resulting contribution;
 - the debt related to the activity and the associated interest costs;
 - the payback period (MRP policy);
 - for non-loan type investments, the cost against the current market value; and
 - the risks associated with each activity.
- 9 Where a physical asset is being bought, details of market research, advisers used (and their monitoring), ongoing costs and investment requirements and any credit information will be disclosed, including the ability to sell the asset and realise the investment cash.
- 10 Where the Council has borrowed to fund any non-treasury investment, there should also be an explanation of why borrowing was required and why the MHCLG Investment Guidance and CIPFA Prudential Code have not been adhered to.
- 11 If any non-treasury investment sustains a loss during the final accounts and audit process, the strategy and revenue implications will be reported through the same procedure as the capital strategy.

Agenda Item 6b

- 12 To demonstrate the proportionality between the treasury operations and the non-treasury operation, high-level comparators are shown throughout this report.

Reporting requirements - Treasury Management

- 13 The Council is required to receive and approve, as a minimum, three main reports each year, which incorporate a variety of policies, estimates and actuals. These reports are required to be adequately scrutinised before being recommended to the Council. This role is undertaken by the Finance & Investment Advisory Committee.

a) Prudential and treasury indicators and treasury strategy (this report) -

The first, and most important report covers:

- the capital plans (including prudential indicators);
- a minimum revenue provision (MRP) policy (how residual capital expenditure is charged to revenue over time);
- the Treasury Management Strategy (how the investments and borrowings are to be organised) including treasury indicators; and
- an investment strategy (the parameters on how investments are to be managed).

b) A mid-year treasury management report -

This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision.

c) An annual treasury report -

This is a backward looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

Treasury Management Strategy for 2020/21

- 14 The strategy for 2020/21 covers two main areas:

Capital issues

- the capital expenditure plans and the associated prudential indicators; and
- the minimum revenue provision (MRP) policy.

Treasury management issues

- the current treasury position;
 - treasury indicators which limit the treasury risk and activities of the Council;
 - prospects for interest rates;
 - the borrowing strategy;
 - policy on borrowing in advance of need;
 - debt rescheduling;
 - the investment strategy;
 - creditworthiness policy; and
 - policy on the use of external service providers.
- 15 These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, the Ministry of Housing, Communities and Local Government (MHCLG) MRP Guidance, the CIPFA Treasury Management Code and the MHCLG Investment Guidance.

Training

- 16 The CIPFA Code requires the responsible officer to ensure that Members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny. Training was last undertaken on 14 November 2018 and further training will be arranged as required.
- 17 The training needs of treasury management officers are reviewed periodically.

Treasury management consultants

- 18 The Council uses Link Asset Services, Treasury Solutions as its external treasury management advisors.
- 19 The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury management advisors.
- 20 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment

Agenda Item 6b

and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

- 21 The scope of investments within the Council's operations now includes both conventional treasury investments (the placing of residual cash from the Council's functions) and more commercial type investments, such as investment properties. The commercial type investments require specialist property advisers.

The Capital Prudential Indicators 2020/21 - 2022/23

- 22 The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in prudential indicators, which are designed to assist Members' overview and confirm capital expenditure plans.

Capital Expenditure

- 23 This prudential indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to note the capital expenditure forecasts:

Capital expenditure	2018/19 Actual £000	2019/20 Estimate £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000
Capital expenditure	12,980	11,197	6,699	6,663	12,470
Commercial activities/non-financial investments*	0	0	0	0	0
Total	12,980	11,197	6,699	6,663	12,470

* Commercial activities/non-financial investments relate to areas such as capital expenditure on investment properties etc

- 24 The above financing need excludes other long term liabilities, such as PFI and leasing arrangements that already include borrowing instruments.
- 25 The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding need (borrowing) although this may be funded through internal borrowing initially.

Financing of capital expenditure	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
Capital expenditure	12,980	11,197	6,699	6,663	12,470
Financed by:					
Capital receipts	789	5,819	51	0	0
Capital grants	1,463	1,100	1,100	1,100	1,100
Capital Reserves	4,246	4,278	5,548	5,563	11,370
Internal borrowing	4,487	0	0	0	0
Revenue - contribution to capital reserve	445	0	0	0	
Net financing need for the year	1,550	0	0	0	0

26 The net financing need for commercial activities/non-financial investments included in the above table against expenditure is shown below.

Commercial activities/non-financial investments	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
Capital expenditure	0	0	0	0	0
Financing costs	0	0	0	0	0
Net financing need for the year	0	0	0	0	0
Percentage of total net financing need	0%	0%	0%	0%	0%

Agenda Item 6b

The Council's Borrowing Need (the Capital Financing Requirement)

- 27 The second prudential indicator is the Council's capital financing requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR.
- 28 The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the borrowing need in line with each asset's life, and so charges the economic consumption of capital assets as they are used.
- 29 The CFR includes any other long term liabilities (e.g. finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of scheme include a borrowing facility by the lease provider and so the Council is not required to separately borrow for these schemes.
- 30 The Council is asked to approve the CFR projections below:

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
Capital Financing Requirement					
CFR - Services	10,062	9,641	9,239	8,869	8,514
CFR - Commercial activities/non-financial investments	0	0	0	0	0
Total CFR	10,062	9,641	9,239	8,869	8,514
Movement in CFR	(382)	(422)	(402)	(370)	(355)

Movement in CFR represented by:					
Net financing need for the year (above)	1,550	0	0	0	0

<u>Less</u> MRP/VRP and other financing movements	1,168	0	0	0	0
Movement in CFR	(382)	(422)	(402)	(370)	(355)

Note:- The MRP / VRP includes finance lease annual principal payments

- 31 A key aspect of the regulatory and professional guidance is that elected Members are aware of the size and scope of any commercial activity in relation to the authority's overall financial position. The capital expenditure figures shown above demonstrate the scope of this activity and, by approving these figures, Members consider the scale proportionate to the Authority's remaining activity.

Core Funds and Expected Investment Balances

- 32 The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an on-going impact on investments unless resources are supplemented each year from new sources (asset sales etc.). Detailed below are estimates of the year end balances for each resource and anticipated day to day cash flow balances.

Year End Resources	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
Fund balances / reserves	25,059	21,310	19,882	18,972	18,813
Capital receipts	789	412	14,595	10	10
Provisions	409	409	409	409	409
Other	0	0	0	0	0
Total core funds	26,257	22,131	34,886	19,391	19,232
Working capital*	10,071	10,171	10,271	10,371	10,471
Under/(over) borrowing	4,408	4,106	3,827	3,583	3,357
Expected investments	31,920	28,196	41,330	26,179	26,346

Agenda Item 6b

*Working capital balances shown are estimated year end; these may be higher mid year

Minimum revenue provision (MRP) policy statement

- 33 The Council is required to pay off an element of the accumulated General Fund capital spend each year (the CFR) through a revenue charge (the minimum revenue provision - MRP), although it is also allowed to undertake additional voluntary payments if required (voluntary revenue provision - VRP).
- 34 MHCLG regulations have been issued which require the full Council to approve an MRP statement in advance of each year. A variety of options are provided to councils, so long as there is a prudent provision. The Council can change the method of calculating MRP on an annual basis but once a method has been approved for a particular year, any assets purchased through borrowing that year must continue to have MRP charged in the same way. The Council cannot change the method of calculating MRP on individual assets.
- 35 The Council is recommended to approve the following MRP statement:
- 36 For capital expenditure incurred before 1 April 2008 or which in the future will be Supported Capital Expenditure, the MRP policy will be based on CFR. This option provides for an approximate 4% reduction in the borrowing need (CFR) each year.
- 37 From 1 April 2008 for all unsupported borrowing (i.e. not supported by the Revenue Support Grant), including finance leases, the MRP policy will be either:
- Asset life method - MRP will be based on the estimated life of the assets, in accordance with the regulations (this option must be applied for any expenditure capitalised under a Capitalisation Direction); or
 - Depreciation method - MRP will follow standard depreciation accounting procedures.

These options provide for a reduction in the borrowing need over approximately the asset's life. Repayments included in finance leases are applied as MRP.

- 38 It is proposed to use the 'asset life method' in the calculation of the Council's MRP. In choosing to do so, there are two options available:
- Equal instalments - where the principal repayment made is the same in each year; or
 - Annuity - where the principal repayments increase over the life of the asset.

- 39 Of the two options, the annuity method seems to be the most suitable for the Council at this time, particularly for assets that generate income. It matches the repayment profile to how the benefits of the asset financed by borrowing are consumed over its useful life (i.e. it reflects the fact that asset deterioration is slower in the early years of an asset and accelerates towards the latter years). Interest will be greater at the beginning of the loan, at which time all of the principal is outstanding, so the amount of principal repayment is lower in the initial years. The schedule of charges produced by the annuity method results in a consistent charge of principal and interest over an asset’s life, taking into account the real value of the annual charges when they fall due.
- 40 MRP commences in the financial year following that in which the expenditure is incurred, or in the year following that in which the relevant asset becomes operational. This enables an MRP “holiday” to be taken in relation to assets which take more than one year to be completed before they become operational.
- 41 MRP Overpayments - A change introduced by the revised MHCLG MRP Guidance was the allowance that any charges made over the statutory minimum revenue provision (MRP), voluntary revenue provision or overpayments, can, if needed, be reclaimed in later years if deemed necessary or prudent. In order for these sums to be reclaimed for use in the budget, this policy must disclose the cumulative overpayment made each year. Up until the 31 March 2019 the total VRP overpayments have been nil.

The Borrowing and Repayment Strategy

- 42 The capital expenditure plans set out above provide details of the service activity of the Council. The treasury management function ensures that the Council’s cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council’s capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury/prudential indicators, the current and projected debt positions and the annual investment strategy.

Current portfolio position

- 43 The Council’s forward projections for borrowing are summarised below. The table shows the actual external debt against the underlying capital borrowing need (the CFR), highlighting any over or under borrowing.

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
External debt					

Agenda Item 6b

Debt at 1 April	5,250	5,134	5,015	4,892	4,766
Expected change in Debt	-116	-119	-123	-126	-129
Other long-term liabilities (OLTL)	520	520	520	520	520
Expected change in OLTL	0	0	0	0	0
Actual gross debt at 31 March	5,654	5,535	5,412	5,286	5,157
The Capital Financing Requirement (CFR)	10,062	9,641	9,239	8,869	8,514
Under / (over) borrowing	4,408	4,106	3,827	3,583	3,357

- 44 Within the above figures, the level of debt relating to commercial activities/non-financial investments is:

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000
External debt for commercial activities/non-financial investments					
Actual debt at 31 March	0	0	0	0	0
Percentage of total external debt	0	0	0	0	0

- 45 Within the range of prudential indicators there are a number of key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2020/21 and

the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.

- 46 The Chief Officer Finance & Trading reports that the Council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in this budget report.

Treasury Indicators: Limits to Borrowing Activity

The operational boundary

- 47 This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

Operational boundary	2019/20	2020/21	2021/22	2022/23
	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000
Debt	30,000	30,000	30,000	30,000
Other long term liabilities	520	520	520	520
Commercial activities / non-financial investments				
Total	30,520	30,520	30,520	30,520

The authorised limit for external debt

- 48 This is a key prudential indicator represents a control on the maximum level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.
- 49 This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.
- 50 The Council is asked to approve the following authorised limit:

Agenda Item 6b

Authorised limit	2019/20 Estimate £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000
Debt	35,000	35,000	35,000	35,000
Other long term liabilities	520	520	520	520
Commercial activities / non-financial investments				
Total	35,520	35,520	35,520	35,520

Prospects for interest rates

- 51 The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives their central view.

Link Asset Services Interest Rate View														
	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23
Bank Rate View	0.75	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25	1.25	1.25	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.30	1.30
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40	1.50	1.50	1.50	1.50
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60	1.70	1.70	1.70	1.70
5yr PWLB Rate	2.30	2.40	2.40	2.50	2.50	2.60	2.70	2.80	2.90	2.90	3.00	3.10	3.20	3.20
10yr PWLB Rate	2.60	2.70	2.70	2.70	2.80	2.90	3.00	3.10	3.20	3.20	3.30	3.30	3.40	3.50
25yr PWLB Rate	3.20	3.30	3.40	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00	4.10	4.10
50yr PWLB Rate	3.10	3.20	3.30	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90	4.00	4.00

- 52 Appendix A draws together a number of current City forecasts for short term and longer fixed interest rates. Appendix B contains Link Asset Services' latest economic background report.

Borrowing Strategy

- 53 The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement or CFR) has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure.

This strategy is prudent as investment returns are low and counterparty risk is still an issue that needs to be considered.

54 Against this background and the risks within the economic forecast, caution will be adopted with the 2020/21 treasury operations. The Chief Officer Finance & Trading will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant risk of a sharp FALL in long and short term rates (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then long term borrowings will be postponed.*
- *if it was felt that there was a significant risk of a much sharper RISE in long and short term rates than that currently forecast, perhaps arising from an acceleration in the start date and in the rate of increase in central rates in the USA and UK, an increase in world economic activity or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Most likely, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.*

55 Any decisions will be reported to the appropriate decision making body at the next available opportunity.

Policy on borrowing in advance of need

56 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. Any decision to borrow in advance will be within 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.

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

Debt rescheduling

58 Rescheduling of current borrowing in our debt portfolio is unlikely to occur as the 100 bps increase in Public Works Loan Board (PWL) rates only applied to new borrowing rates and not to premature debt repayment rates.

59 If rescheduling were to be carried out, it will be reported to Cabinet at the earliest meeting following its action.

Agenda Item 6b

New financial institutions as a source of borrowing

- 60 Following the decision by the PWLB on 9 October 2019 to increase their margin over gilt yields by 100 bps to 180 basis points on loans lent to local authorities, consideration will also need to be given to sourcing funding at cheaper rates from the following:
- Local authorities (primarily shorter dated maturities)
 - Financial institutions (primarily insurance companies and pension funds but also some banks, out of spot or forward dates)
 - Municipal Bonds Agency (no issuance at present but there is potential)
- 61 The degree which any of these options proves cheaper than PWLB Certainty Rate is still evolving at the time of writing but our advisors will keep us informed.

Affordability prudential indicators

- 62 The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. Members are asked to note the following indicators:

Ratio of financing costs to net revenue stream

- 63 This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs, net of investment income) against the net revenue stream.

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actual	Estimate	Estimate	Estimate	Estimate
Services	0%	1%	1%	1%	1%
Commercial activities / non-financial investments	0%	0%	0%	0%	0%
Total	0%	1%	1%	1%	1%

The estimates of financing costs include current commitments and the proposals in the budget report.

Maturity structure of borrowing

64 These gross limits are set to reduce the Council’s exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

65 Members are asked to note the following treasury indicators and limits:

Maturity structure of fixed interest rate borrowing 2020/21		
	Lower	Upper
Under 12 months	0%	100%
12 months to 2 years	0%	100%
2 years to 5 years	0%	100%
5 years to 10 years	0%	100%
10 years and above	0%	100%
Maturity structure of variable interest rate borrowing 2020/21		
	Lower	Upper
Under 12 months	0%	100%
12 months to 2 years	0%	100%
2 years to 5 years	0%	100%
5 years to 10 years	0%	100%
10 years and above	0%	100%

Annual Investment Strategy

Current investment portfolio position

66 The Council’s treasury portfolio position at 1 December 2019 appears in Appendix C.

Loans to other organisations

- 67 The Council has loaned money to other organisations. Details appear in Appendix C.

Investment policy - management of risk

- 68 The Ministry of Housing, Communities and Local Government (MHCLG) and CIPFA have extended the meaning of ‘investments’ to include both financial and non-financial investments. This report deals solely with financial investments, as managed by the treasury management team. Non-financial investments, essentially the purchase of income yielding assets, are covered in the Capital Strategy (a separate report).
- 69 The Council’s investment policy has regard to the following: -
- MHCLG’s Guidance on Local Government Investments (“the Guidance”)
 - CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017 (“the Code”)
 - CIPFA Treasury Management Guidance Notes 2018
- 70 The Council’s investment priorities will be security first, portfolio liquidity second and then yield, (return).
- 71 The above guidance from the MHCLG and CIPFA place a high priority on the management of risk. This authority has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -
- a) Minimum acceptable credit criteria are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
 - b) Credit ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as “credit default swaps” and overlay that information on top of the credit ratings.
 - c) Other information sources used will include the financial press, share price and other such information pertaining to the financial sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
 - d) This authority has defined the list of types of investment instruments that the treasury management team are authorised to use. There are

two lists in Appendix D under the categories of 'specified' and 'non-specified' investments.

- Specified investments are those with a high level of credit quality and subject to a maturity limit of one year.
 - Non-specified investments are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity i.e. an 18 month deposit would still be non-specified even if it has only 11 months left until maturity.
- e) The Council has determined that it will limit the maximum total exposure to non-specified investments as being 50% of the total investment portfolio (see paragraph 77).
- f) Lending limits (amounts and maturity) for each counterparty will be set through applying the table in paragraph 79.
- g) This authority will set a limit for the amount of its investments which are invested for longer than 365 days (see paragraph 92).
- h) Investments will only be placed with counterparties from countries with a specified minimum sovereign rating, (see Appendix E and paragraph 85).
- i) This authority has engaged external consultants, Link Asset Services, to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this authority in the context of the expected level of cash balances and need for liquidity throughout the year.
- j) All investments will be denominated in sterling.
- k) As a result of the change in accounting standards for 2019/20 under IFRS 9, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. In November 2018, the Ministry of Housing, Communities and Local Government (MHCLG) concluded a consultation for a temporary override to allow English local authorities time to adjust their portfolio of all pooled investments by announcing a statutory override to delay implementation of IFRS 9 for five years commencing from 1 April 2018.

72 However, this authority will also pursue value for money in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance (see paragraph 94). Regular monitoring of investment performance will be carried out during the year.

Creditworthiness policy

73 The primary principle governing the Council's investment criteria is the security of its investments, although the yield or return on the investment is

Agenda Item 6b

also a key consideration. After this main principle, the Council will ensure that:

- It maintains a policy covering both the categories of investment types it will invest in, criteria for choosing investment counterparties with adequate security, and monitoring their security. This is set out in the specified and non-specified investment sections below; and
- It has sufficient liquidity in its investments. For this purpose it will set out procedures for determining the maximum periods for which funds may prudently be committed. These procedures also apply to the Council's prudential indicators covering the maximum principal sums invested.

74 The Chief Officer Finance & Trading will maintain a counterparty list in compliance with the following criteria and will revise the criteria and submit them to Council for approval as necessary. These criteria are separate to that which determines which types of investment instrument are either specified or non-specified as it provides an overall pool of counterparties considered high quality which the Council may use, rather than defining what types of investment instruments are to be used.

75 Credit rating information is supplied by Link Asset Services, our treasury advisors, on all active counterparties that comply with the criteria below. Any counterparty failing to meet the criteria would be omitted from the counterparty (dealing) list. Any rating changes, rating Watches (notification of a likely change), rating Outlooks (notification of the longer term bias outside the central rating view) are provided to officers almost immediately after they occur and this information is considered before dealing. For instance, a negative rating Watch applying to counterparty at the minimum Council criteria will be suspended from use, with all others being reviewed in light of market conditions

76 The criteria for providing a pool of high quality investment counterparties (both specified and non-specified investments) is:

- Banks 1 (Good credit quality). UK banks having, as a minimum, the following Fitch, Moody's and Standard & Poor's credit ratings (where rated):
 - i. Short Term - F1
 - ii. Long Term - A-
- Banks 2 (Good credit quality). Non-UK banks domiciled in a country which has a minimum sovereign Long Term rating of AA- and having, as a minimum, the following Fitch, Moody's and Standard & Poor's credit ratings (where appropriate):
 - i. Short Term - F1
 - ii. Long Term - A-

- Banks 3 (Part nationalised UK Bank - Royal Bank of Scotland). This bank can be included provided it continues to be part nationalised or it meets the rating requirements in Banks 1 above.
- Banks 4 (The Council's own banker for transactional purposes, if it falls below the above criteria). Balances will be minimised in both monetary size and time invested.
- Bank subsidiary and treasury operation. The Council will use these where the parent bank has provided an appropriate guarantee or has the necessary ratings outlined above.
- Building societies. The Council will use all societies which:
 - i. Meet the ratings for banks outlined above; or
 - ii. Have assets in excess of £3bn;or meet both criteria.
- Money Market Funds (MMFs). Minimum AAA credit rating from at least two of the three rating agencies and with a fund size in excess of £1bn. New EU regulations implemented in January 2019 changed fund valuation methodology from Constant Net Asset Valuation (CNAV) to either Low Volatility Net Asset Valuation (LVNAV) or CNAV. As a consequence, the Council approves the use of Money Market Funds that operate under CNAV (those that invest exclusively in government securities) or operate under LVNAV (all other liquidity funds)
- Bond, Property, Equity or Multi-Asset Funds.
- UK Government (including gilts, Treasury Bills and the DMADF)
- Local authorities, housing associations, parish councils etc.

77 A limit of 50% will be applied to the use of non-specified investments.

78 Additional requirements under the Code require the Council to supplement credit rating information. Whilst the above criteria relies primarily on the application of credit ratings to provide a pool of appropriate counterparties for officers to use, additional operational market information will be applied before making any specific investment decision from the agreed pool of counterparties. This additional market information (for example Credit Default Swaps, negative rating Watches/Outlooks) will be applied to compare the relative security of differing investment counterparties.

79 The time and monetary limits for institutions on the Council's counterparty list are as follows (these will cover both specified and non-specified investments):

Agenda Item 6b

	Fitch Long Term Rating (or equivalent)	Money and/or % Limit	Time Limit
Banks 1	A-	£7m	2 years
Banks 2	A-	£5m	2 years
Banks 3	N/A	£7m	2 years
Banks 4	N/A	£7m	1 day
Bank subsidiaries	A-	£7m	2 years
Rated building societies (assets over £3bn)	N/A	£5m	2 years
Unrated building societies (assets over £3bn)	N/A	£3m	1 year
Money Market Funds (CNAV)	AAA	£5m (per Fund)	Liquid
Money Market Funds (LVNAV)	AAA	£5m (per Fund)	Liquid
Bond, Property, Equity & Multi-Asset Funds	N/A	£5m (per Fund)	Liquid
UK Government DMADF	UK sovereign rating	£5m	6 months
Local authorities, housing associations etc	N/A	£5m (each)	2 years

80 The proposed criteria for specified and non-specified investments are shown in Appendix D.

UK banks - ring fencing

81 The largest UK banks, (those with more than £25bn of retail / Small and Medium-sized Enterprise (SME) deposits), are required, by UK law, to separate core retail banking services from their investment and international banking activities by 1st January 2019. This is known as “ring-fencing”.

Whilst smaller banks with less than £25bn in deposits are exempt, they can choose to opt up. Several banks are very close to the threshold already and so may come into scope in the future regardless.

- 82 Ring-fencing is a regulatory initiative created in response to the global financial crisis. It mandates the separation of retail and SME deposits from investment banking, in order to improve the resilience and resolvability of banks by changing their structure. In general, simpler, activities offered from within a ring-fenced bank, (RFB), will be focused on lower risk, day-to-day core transactions, whilst more complex and “riskier” activities are required to be housed in a separate entity, a non-ring-fenced bank, (NRFB). This is intended to ensure that an entity’s core activities are not adversely affected by the acts or omissions of other members of its group.
- 83 While the structure of the banks included within this process may have changed, the fundamentals of credit assessment have not. The Council will continue to assess the new-formed entities in the same way that it does others and those with sufficiently high ratings, (and any other metrics considered), will be considered for investment purposes.

Other limits

- 84 Due care will be taken to consider the exposure of the Council’s total investment portfolio to non-specified investments, countries, groups and sectors.
- 85 The Council has determined that it will only use approved counterparties from the UK and from countries with a minimum sovereign credit rating of AA- from Fitch (or equivalent). The list of countries that qualify using this credit criteria as at the date of this report are shown in Appendix E. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.
- 86 In addition:
- no more than 15% of the total fund will be placed with any non-UK country at any time. The only country, other than the UK, currently approved for investment is Sweden;
 - total investment in any single institution , or institutions within a group of companies, is limited to 25% of the total fund at the time an investment is placed;

Investment Strategy

- 87 Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months).
- 88 Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of

Agenda Item 6b

cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

89 On the assumption that the UK and EU agree a Brexit deal including the terms of trade by the end of 2020 or soon after, then Bank Rate is forecast to increase only slowly over the next few years to reach 1.00% by quarter 1 2023. Bank Rate forecasts for financial year ends (March) are:

- Q1 2021 0.75%
- Q1 2022 1.00%
- Q1 2023 1.00%

90 The suggested budgeted investment earnings rates for returns on investments, placed for periods up to about 3 months, during each financial year are as follows:

- 2019/20 0.75%
- 2020/21 0.75%
- 2021/22 1.00%
- 2022/23 1.25%
- 2023/24 1.50%
- 2024/25 1.75%
- Later years 2.25%

91 The overall balance of risks to economic growth in the UK is probably to the downside due to the weight of all the uncertainties over Brexit, as well as a softening global economic picture. The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside. In the event that a Brexit deal is agreed with the EU and approved by Parliament, the balance of risks to economic growth and to increases in Bank Rate is likely to change to the upside.

92 Members are asked to note the following treasury indicator and limit. These limits are set with regard to the Council's liquidity requirements and to reduce the need for an early sale of an investment. They are based on the availability of funds after each year-end.

Upper limit for principal sums invested for longer than 365 days	2020/21 £m	2021/22 £m	2022/23 £m
Limit for principal sums invested for longer than 365 days	£10m	£10m	£10m
Current investments at 1/12/19 in excess of 1 year maturing in each year	-	-	-

- 93 For its cash flow generated balances, the Council will seek to utilise its business reserve instant access and notice accounts, money market funds and short-dated deposits (overnight to 100 days) in order to benefit from the compounding of interest.

Investment risk benchmarking

- 94 The Council will use an investment benchmark to assess the performance of its portfolio. The benchmarks will be 7 day and 3 month LIBID un compounded.

End of year investment report

- 95 At the end of the financial year, the Council will receive a report on its investment activity as part of the Annual Treasury Report.

Scheme of delegation

- 96 The guidance notes accompanying the revised Code also require that a statement of the Council's scheme of delegation in relation to treasury management is produced as part of the Annual Investment Strategy. This appears at Appendix F.

Role of the Section 151 officer

- 97 As with the scheme of delegation mentioned in the previous paragraph, a statement of the role of the Section 151 officer is also required. This appears at Appendix G.

Key Implications

Financial

The management of the Council's investment portfolio and cash-flow generated balances plays an important part in the financial planning of the authority. The security of its capital and liquidity of its investments is of paramount importance.

Legal Implications and Risk Assessment Statement

Agenda Item 6b

Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority, including securing effective arrangements for treasury management.

This treasury management strategy report fulfils the requirements of The Chartered Institute of Public Finance & Accountancy's Code of Practice on Treasury Management 2017.

Treasury management has two main risks :

- Fluctuations in interest rates can result in a reduction in income from investments; and
- A counterparty to which the Council has lent money fails to repay the loan at the required time.

Consideration of risk is integral in our approach to treasury management. The movement in previous years towards having a restricted lending list of better quality institutions but higher individual limits with those institutions has reduced the chances of a default. But if a default did occur, the potential loss would be greater.

These risks are mitigated by the annual investment strategy which has been prepared on the basis of achieving the optimum return on investments commensurate with proper levels of security and liquidity. However, Members should recognise that in the current economic climate, these remain significant risks and that the strategy needs to be constantly monitored.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

The effect of the proposals set out in this report is to allow the Council to effectively and efficiently manage cash balances.

In line with the revised CIPFA Code of Practice on Treasury Management, the Annual Treasury Strategy Statement must be considered by Council and this is planned for its meeting on 25 February 2020. Given the current uncertainties in the financial markets and the implications of Brexit, the Council may need to consider amending its strategy during the year.

Appendices:

- Appendix A - Prospects for interest rates
- Appendix B - Economic background report
- Appendix C - Investment portfolio at 1 December 2019

Appendix D - Specified and non-specified investments

Appendix E - Approved countries for investments

Appendix F - Treasury management scheme of delegation

Appendix G - The treasury management role of the S151 officer

Background Papers: None

Adrian Rowbotham
Chief Officer Finance & Trading

This page is intentionally left blank

APPENDIX A: Prospects for interest rates

- 1 The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives their central view.

Link Asset Services Interest Rate View														
	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23
Bank Rate View	0.75	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25	1.25	1.25	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.30	1.30
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40	1.50	1.50	1.50	1.50
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60	1.70	1.70	1.70	1.70
5yr PWLB Rate	2.30	2.40	2.40	2.50	2.50	2.60	2.70	2.80	2.90	2.90	3.00	3.10	3.20	3.20
10yr PWLB Rate	2.60	2.70	2.70	2.70	2.80	2.90	3.00	3.10	3.20	3.20	3.30	3.30	3.40	3.50
25yr PWLB Rate	3.20	3.30	3.40	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00	4.10	4.10
50yr PWLB Rate	3.10	3.20	3.30	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90	4.00	4.00

- 2 The above forecasts have been based on an assumption that there is an agreed deal on Brexit, including agreement on the terms of trade between the UK and EU, at some point in time. The result of the general election has removed much uncertainty around this major assumption. However, it does not remove uncertainty around whether agreement can be reached with the EU on a trade deal within the short time to December 2020, as the prime minister has pledged.
- 3 It has been little surprise that the Monetary Policy Committee (MPC) has left Bank Rate unchanged at 0.75% so far in 2019 due to the ongoing uncertainty over Brexit and the outcome of the general election. In its meeting on 7 November, the MPC became more dovish due to increased concerns over the outlook for the domestic economy if Brexit uncertainties were to become more entrenched, and for weak global economic growth: if those uncertainties were to materialise, then the MPC were likely to cut Bank Rate. However, if they were both to dissipate, then rates would need to rise at a “gradual pace and to a limited extent”. Brexit uncertainty has had a dampening effect on UK GDP growth in 2019, especially around mid-year. There is still some residual risk that the MPC could cut Bank Rate as the UK economy is still likely to only grow weakly in 2020 due to continuing uncertainty over whether there could effectively be a no deal Brexit in December 2020 if agreement on a trade deal is not reached with the EU. Until that major uncertainty is removed, or the period for agreeing a deal is extended, it is unlikely that the MPC would raise Bank Rate.

Bond yields / PWLB rates.

- 4 There has been much speculation during 2019 that the bond market has gone into a bubble, as evidenced by high bond prices and remarkably low yields. However, given the context that there are heightened expectations that the US could be heading for a recession, and a general background of a downturn in world economic growth, together with inflation generally at low levels in most countries and expected to remain subdued, conditions are ripe for low bond yields. While inflation targeting by the major central banks has been successful over the last thirty years in lowering inflation expectations, the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers: this means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last thirty years. We have therefore seen over the last year, many bond yields up to ten years in the Eurozone actually turn negative. In addition, there has, at times, been an inversion of bond yields in the US whereby ten-year yields have fallen below shorter-term yields. In the past, this has been a precursor of a recession. The other side of this coin is that bond prices are elevated, as investors would be expected to be moving out of riskier assets i.e. shares, in anticipation of a downturn in corporate earnings and so selling out of equities. However, stock markets are also currently at high levels as some investors have focused on chasing returns in the context of dismal ultra-low interest rates on cash deposits.
- 5 During the first half of 2019-20 to 30 September, gilt yields plunged and caused a near halving of longer term PWLB rates to completely unprecedented historic low levels, but this trend was reversed on 9 October 2019 (see below). There is though, an expectation that financial markets have gone too far in their fears about the degree of the downturn in US and world growth. If, as expected, the US only suffers a mild downturn in growth, bond markets in the US are likely to sell off and that would be expected to put upward pressure on bond yields, not only in the US, but also in the UK due to a correlation between US treasuries and UK gilts; at various times this correlation has been strong but at other times weak. However, forecasting the timing of this and how strong the correlation is likely to be is very difficult to forecast with any degree of confidence. Changes in UK Bank Rate will also impact on gilt yields.
- 6 One potential danger that may be lurking in investor minds is that Japan has become mired in a twenty-year bog of failing to get economic growth and inflation up off the floor, despite a combination of massive monetary and fiscal stimulus by both the central bank and government. Investors could be fretting that this condition might become contagious to other western economies.
- 7 Another danger is that unconventional monetary policy post 2008, (ultra-low interest rates plus quantitative easing), may end up doing more harm than good through prolonged use. Low interest rates have encouraged a debt-

fuelled boom that now makes it harder for central banks to raise interest rates. Negative interest rates could damage the profitability of commercial banks and so impair their ability to lend and / or push them into riskier lending. Banks could also end up holding large amounts of their government's bonds and so create a potential doom loop. (A doom loop would occur where the credit rating of the debt of a nation was downgraded which would cause bond prices to fall, causing losses on debt portfolios held by banks and insurers, so reducing their capital and forcing them to sell bonds - which, in turn, would cause further falls in their prices etc.). In addition, the financial viability of pension funds could be damaged by low yields on holdings of bonds.

- 8 The overall longer run future trend is for gilt yields, and consequently PWLB rates, to rise, albeit gently. From time to time, gilt yields, and therefore PWLB rates, can be subject to exceptional levels of volatility due to geopolitical, sovereign debt crisis, emerging market developments and sharp changes in investor sentiment. Such volatility could occur at any time during the forecast period.
- 9 In addition, PWLB rates are subject to ad hoc decisions by H.M. Treasury to change the margin over gilt yields charged in PWLB rates: such changes could be up or down. It is not clear that if gilt yields were to rise back up again by over 100bps within the next year or so, whether H M Treasury would remove the extra 100 bps margin implemented on 9 October 2019.
- 10 Economic and interest rate forecasting remains difficult with so many influences weighing on UK gilt yields and PWLB rates. The above forecasts, (and MPC decisions), will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.

Investment and borrowing rates

- 11 Investment returns are likely to remain low during 2020/21 with little increase in the following two years. However, if major progress was made with an agreed Brexit, then there is upside potential for earnings.
- 12 Borrowing interest rates were on a major falling trend during the first half of 2019-20 but then jumped up by 100 bps on 9 October 2019. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years. However, the unexpected increase of 100 bps in PWLB rates requires a major rethink of local authority treasury management strategy and risk management.

This page is intentionally left blank

APPENDIX B: Economic Background

- 1 **UK.** 2019 has been a year of upheaval on the political front as Theresa May resigned as Prime Minister to be replaced by Boris Johnson on a platform of the UK leaving the EU on 31 October 2019, with or without a deal. However, MPs blocked leaving on that date and the EU agreed an extension to 31 January 2020. In late October, MPs approved an outline of a Brexit deal to enable the UK to leave the EU on 31 January. Now that the Conservative Government has gained a large overall majority in the general election on 12 December, this outline deal will be passed by Parliament by that date. However, there will still be much uncertainty as the detail of a trade deal will need to be negotiated by the current end of the transition period in December 2020, which the Prime Minister has pledged he will not extend. This could prove to be an unrealistically short timetable for such major negotiations that leaves open two possibilities; one, the need for an extension of negotiations, probably two years, or a no deal Brexit in December 2020.
- 2 GDP growth has taken a hit from Brexit uncertainty during 2019; quarter three 2019 surprised on the upside by coming in at +0.4% q/q, +1.1% y/y. However, the peak of Brexit uncertainty during the final quarter appears to have suppressed quarterly growth to probably around zero. The economy is likely to tread water in 2020, with tepid growth around about 1% until there is more certainty after the trade deal deadline is passed.
- 3 While the Bank of England went through the routine of producing another quarterly Inflation Report, (now renamed the Monetary Policy Report), on 7 November, it is very questionable how much all the writing and numbers were worth when faced with the uncertainties of where the UK will be after the general election. The Bank made a change in their Brexit assumptions to now include a deal being eventually passed. Possibly the biggest message that is worth taking note of from the Monetary Policy Report, was an increase in concerns among Monetary Policy Committee (MPC) members around weak global economic growth and the potential for Brexit uncertainties to become entrenched and so delay UK economic recovery. Consequently, the MPC voted 7-2 to maintain Bank Rate at 0.75% but two members were sufficiently concerned to vote for an immediate Bank Rate cut to 0.5%. The MPC warned that if global growth does not pick up or Brexit uncertainties intensify, then a rate cut was now more likely. Conversely, if risks do recede, then a more rapid recovery of growth will require gradual and limited rate rises. The speed of recovery will depend on the extent to which uncertainty dissipates over the final terms for trade between the UK and EU and by how much global growth rates pick up. The Bank revised its inflation forecasts down - to 1.25% in 2019, 1.5% in 2020, and 2.0% in 2021; hence the MPC views inflation as causing little concern in the near future.
- 4 The MPC meeting of 19 December repeated the previous month's vote of 7-2 to keep Bank Rate on hold. Their key view was that there was currently 'no evidence about the extent to which policy uncertainties among companies

Agenda Item 6b

and households had declined' i.e. they were going to sit on their hands and see how the economy goes in the next few months. The two members who voted for a cut were concerned that the labour market was faltering. On the other hand, there was a clear warning in the minutes that the MPC were concerned that domestic "unit labour costs have continued to grow at rates above those consistent with meeting the inflation target in the medium term".

- 5 If economic growth were to weaken considerably, the MPC has relatively little room to make a big impact with Bank Rate still only at 0.75%. It would therefore, probably suggest that it would be up to the Chancellor to provide help to support growth by way of a fiscal boost by e.g. tax cuts, increases in the annual expenditure budgets of government departments and services and expenditure on infrastructure projects, to boost the economy. The Government has already made moves in this direction and it made significant promises in its election manifesto to increase government spending by up to £20bn p.a., (this would add about 1% to GDP growth rates), by investing primarily in infrastructure. This is likely to be announced in the next Budget, probably in February 2020. The Chancellor has also amended the fiscal rules in November to allow for an increase in government expenditure.
- 6 As for inflation itself, CPI has been hovering around the Bank of England's target of 2% during 2019, but fell again in both October and November to a three-year low of to 1.5%. It is likely to remain close to or under 2% over the next two years and so it does not pose any immediate concern to the MPC at the current time. However, if there was a hard or no deal Brexit, inflation could rise towards 4%, primarily because of imported inflation on the back of a weakening pound.
- 7 With regard to the labour market, growth in numbers employed has been quite resilient through 2019 until the three months to September where it fell by 58,000. However, there was an encouraging pick up again in the three months to October to growth of 24,000 which showed that the labour market was not about to head into a major downturn. The unemployment rate held steady at a 44 year low of 3.8% on the Independent Labour Organisation measure in October. Wage inflation has been steadily falling from a high point of 3.9% in July to 3.5% in October (3 month average regular pay, excluding bonuses). This meant that in real terms, (i.e. wage rates higher than CPI inflation), earnings grew by about 2.0%. As the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months. The other message from the fall in wage growth is that employers are beginning to find it easier to hire suitable staff, indicating that supply pressure in the labour market is easing.
- 8 **USA.** President Trump's massive easing of fiscal policy in 2018 fuelled a temporary boost in consumption in that year which generated an upturn in

the rate of growth to a robust 2.9% y/y. Growth in 2019 has been falling after a strong start in quarter 1 at 3.1%, (annualised rate), to 2.0% in quarter 2 and then 2.1% in quarter 3. The economy looks likely to have maintained a growth rate similar to quarter 3 into quarter 4; fears of a recession have largely dissipated; it is expected to fall further. The strong growth in employment numbers during 2018 has weakened during 2019, indicating that the economy had been cooling, while inflationary pressures were also weakening. However, CPI inflation rose from 1.8% to 2.1% in November, a one year high, but this was singularly caused by a rise in gasoline prices.

- 9 The Federal Reserve (Fed) finished its series of increases in rates to 2.25 - 2.50% in December 2018. In July 2019, it cut rates by 0.25% as a 'midterm adjustment' but flagged up that this was not intended to be seen as the start of a series of cuts to ward off a downturn in growth. It also ended its programme of quantitative tightening in August, (reducing its holdings of treasuries etc). It then cut rates by 0.25% again in September and by another 0.25% in its October meeting to 1.50 - 1.75%. At its September meeting it also said it was going to start buying Treasuries again, although this was not to be seen as a resumption of quantitative easing but rather an exercise to relieve liquidity pressures in the repo market. Despite those protestations, this still means that the Fed is again expanding its balance sheet holdings of government debt. In the first month, it will buy \$60bn, whereas it had been reducing its balance sheet by \$50bn per month during 2019. As it will be buying only short-term (less than 12 months) Treasury bills, it is technically correct that this is not quantitative easing (which is purchase of long term debt). The Fed left rates unchanged in December. However, the accompanying statement was more optimistic about the future course of the economy so this would indicate that further cuts are unlikely.
- 10 Investor confidence has been badly rattled by the progressive ramping up of increases in tariffs President Trump has made on Chinese imports and China has responded with increases in tariffs on American imports. This trade war is seen as depressing US, Chinese and world growth. In the EU, it is also particularly impacting Germany as exports of goods and services are equivalent to 46% of total GDP. It will also impact developing countries dependent on exporting commodities to China. However, in November / December, progress has been made on agreeing a phase one deal between the US and China to roll back some of the tariffs; this gives some hope of resolving this dispute.
- 11 **EUROZONE.** Growth has been slowing from +1.8 % during 2018 to around half of that in 2019. Growth was +0.4% q/q (+1.2% y/y) in quarter 1, +0.2% q/q (+1.2% y/y) in quarter 2 and then +0.2% q/q, +1.1% in quarter 3; there appears to be little upside potential in the near future. German GDP growth has been struggling to stay in positive territory in 2019 and fell by -0.1% in quarter 2; industrial production was down 4% y/y in June with car production down 10% y/y. Germany would be particularly vulnerable to a

Agenda Item 6b

no deal Brexit depressing exports further and if President Trump imposes tariffs on EU produced cars.

- 12 The European Central Bank (ECB) ended its programme of quantitative easing purchases of debt in December 2018, which then meant that the central banks in the US, UK and EU had all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by quantitative easing purchases of debt. However, the downturn in EZ growth in the second half of 2018 and into 2019, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it aims to keep it near to 2%), has prompted the ECB to take new measures to stimulate growth. At its March meeting it said that it expected to leave interest rates at their present levels “at least through the end of 2019”, but that was of little help to boosting growth in the near term. Consequently, it announced a third round of Targeted Longer Term Refinancing Options (TLTROs); this provides banks with cheap borrowing every three months from September 2019 until March 2021 that means that, although they will have only a two-year maturity, the Bank was making funds available until 2023, two years later than under its previous policy. As with the last round, the new TLTROs will include an incentive to encourage bank lending, and they will be capped at 30% of a bank’s eligible loans. However, since then, the downturn in EZ and world growth has gathered momentum; at its meeting on 12 September, it cut its deposit rate further into negative territory, from -0.4% to -0.5%, and announced a resumption of quantitative easing purchases of debt for an unlimited period; (at its October meeting it said this would start in November at €20bn per month - a relatively small amount compared to the previous buying programme). It also increased the maturity of the third round of TLTROs from two to three years. However, it is doubtful whether this loosening of monetary policy will have much impact on growth and, unsurprisingly, the ECB stated that governments will need to help stimulate growth by ‘growth friendly’ fiscal policy.
- 13 There were no policy changes in the December meeting which was chaired for the first time by the new President of the ECB, Christine Lagarde. However, the outlook continued to be down beat about the economy; this makes it likely there will be further monetary policy stimulus to come in 2020. She did also announce a thorough review of how the ECB conducts monetary policy, including the price stability target. This review is likely to take all of 2020.
- 14 On the political front, Austria, Spain and Italy have been in the throes of forming coalition governments with some unlikely combinations of parties i.e. this raises questions around their likely endurance. The latest results of German state elections has put further pressure on the frail German CDU/SDP coalition government and on the current leadership of the CDU. The results of the Spanish general election in November have not helped the prospects of forming a stable coalition.
- 15 **CHINA.** Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium term risks are increasing.

Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and shadow banking systems. In addition, there still needs to be a greater switch from investment in industrial capacity, property construction and infrastructure to consumer goods production.

- 16 **JAPAN** - has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.
- 17 **WORLD GROWTH.** Until recent years, world growth has been boosted by increasing globalisation i.e. countries specialising in producing goods and commodities in which they have an economic advantage and which they then trade with the rest of the world. This has boosted worldwide productivity and growth, and, by lowering costs, has also depressed inflation. However, the rise of China as an economic superpower over the last thirty years, which now accounts for nearly 20% of total world GDP, has unbalanced the world economy. The Chinese government has targeted achieving major world positions in specific key sectors and products, especially high tech areas and production of rare earth minerals used in high tech products. It is achieving this by massive financial support (i.e. subsidies) to state owned firms, government directions to other firms, technology theft, restrictions on market access by foreign firms and informal targets for the domestic market share of Chinese producers in the selected sectors. This is regarded as being unfair competition that is putting western firms at an unfair disadvantage or even putting some out of business. It is also regarded with suspicion on the political front as China is an authoritarian country that is not averse to using economic and military power for political advantage. The current trade war between the US and China therefore needs to be seen against that backdrop. It is, therefore, likely that we are heading into a period where there will be a reversal of world globalisation and a decoupling of western countries from dependence on China to supply products. This is likely to produce a backdrop in the coming years of weak global growth and so weak inflation. Central banks are, therefore, likely to come under more pressure to support growth by looser monetary policy measures and this will militate against central banks increasing interest rates.
- 18 The trade war between the US and China is a major concern to financial markets due to the synchronised general weakening of growth in the major economies of the world, compounded by fears that there could even be a recession looming up in the US, though this is probably overblown. These concerns resulted in government bond yields in the developed world falling significantly during 2019. If there were a major worldwide downturn in growth, central banks in most of the major economies will have limited ammunition available, in terms of monetary policy measures, when rates are already very low in most countries, (apart from the US). There are also concerns about how much distortion of financial markets has already occurred with the current levels of quantitative easing purchases of debt by

Agenda Item 6b

central banks and the use of negative central bank rates in some countries. The latest PMI survey statistics of economic health for the US, UK, EU and China have all been predicting a downturn in growth; this confirms investor sentiment that the outlook for growth during the year ahead is weak.

INTEREST RATE FORECASTS

- 19 The interest rate forecasts provided by Link Asset Services are predicated on an assumption of an agreement being reached on Brexit between the UK and the EU. On this basis, while GDP growth is likely to be subdued in 2019 and 2020 due to all the uncertainties around Brexit depressing consumer and business confidence, an agreement is likely to lead to a boost to the rate of growth in subsequent years which could, in turn, increase inflationary pressures in the economy and so cause the Bank of England to resume a series of gentle increases in Bank Rate. Just how fast, and how far, those increases will occur and rise to, will be data dependent. The forecasts in this report assume a modest recovery in the rate and timing of stronger growth and in the corresponding response by the Bank in raising rates.
- 20 In the event of an orderly non-agreement exit in December 2020, it is likely that the Bank of England would take action to cut Bank Rate from 0.75% in order to help economic growth deal with the adverse effects of this situation. This is also likely to cause short to medium term gilt yields to fall.
- 21 If there was a disorderly Brexit, then any cut in Bank Rate would be likely to last for a longer period and also depress short and medium gilt yields correspondingly. Quantitative easing could also be restarted by the Bank of England. It is also possible that the government could act to protect economic growth by implementing fiscal stimulus.

The balance of risks to the UK

- 22 The overall balance of risks to economic growth in the UK is probably even, but dependent on a successful outcome of negotiations on a trade deal.
- 23 The balance of risks to increases in Bank Rate and shorter term PwLB rates are broadly similarly to the downside.
- 24 In the event that a Brexit deal was agreed with the EU and approved by Parliament, the balance of risks to economic growth and to increases in Bank Rate is likely to change to the upside.
- 25 One risk that is both an upside and downside risk, is that all central banks are now working in very different economic conditions than before the 2008 financial crash as there has been a major increase in consumer and other debt due to the exceptionally low levels of borrowing rates that have prevailed since 2008. This means that the neutral rate of interest in an

economy, (i.e. the rate that is neither expansionary nor deflationary), is difficult to determine definitively in this new environment, although central banks have made statements that they expect it to be much lower than before 2008. Central banks could therefore either over or under do increases in central interest rates.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- Brexit - if it were to cause significant economic disruption and a major downturn in the rate of growth.
- Bank of England takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- A resurgence of the Eurozone sovereign debt crisis. In 2018, Italy was a major concern due to having a populist coalition government which made a lot of anti-austerity and anti-EU noise. However, in September 2019 there was a major change in the coalition governing Italy which has brought to power a much more EU friendly government; this has eased the pressure on Italian bonds. Only time will tell whether this new coalition based on an unlikely alliance of two very different parties will endure.
- Weak capitalisation of some European banks, particularly Italian banks.
- German minority government. In the German general election of September 2017, Angela Merkel's CDU party was left in a vulnerable minority position dependent on the fractious support of the SPD party, as a result of the rise in popularity of the anti-immigration AfD party. The CDU has done badly in recent state elections but the SPD has done particularly badly and this has raised a major question mark over continuing to support the CDU. Angela Merkel has stepped down from being the CDU party leader but she intends to remain as Chancellor until 2021.
- Other minority EU governments. Austria, Sweden, Spain, Portugal, Netherlands and Belgium also have vulnerable minority governments dependent on coalitions which could prove fragile.
- Austria, the Czech Republic, Poland and Hungary now form a strongly anti-immigration bloc within the EU. There has also been rising anti-immigration sentiment in Germany and France.
- In October 2019, the IMF issued a report on the World Economic Outlook which flagged up a synchronised slowdown in world growth. However, it also flagged up that there was potential for a rerun of the 2008 financial crisis, but this time centred on the huge debt binge accumulated by corporations during the decade of low interest rates. This now means that there are corporates who would be unable to cover basic interest costs on some \$19trn of corporate debt in major western economies, if world growth was to dip further than just a minor cooling. This debt is mainly held by the shadow banking sector i.e. pension funds, insurers, hedge funds, asset managers etc., who, when there is \$15trn of corporate and government debt now yielding negative interest rates,

Agenda Item 6b

have been searching for higher returns in riskier assets. Much of this debt is only marginally above investment grade so any rating downgrade could force some holders into a fire sale, which would then depress prices further and so set off a spiral down. The IMF's answer is to suggest imposing higher capital charges on lending to corporates and for central banks to regulate the investment operations of the shadow banking sector. In October 2019, the deputy Governor of the Bank of England also flagged up the dangers of banks and the shadow banking sector lending to corporates, especially highly leveraged corporates, which had risen back up to near pre-2008 levels.

- Geopolitical risks, for example in North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.

Upside risks to current forecasts for UK gilt yields and PWLB rates

- Brexit - if agreement was reached all round that removed all threats of economic and political disruption between the EU and the UK.
- The Bank of England is too slow in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- UK inflation, whether domestically generated or imported, returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.

APPENDIX C: CURRENT PORTFOLIO POSITION

List of Investments as at:- 1-Dec-19

Reference	Name	Rating	Country	Group	Amount	Start Date	Comm Rate	End Date	Curr Rate	Terms
	Barclays Bank plc (Business Premium A/C)	A+	U.K.		335,000	01-Oct-11			0.55000%	Variable
	Svenska Handelsbanken AB (Deposit A/C)	AA	Sweden		0	23-Jul-14			0.40000%	Variable
	Svenska Handelsbanken AB (35 Day Notice A/C)	AA	Sweden		0	01-Sep-16			0.50000%	Variable
	Aberdeen Standard Liquidity Fund (Money Market Fund)	AAA	U.K.		3,500,000	11-May-12				Variable
	Insight Liquidity Fund (Money Market Fund)	AAA	U.K.		100,000	11-May-12				Variable
	BlackRock Liquidity Fund (Money Market Fund)	AAA	U.K.		1,500,000	13-Oct-16				Variable
	CCLA Public Sector Deposit Fund (Money Market Fund)	AAA	U.K.		3,300,000	08-Oct-18				Variable
IP1357	Bank of Scotland plc	A+	U.K.	Lloyds/HBOS	1,000,000	09-Aug-17	0.45000%		1.10000%	95 Day Notice
IP1414	Goldman Sachs International Bank	A	U.K.		3,000,000	15-Nov-19	0.93000%	15-May-20		6 Months
IP1374	Lloyds Bank plc	A+	U.K.	Lloyds/HBOS	1,000,000	05-Jan-18	0.70000%		1.10000%	95 Day Notice
IP1410	Newcastle Building Society		U.K.		2,000,000	22-Jul-19	1.27000%	20-Jul-20		1 Year
IP1409	Newcastle Building Society		U.K.		1,000,000	31-Jul-19	1.30000%	31-Jul-20		1 Year
IP1408	Nottingham Building Society		U.K.		1,000,000	31-Jul-19	1.02000%	31-Jan-20		6 Months
IP1412	Principality Building Society	BBB-	U.K.		2,000,000	31-Jul-19	0.97000%	31-Jan-20		6 Months
IP1415	Santander UK plc	A+	U.K.		2,000,000	28-Nov-19	0.76000%	23-Mar-20		4 Months
IP1413	Thurrock Borough Council		U.K.		2,000,000	24-Oct-19	0.82000%	23-Mar-20		5 Months
IP1411	West Bromwich Building Society		U.K.		2,000,000	22-Jul-19	0.98000%	19-Feb-20		7 Months
Total Invested					25,735,000					
Other Loans										
	Sevenoaks Leisure Limited				529,648	02-Mar-18	6.00000%	02-Mar-28		10 Years

This page is intentionally left blank

APPENDIX D - TREASURY MANAGEMENT PRACTICE (TMP1) - CREDIT AND COUNTERPARTY RISK MANAGEMENT

- 1 The MHCLG issued Investment Guidance in 2018, and this forms the structure of the Council's policy below. These guidelines do not apply to either trust funds or pension funds which operate under a different regulatory regime.
- 2 The key intention of the Guidance is to maintain the current requirement for councils to invest prudently, and that priority is given to security and liquidity before yield. In order to facilitate this objective the guidance requires this Council to have regard to the CIPFA publication Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. This Council adopted the Code and will apply its principles to all investment activity. In accordance with the Code, the Chief Officer Finance & Trading has produced its treasury management practices (TMPs). This part, TMP 1(1), covering investment counterparty policy requires approval each year.
- 3 **Annual investment strategy** - The key requirements of both the Code and the investment guidance are to set an annual investment strategy, as part of its annual treasury strategy for the following year, covering the identification and approval of following:
 - The strategy guidelines for choosing and placing investments, particularly non-specified investments.
 - The principles to be used to determine the maximum periods for which funds can be committed.
 - Specified investments that the Council will use. These are high security (i.e. high credit rating, although this is defined by the Council, and no guidelines are given), and high liquidity investments in sterling and with a maturity of no more than a year.
 - Non-specified investments, clarifying the greater risk implications, identifying the general types of investment that may be used and a limit to the overall amount of various categories that can be held at any time.
- 4 The investment policy proposed for the Council is:

Strategy guidelines - The main strategy guidelines are contained in the body of the treasury management strategy statement.

Specified investments - These investments are sterling investments of not more than one-year maturity, or those which could be for a longer period but where the Council has the right to be repaid within 12 months if it wishes. These are considered low risk assets where the possibility of loss of principal or investment income is small. These would include

Agenda Item 6b

sterling investments which would not be defined as capital expenditure with:

- a) The UK Government (such as the Debt Management Account deposit facility, UK treasury bills or a gilt with less than one year to maturity).
- b) Supranational bonds of less than one year's duration.
- c) A local authority, parish council or community council.
- d) Pooled investment vehicles (such as money market funds) that have been awarded a high credit rating by a credit rating agency. This covers pooled investment vehicles, such as money market funds, rated AAA by Standard and Poor's, Moody's and / or Fitch rating agencies.
- e) A body that is considered of a high credit quality (such as a bank or building society). This covers bodies with a minimum Short Term rating of F1 (or the equivalent) as rated by Standard and Poor's, Moody's and / or Fitch rating agencies.

Within these bodies, and in accordance with the Code, the Council has set additional criteria to set the time and amount of monies which will be invested in these bodies. These criteria are contained in the body of the treasury management strategy statement.

Non-specified investments -are any other type of investment (i.e. not defined as specified above). The identification and rationale supporting the selection of these other investments and the maximum limits to be applied are set out below. Non specified investments would include any sterling investments with:

	Non Specified Investment Category	Limit (£)
a.	The Council's own banker if it fails to meet the basic credit criteria. In this instance balances will be minimised as far as is possible.	£7m
b.	Building societies not meeting the basic security requirements under the specified investments. The operation of some building societies does not require a credit rating, although in every other respect the security of the society would match similarly sized societies with ratings. The Council may use such building societies which have a minimum asset size of £3bn.	£3m
c.	Any bank or building society that has a minimum long term credit rating of A-, for deposits with a maturity of greater than one year (including forward deals in excess of one year from inception to repayment).	£7m
d.	Any non-rated subsidiary of a credit rated institution included in the specified investment category. These institutions will be included as an investment category subject to where the parent bank has provided an appropriate guarantee or has the necessary ratings outlined	£7m

	above.	
e.	Share capital in a body corporate - The use of these instruments will be deemed to be capital expenditure, and as such will be an application (spending) of capital resources. Revenue resources will not be invested in corporate bodies. See note 1 below.	£50k
f.	Bond Funds. A pooled investment vehicle with a mix of corporate and government grade bonds. See note 1 below.	£5m
g.	Other Funds - including Property, Equity and Multi-Asset Funds. These are pooled investment vehicles specialising in property, equities or a mixture of assets. The use of these instruments can be deemed to be capital expenditure, and as such will be an application (spending) of capital resources. See note 1 below. This Authority will seek guidance on the status of any fund it may consider using.	£5m

NOTE 1. This Authority will seek further advice on the appropriateness and associated risks with investments in these categories.

Within categories a and b, and in accordance with the Code, the Council has developed additional criteria to set the overall amount of monies which will be invested in these bodies. These criteria are contained in the body of the treasury management strategy statement.

- 5 **The monitoring of investment counterparties** - The credit rating of counterparties will be monitored regularly. The Council receives credit rating information (changes, rating watches and rating outlooks) from Link Asset Services as and when ratings change, and counterparties are checked promptly. On occasion ratings may be downgraded when an investment has already been made. The criteria used are such that a minor downgrading should not affect the full receipt of the principal and interest. Any counterparty failing to meet the criteria will be removed from the list immediately by the Chief Officer Finance & Trading, and if required, new counterparties which meet the criteria will be added to the list.

APPENDIX E - Approved countries for investments

This list is based on those countries which have sovereign ratings of AA- or higher and also (except for Luxembourg, Norway & Hong Kong) have banks operating in the sterling markets which have colour codes of green or above in the Capita Asset Services credit worthiness service.

AAA

- Australia
- Canada
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA+

- Finland
- U.S.A.

AA

- Abu Dhabi (UAE)
- France
- Hong Kong
- U.K.

AA-

- Belgium
- Qatar

APPENDIX F - Treasury management scheme of delegation

Full Council

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

Cabinet

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

Finance & Investment Advisory Committee

- reviewing the treasury management policy and procedures and making recommendations to Cabinet.

APPENDIX G - The treasury management role of the section 151 officer

The S151 (responsible) officer is responsible for:

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit;
- recommending the appointment of external service providers.

The above list of specific responsibilities of the S151 officer in the 2017 Treasury Management Code has not changed. However, implicit in the changes in both codes, is a major extension of the functions of this role, especially in respect of non-financial investments (which CIPFA has defined as being part of treasury management). Examples are as follows:-

- preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long term timeframe;
- ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money;
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority;
- ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing;
- ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources;
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities;
- provision to Members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees;

- ensuring that Members are adequately informed and understand the risk exposures taken on by an authority;
- ensuring that the authority has adequate expertise, either in house or externally provided, to carry out the above; and
- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following: -
 - Risk management (TMP1 and schedules), including investment and risk management criteria for any material non-treasury investment portfolios;
 - Performance measurement and management (TMP2 and schedules), including methodology and criteria for assessing the performance and success of non-treasury investments;
 - Decision making, governance and organisation (TMP5 and schedules), including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making;
 - Reporting and management information (TMP6 and schedules), including where and how often monitoring reports are taken; and
 - Training and qualifications (TMP10 and schedules), including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.

This page is intentionally left blank

Item 6 (c) - Capital Strategy 2020/21.

The attached report was considered by the Cabinet, and the relevant minute extract is below:

Cabinet (Minute 61, 4 February 2020)

The Finance & Investments Portfolio Holder presented the report which presented the Capital Strategy report 2020/21. The Principal Accountant explained that the Strategy was intended to provide a high level, long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services. It also provided an overview of how the associated risk was managed as well as the implications for future financial sustainability. The Finance & Investment Advisory Committee had considered the same report.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that the Capital Strategy for 2020/21 be approved.

This page is intentionally left blank

CAPITAL STRATEGY 2020/21

Council - 25 February 2020

Report of the: Chief Officer Finance & Trading

Status: For Decision

Also considered by: Finance & Investment Advisory Committee - 23 January 2020
Cabinet - 4 February 2020

Key Decision: No

Executive Summary: This report presents the Capital Strategy for 2020/21. The Capital Strategy forms part of the Council's policy and strategy documents, providing guidance on the Council's capital programme and the use of its capital resources. It has to be approved by Cabinet and Full Council.

Its aim is to ensure that Members fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

The guidance in this strategy complements and supplements the Medium Term Financial Plan, the Property Investment Strategy and the Treasury Management Policy and Strategy.

This report supports the Key Aim of efficient management of the Council's resources.

Portfolio Holder Cllr. Matthew Dickins

Contact Officer Roy Parsons, Principal Accountant - Ext 7204

Recommendation to Finance & Investment Advisory Committee: That the report be noted and comments forwarded to Cabinet.

Recommendation to Cabinet: That, subject to the comments of the Finance & Investment Advisory Committee, Cabinet recommend that Council approve the Capital Strategy for 2020/21 as shown in the Appendix.

Recommendation to Council: That the Capital Strategy for 2020/21, as shown in the Appendix, be approved.

Reason for recommendations: To agree the Capital Strategy for 2020/21.

Agenda Item 6c

Background

- 1 Following a substantial review process during 2017 both the Prudential Code for Capital Finance in Local Authorities (the 'Prudential Code') and the Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (the 'Treasury Management Code') were updated and issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) in December 2017.
- 2 The Ministry of Housing, Communities and Local Government (MHCLG) issued its Statutory Guidance on Local Government Investments (3rd Edition) in February 2018. The Statutory Investment Guidance was amended in response to changing practices for local authority investments (for example, for investment in economic regeneration and authorities investing in non-financial assets) and it follows up on the changes to the CIPFA codes.
- 3 Local authorities in England are required to 'have regard' to the Statutory Investment Guidance as the Guidance was issued by the Secretary of State under Section 15 (1) of the Local Government Act 2003.

Introduction

- 4 The revised CIPFA Codes require, for 2019/20 onwards, all local authorities to prepare a Capital Strategy report, which will provide the following:
 - A high level, long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services;
 - An overview of how the associated risk is managed; and
 - The implications for future financial sustainability.
- 5 This Council's Capital Strategy for 2020/21 is presented in the Appendix. It has not changed from the 2019/20 version.
- 6 The aim of this Capital Strategy is to ensure that all elected Members fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance and risk appetite.
- 7 The Capital Strategy has direct links to other key strategic and policy documents, such as:
 - The Council Plan;
 - The Ten Year Budget and Budget Strategy;
 - The Local Plan;
 - Asset Management Plan;

- Treasury Management Policy And Strategy;
 - Property Investment Strategy; and
 - Capital Programme
- 8 The Capital Strategy complements the above documents by defining the approach, structure and governance for the effective financing and Management of the Council's capital investment needs and ambitions. It outlines how the Council's existing capital resources will be effectively managed to meet the planned needs and opportunities and for meeting the ambitions for future longer term capital investments.
- 9 It is intended that the Capital Strategy will be reviewed annually to reflect changes in circumstances.

Key Implications

Financial

The report forms part of the Council's Budget and Policy framework.

Legal Implications and Risk Assessment Statement

Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority.

All capital expenditure carries an element of risk which will be considered as part of the decision-making process for individual capital schemes.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

This Capital Strategy report fulfils the requirements of the CIPFA Prudential Code and the CIPFA Treasury Management Code, which were issued in December 2017.

In line with the revised CIPFA Codes, the Capital Strategy must be considered by Council and this is planned for its meeting on 25 February 2020.

Background Papers: None

Adrian Rowbotham
Chief Officer Finance & Trading

The Capital Strategy 2020/21

Purpose of the Capital Strategy

- 1 The Capital Strategy sets out how the Council will manage the investment and financing of capital resources to contribute towards the achievement of its key objectives and priorities. This includes the appraisal process for determining investment decisions and the process for identifying and prioritising funding requirements.
- 2 The Capital Strategy is a framework by which capital expenditure decisions are made. It is required under the Prudential Code as a measure of good governance.
- 3 The objectives of the Capital Strategy are to:
 - Prioritise and deploy capital resources in advancement of corporate objectives;
 - Support service plans;
 - Look for opportunities for cross-cutting and joined up investment;
 - Invest in assets that reflect the visions and aspirations of local people in service delivery; and
 - Manage investment and the Council's property and other assets effectively and efficiently.
- 4 The strategy considers all aspects of the Council's capital expenditure and forms part of the Council's integrated revenue, capital and balance sheet planning.
- 5 The strategy covers capital expenditure, capital financing and asset management and is one of the Council's key strategies. It also gives an overview of how risk is managed and the implications for future financial sustainability. It also provides a set of objectives and a framework, within the CIPFA Codes and statutory legislation, by which new capital projects are evaluated and investment decisions made, whilst ensuring that funding is targeted towards meeting corporate priorities.
- 6 The Capital Strategy:
 - States the Council's processes for project initiation, deciding on the prioritisation of capital projects and monitoring and evaluating schemes;
 - Takes account of significant revenue implications;

- Provides a framework for the management and monitoring of the capital programme;
- Identifies funding streams and provides a basis to inform bidding for additional capital resources (e.g. government initiatives); and
- Informs the corporate review of existing properties.

Project Initiation

- 7 Capital projects are subject to a robust justification process, bringing together a clear business case with sufficient detailed costings to ensure that transparent decisions can be taken. Proposals are given independent oversight and review of the project in terms of validation arrangements, estimated figures and project milestones. Business cases are prepared in accordance with good project management principles.
- 8 A formal process is drawn up to ensure that projects are subject to thorough oversight for the duration of the scheme. Project management sits with the initiating team or department and there are clearly defined areas of responsibility for each task within the project.
- 9 For larger projects where feasibility is less certain, more robust business cases are prepared before bids for funds are made. This includes undertaking all preparatory work to fully understand the requirements of a project before a budget is sought. There must be a clear link between budgets and service plans.

Prioritisation of capital projects

- 10 Capital projects will be assessed for:
 - Strategic fit - corporate objectives are being met by the expenditure;
 - Identified need - e.g. essential repairs and maintenance of existing assets;
 - Achievability - this may include alternatives to direct expenditure by the Council such as partnerships with others;
 - Affordability - to ensure that total capital expenditure remains within sustainable limits;
 - Practicality and deliverability;
 - Revenue generation achieved from the investment; and
 - Non-monetary impacts such as future economic growth, social well-being or environmental improvement.

Monitoring and evaluating schemes

- 11 For all capital investment the appropriate level of due diligence will be undertaken, with the extent and depth reflecting the level of risk being considered. Due diligence will include:
 - Identification of the risk to both the capital sums invested and the returns;
 - Understanding the potential impact on the financial sustainability of the Council if the risks come to fruition;
 - Identifying assets being held for security against any potential debt or charges on assets; and
 - Seeking independent and expert advice where necessary.
- 12 The Chief Officer Finance & Trading will ensure that Members are adequately informed and understand the risks of capital investment.
- 13 Project proposals will be put to Council for formal approval together with funding requirements and, if successful, will form the Council's capital programme which is its plan of capital investment for future years. This ensures that the Council's overall capital strategy, governance procedures and risk appetite are fully understood by all Members.

Revenue implications

- 14 The revenue implications of capital investment must always be considered in investment decisions and the prioritisation of projects. These include costs and savings implications. Costs to consider include:
 - Cost of borrowing (including Minimum Revenue Provision);
 - Loss of investment income if reserves or useable capital receipts are deployed; and
 - Running costs associated with the asset (e.g. employee salaries, heat and light, administrative support costs and future maintenance).

Savings, including benefits, to identify include:

- Any positive impact of investment and economic growth on the Council's council tax base and business rates income; and
- Capital projects that generate income, revenue savings or efficiencies.

Funding the Capital Strategy

- 15 Proposals for capital projects must identify the funding requirements for the timescale of the project including any revenue implications. Funding must be appropriate for the project and will come from:
- Reserves;
 - Capital receipts - from the sale of assets or finance lease receipts;
 - Government grants - such as disabled facilities grant funding;
 - Third party grants and contributions;
 - Community Infrastructure Levy;
 - Revenue contributions;
 - Other developer contributions; and
 - External borrowing.
- 16 The Secretary of State believes that individual local authorities are best placed to decide which projects will be most effective for their area. The key criteria to use when deciding whether expenditure can be funded by the increased flexible use of capital receipts is that it is forecast to generate ongoing savings.

Borrowing

- 17 The Council's approach to borrowing is set out in its Treasury Management Strategy Statement. The Council may consider internal or external borrowing. Prior to undertaking any external borrowing, affordability, the maturity profile of existing debt, interest rate and refinancing risk and the borrowing source should be given due consideration.
- 18 Local authorities are required to set aside some of their revenues as provision for debt each year of an amount considered to be 'prudent' (the Minimum Revenue Provision or MRP). Prudent provision should ensure that debt is repaid over a period that is reasonably commensurate with that over which the capital expenditure provides benefit.

Commercial activities and investment property

- 19 CIPFA defines investment property as property held solely to earn rentals or for capital appreciation or both. Returns from property ownership can be both income driven (through the receipt of rent) and by way of appreciation of the underlying asset value (capital growth). The combination of these is a consideration in assessing the attractiveness of a property for acquisition.

Agenda Item 6c

- 20 With reductions in funding that the Council has faced, it is having to look at commercial activities and property investment to supplement its income and support service delivery. However, to minimise risk of potential loss of income in the longer term, it needs to ensure that any investment opportunities are based upon sound decision making that considers the future likelihood of investment income reducing. Property investment is not without risk as property values can fall as well as rise and changing economic conditions could cause tenants to leave properties remaining vacant.
- 21 The detail is contained in the Council's Property Investment Strategy which documents the Council's requirements, but when making commercial investment decisions the Council will follow the following principles:
- Commercial investments will only be made to enhance the Council's asset portfolio and will be linked to delivery of the Ten Year Budget;
 - Consideration will be given to the economic development potential of any investment decision;
 - Expert advice will be sought to ensure that any investment decision is based upon sound market intelligence, forecasts for future investment returns and yields that offer sound investment return without risking the capital invested;
 - Any borrowing linked to investment opportunities is secured upon the potential guaranteed element of the investment return so that any liability can be met from the activity undertaken; and
 - Investment opportunities will always ensure that the Council's investment is protected as far as possible either through increases in capital value or from guaranteed revenue income.
- 22 The Property Investment Strategy makes it clear that the Council will continue to invest prudently on a commercial basis and to take advantage of opportunities as they present themselves, supported by a robust governance process. However, proportionality in respect of overall resources will remain an important factor.

Knowledge and skills

- 23 The Council has professionally qualified staff across a range of disciplines, including finance, legal and property that follow continuous professional development (CPD) and maintain knowledge and skills through attendance on courses and through regular technical updates from appropriate bodies.
- 24 The Council utilises the knowledge and skills of these officers when considering capital investment decisions and, where necessary, it also relies on the expert knowledge of specialist external advisors. Some of these advisors are contracted long term or are appointed on an ad-hoc basis where

necessary. Link Asset Services, provide treasury management advice, including investments, borrowing and capital financing.

- 25 External professional advice will always be sought when considering any major commercial property investment decision.

This page is intentionally left blank

Item 6 (d) - Budget and Council Tax Setting 2020/21.

The attached report was considered by the Cabinet, and the relevant minute extract is below:

Cabinet (Minute 64, 4 February 2020)

The Finance and Investments Portfolio Holder presented the report which was the final stage of the budget process that has seen significant member involvement.

If approved, the net expenditure budget for 2020/21 would be £15.6m with the District's Council Tax increasing by 2.3% resulting in Band D Council Tax being £219.96, an increase of £4.95. Provision had also been made for setting up the Net Zero Transition Fund.

The Portfolio Holder was pleased to say that the report once again left the council with a fully funded self-sufficient budget over the next 10 years.

The Chief Officer for Finance and Trading set out that the report contained various appendices including budget amounts for all service areas, growth and savings items recommended as well as pay costs and a risk analysis.

With regards to the 10-year budget, the major changes were listed in Appendix D on p.223. These included:

- a number of growth and savings/additional income items that had previously been presented to Cabinet;
- Council Tax increase of 2.3% in 2020/21 (£4.95 pa for a Band D property) but remaining at 2% for later years;
- increased assumptions for Property Investment Strategy income as presented in the previous report;
- interest receipts increasing from £250,000 to £300,000 per year;
- transferring the Council Tax increase above 2% to a new 'Net Zero Transition Fund'.

The Final Local Government Finance Settlement had not yet been announced but no changes from the provisional settlement affecting this Council were expected.

Appendix J contained a review of reserves which only included one recommendation to set up the Net Zero Carbon Emissions Reserve.

Agenda Item 6d

Appendix L summarised the Local Council Tax Reduction Scheme proposed for 2020/21.

He set out that appendices M to Q were not included in the papers but would be included in the Council version of the report after the other preceptors have set their Council Tax. He explained that the report included his opinion, as the Statutory Finance Officer, on the robustness of the budget estimates and adequacy of reserves.

If approved, the net expenditure budget for 2020/21 would be £15.6m with the District's Council Tax increasing by 2.3% resulting in Band D Council Tax being £219.96, an increase of £4.95.

He explained that the report once again left the Council with a fully funded self-sufficient budget over the next 10 years, a rare achievement in Local Government.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that

- a) the Summary of Council Expenditure and Council Tax for 2020/21 set out in Appendix E be approved;
- b) the 10-year budget 2020/21 to 2029/30 which is the guiding framework for the detailed approval of future years' budgets set out in Appendix B to the report be approved, including the growth and savings proposals set out in Appendix C-D to the report, and that where possible any variations during and between years be met from the Budget Stabilisation Reserve;
- c) the Capital Programme 2020/23 and funding method set out in Appendix H to the report, be approved;
- d) the changes to reserves and provisions set out in Appendix J to the report, be approved; and
- e) the Local Council Tax Reduction Scheme 2019/20, be rolled forward to 2020/21, with effect from 1 April 2020 (Appendix L to the report).

BUDGET AND COUNCIL TAX SETTING 2020/21

Council - 25 February 2020

Report of Chief Officer Finance and Trading

Status For Decision

Also considered by Cabinet - 4 February 2020

Key Decision No

Executive Summary:

The Council has an excellent track record in identifying, planning for and addressing financial challenges. In light of the challenging financial position facing all authorities nine years ago, for 2011/12 the Council produced a 10-year budget together with a savings plan for the first time. This will be the tenth year this method has been used and provides the Council with a stable basis for future years.

This report sets out the proposed budget and required level of Council Tax for 2020/21.

Based on the changes detailed in this report, **this Council will once again have a balanced 10-year budget.**

The report proposes a net expenditure budget of £15.581m in 2020/21 (£15.251m in 2019/20). Subject to any further changes this would result in a **Council Tax increase of 2.3% in 2020/21, with the District's Council Tax being £219.96 for a Band D property for the year (£215.01 in 2019/20), an increase of £4.95.**

The report also contains details of the precepts received from other authorities (Council report only); the Collection Fund position and an opinion on the robustness of the budget and the adequacy of the reserves.

Portfolio Holder Cllr. Matthew Dickins

Contact Officer(s) Adrian Rowbotham, Ext. 7153

Alan Mitchell, Ext. 7483

Recommendation to Cabinet:

That recommendations (a) to (e) below be recommended to Council.

Recommendation to Council:

- (a) The Summary of Council Expenditure and Council Tax for 2020/21 set out in Appendix E be approved.
- (b) Approve the 10-year budget 2020/21 to 2029/30 which is the guiding framework for the detailed approval of future years' budgets set out in Appendix B to the report, including the growth and savings proposals set out in Appendix C-D to the report, and that where possible any variations during and between years be met from the Budget Stabilisation Reserve.
- (c) Approve the Capital Programme 2020/23 and funding method set out in Appendix H.
- (d) Approve the changes to reserves and provisions set out in Appendix J.
- (e) That the Local Council Tax Reduction Scheme 2019/20, be rolled forward to 2020/21, with effect from 1 April 2020 (Appendix L).

Due to their length and complexity, the further recommendations have been produced as a separate document (Appendix P).

Introduction and Background

- 1 The Council's financial strategy over the past fifteen years has worked towards increasing financial sustainability and it has been successful through the use of a number of strategies including:
 - implementing efficiency initiatives;
 - significantly reducing the back-office function;
 - improving value for money;
 - maximising external income;
 - the movement of resources away from low priority services; and
 - an emphasis on statutory rather than non-statutory services.
- 2 Over this period the Council has focused on delivering high quality services based on Members' priorities and consultation with residents and stakeholders.
- 3 In setting its budget for 2011/12 onwards, the Council recognised the need to address both the short-term reduction in Government funding as well as the longer-term need to reduce its reliance on reserves. The outcome was a 10-year budget, together with a four-year savings plan, that ensured the Council's finances were placed on a stable footing but that also allowed for flexibility between budget years.
- 4 With the Revenue Support Grant provided by Government ceasing from 2017/18 it is important that the council remains financially self-sufficient by

having a financial strategy that is focused on local solutions. These solutions include:

- continuing to deliver financial savings and service efficiencies;
- growing the council tax base; and
- generating more income.

- 5 At the Cabinet meeting on 12 September 2019, Members considered a report setting out the Council's financial prospects for 2020/21 and beyond. That report set out the major financial pressures the Council is likely to face, together with a proposed strategy for setting a balanced and sustainable budget for 2020/21 and beyond.
- 6 As part of the budget process officers put forward their Service Dashboards to the Advisory Committees between October and November, which set out a summary of current and future challenges and risks. The Advisory Committees recommended new growth and savings items which were considered at the Cabinet meeting on 5 December 2019.
- 7 The report to Cabinet on 5 December 2019 also contained updates to the Financial Prospects report. Another update report was presented to Cabinet on 9 January 2020 when further growth and savings items were considered.
- 8 This report includes a number of attachments:
 - Appendix A - Budget timetable
 - Appendix B - 10-year budget (revenue and balance sheet);
 - Appendix C - Summary of the Council's agreed savings and growth items;
 - Appendix D - Summary of changes to the 10-year Budget
 - Appendix E - Summary of Council Expenditure and Council Tax;
 - Appendix F - Summary of service analysis in budget book format;
 - Appendix G - Analysis of pay costs;
 - Appendix H - Capital Programme 2020-23;
 - Appendix J - Reserves;
 - Appendix K - Risk analysis;
 - Appendix L - Local Council Tax Reduction Scheme 2020/21;
 - Appendix M - Latest information on precepting authorities (only in Council report);

Agenda Item 6d

- Appendix N - Town and Parish Council precepts and council tax rates (only in Council report);
- Appendix P - Council tax setting recommendations (only in Council report);
- Appendix Q - Council tax rates across the district (only in Council report).

Financial Self-Sufficiency

- 9 The Council's Corporate Plan 2013-2018 set out an ambition for the Council to become financially self-sufficient which was achieved in 2016/17. The current Council Plan aims to continue with this approach. This means that the Council no longer requires direct funding from Government, through Revenue Support Grant or New Homes Bonus, to deliver its services.
- 10 This approach was adopted in response to the financial challenges the Country is faced with in bringing its public spending down to ensure it is able to live within its means. In practice this has seen Government funding to local authorities dramatically reduced since 2010/11 with Sevenoaks District Council receiving no Revenue Support Grant from 2017/18.
- 11 The decision to become financially self-sufficient is intended to give the Council greater control over its services, reducing the potential for decision making to be influenced by the level of funding provided by government to local authorities.
- 12 The Council's decision to seek to become financially self-sufficient was subject to scrutiny by the Local Government Associations Peer Challenge of the District Council during December 2013. In their closing letter to the Council they concluded that they 'fully support that aspiration and given the existing and anticipated squeeze upon public finances this makes much sense'.
- 13 With the Council receiving no Revenue Support Grant from 2017/18 and New Homes Bonus reducing from 2018/19, this approach remains appropriate. The attached 10-year budget assumes no Revenue Support Grant or New Homes Bonus. Any funding received from these sources will be put into the Financial Plan Reserve which can be used to support the 10-year budget by funding invest to save initiatives and supporting the Property Investment Strategy. One of the aims of the Property Investment Strategy is to achieve an income yield of 3%+ above the Council's average treasury management return (currently 0.9%) when not borrowing or internally borrowing, and 3%+ above the borrowing rate (currently 2.8% for 30 years). Therefore, using funding for this purpose will result in additional year on year income that is not impacted by Government decisions.
- 14 Cabinet are keen to remain financially self-sufficient and be ahead of the game. This will include a new target to replace reliance on Business Rates income over the coming years. This will allow this Council to move ahead in

the knowledge that this council has the financial resources to provide the services that the district's residents need into the future.

Local Government Finance Settlement

15 ***The Provisional Local Government Finance Settlement*** for 2020/21 was announced on 20 December 2019. The most relevant elements for this Council were as follows:

- The Council Tax increase referendum limit for district councils for 2020/21 has been increased from 2% to the higher of 2% or £5 for a Band D property.
- The settlement relates to 2020/21 only.
- Negative Revenue Support Grant (RSG) has been removed for 2020/21. There was previously an expectation this could have a £1m negative impact on this council.
- The basis of Business Rates Retention has not changed.
- New Homes Bonus will continue for 2020/21 and is then expected to reduce to nil in 2023/24.

16 ***The Final Local Government Finance Settlement*** for 2020/21 had not been released at the time of writing this report. Members will be updated of any relevant differences in the final settlement compared to the provisional settlement.

Updates on Assumptions

17 ***Government Support: Revenue Support Grant (RSG)*** (£nil received in 2019/20) - This formula-based grant has significantly reduced since 2010/11 as the emphasis of Government Support has changed, in fact this council received no RSG in 2017/18 and is not expected to receive any in future years. The attached 10-year budget assumes no RSG, if any amounts are received in future years, they will be put into the Financial Plan Reserve to support the 10-year budget including 'invest to save' initiatives and support for the Property Investment Strategy.

18 Negative RSG (i.e. where councils pay government) has previously been proposed by government. It was announced in the Spending Round that there would not be negative RSG in 2020/21 but this remains a threat going forward.

19 ***New Homes Bonus (NHB)*** (£1.2m received in 2019/20 but not used to fund the revenue budget) - the Government started this new funding stream in 2011/12 from funds top sliced from RSG with the intention that local authorities would be rewarded for new homes being built over a six-year period. The basis of NHB was changed with effect from 2017/18. Previously it was based on cumulative figures for 6 years, but this was reduced to 5

Agenda Item 6d

years from 2017/18 and 4 years from 2018/19. In addition, NHB is only received on tax base growth above 0.4% instead of on all growth (known as the deadweight).

- 20 In the same way as RSG, the attached 10-year budget assumes no NHB resulting in there being no reliance on this funding source to support the revenue budget. Any funding received will be put into the Financial Plan Reserve for the same purpose as noted above.
- 21 It is likely that NHB will soon be replaced by a different method to incentivise housing growth.
- 22 **Council Tax** (£10.9m) - in the Provisional Local Government Finance Settlement it was announced that the referendum limit for 2020/21 was an increase of 2% (or £5 for a Band D property if higher). The Final Local Government Finance Settlement had not been announced at the time of writing this report so the referendum limit may change. At the Cabinet meeting on 9 January 2020 Members recommended to change the Council Tax increase assumption for 2020/21 to £5 for a Band D property (2.3%) or the referendum limit, whichever is the greater, with the excess above 2% put into a new 'Net Zero Transition Fund'.
- 23 This recommendation would result in Band D Council Tax increasing from £215.01 in 2019/20 to £208.80 to £219.96 in 2020/21 (unless the final referendum limit is higher).

2020/21 Council Tax	Original Assumptions	Proposed Assumptions
% increase	2.00%	2.30%
£ increase (Band D pa)	£4.30	£4.95
£ (Band D pa)	£219.31	£219.96

- 24 Due to the uncertainty of future Council Tax increase referendum limits, if maximum increases are not taken there will be an ongoing detrimental impact on the ability to increase Council Tax in future years.
- 25 The Council Tax Base has increased from 50,772.3 to 51,207.9 Band D equivalent properties. That is an increase of 435.6 (0.86%) which is below the previously assumed increase of 580 (1.14%).
- 26 The tax base increases each year due to the general increase in the number of residential properties and future developments as well as the continuing work to check the validity of Council Tax discounts awarded. The assumption going forward reflects the increases achieved in recent years and the ongoing work. The increased tax base results in additional Council Tax income which is assumed to be greater than the incremental cost of servicing the additional properties although it should be recognised that there are likely to be step changes in costs for some services in the future

such as refuse collection. The Local Plan may also affect future Council Tax assumptions.

- 27 **Business Rates Retention** (£2.1m) - The basis for allocating Government Support from 2013/14 changed to the Business Rates Retention Scheme. This scheme initially allows billing authorities, such as this council, to keep 40% of Business Rates received. However, tariffs and top-ups are applied to ensure that the funding received by each local authority is not significantly different to pre 2013/14 amounts. This Council is due to collect £37m of Business Rates in 2019/20.
- 28 A Business Rates Pool operates in Kent and Medway which generally results in councils retaining more Business Rates than if they were not in the pool. This council and Dover Borough Council were not part of the pool in previous years, but it has been agreed that Sevenoaks and Dover will benefit as if they were in the pool going forward.
- 29 Due to the large number of business rates appeals being outstanding with the Valuation Office Agency (VOA) and the limited opportunities to increase the number of businesses in the district, the assumption in the 10-year budget remains at the safety-net level, which is the amount of business rates the council is assured of retaining in the current scheme if it were not in a pool.
- 30 With the outcome of the Spending Review and the results of the 'Fair Funding Review' and 'Business Rates Retention Reform' remaining unknown, there is a risk that this council may no longer retain any Business Rates in the future. This would result in a funding gap that would need to be replaced by additional income or further savings.
- 31 **Interest receipts** (£0.25m) - Returns are continuing to be significantly lower than they were a few years ago due to low interest rates and the Council's Investment Strategy taking a low risk approach. Whilst returns exceeded Budget last year, inflation continues to outpace investment returns, leading to the gradual erosion of capital in real terms.
- 32 The Treasury Management Strategy is currently being reviewed with a different risk approach anticipated. The interest receipt assumption has therefore been increased from £250,000 to £300,000 per annum.
- 33 **Property Investment Strategy** - The strategy was approved by Council on 22 July 2014 with the intention of building on an approach of property-based investment in order to deliver increased revenue income. This was set against a background of reducing Government Support and continued low rates of return through existing treasury management arrangements.
- 34 To date six assets have been purchased or built by the Council and three by Quercus 7 at a cost of £29.2m. Therefore £21.1m of the £50.3m approved by Council remains unspent.
- 35 The income assumptions have been updated as follows:

Agenda Item 6d

Property Investment Strategy Income	Previous Assumption	Proposed Assumption
2019/20	£1.258m	£1.258m
2020/21	£1.311m	£1.428m
2021/22	£1.311m	£1.468m
2022/23	£1.311m	£1.508m
2023/24	£1.411m	£1.558m
2024/25 - 2025/26	£1.455m	£1.558m
2026/27 - 2028/29	£1.655m	£1.655m
2029/30	£1.696m	£1.696m

- 36 These assumptions result in an increase of £300,000 from 2019/20 to 2023/24.
- 37 A Property Investment Strategy Update report is being presented to the Finance and Investment Advisory Committee on 23 January 2020 and Cabinet on 4 February 2020.
- 38 **Pay costs** (£15.2m) - Discussions between the National Employers for Local Government Services and the unions regarding the national pay award for 2020/21 are ongoing.
- 39 The assumption in the attached 10-year budget is a 2% increase in all years. Work on a new workforce strategy may have an impact on assumptions and will be monitored as it progresses.
- 40 The Council's latest Council Plan was launched in 2018. In order to ensure the effective delivery of the Council Plan, some services are being redesigned so that they are better aligned to customer needs and with a much stronger emphasis on wrapping services around the customer.
- 41 In order to achieve this, the Customer Solutions Centre is in operation. The Customer Solutions Centre is resourced with a wider skill set in order to deal with more interactions at first point of contact and in parallel more effective processing is being investigated. It is anticipated that the cost of these changes will continue to be met within approved budgets and therefore a SCIA has not been proposed.
- 42 **Superannuation fund** - the last pension fund triennial valuation, which was the fourth by the actuaries Barnett Waddingham, took place in November 2019.
- 43 The funding level has increased from 75.5% to 86.6% since the previous valuation in 2016 and the deficit recovery period for the fund has reduced from 17 years to 13 years. The 10-year budget includes the contribution amounts set by the actuaries for 2020/21 to 2022/23 and includes an

additional £100,000 from 2023/24 when the next triennial valuation will come in to effect. The contributions for the primary rate (current staff) have increased and reduced for the secondary rate (funding deficit). There is a nil overall impact on the 10-year budget.

- 44 **Non-pay costs** - The budget assumes non-pay costs will increase by an average of 2.25% in all years. In practice, items such as rates and energy costs often rise at a higher rate, so other non-pay items have been allowed a much lower inflation increase. Inflation is currently at 1.4% (CPI) and 2.2% RPI (as at December 2019).
- 45 **Annual Savings** - an annual Net Savings/Additional Income assumption of £100,000 is included for all years in the 10-year budget.
- 46 **Exiting the EU** - The Council continues to closely monitor the potential implications on the District and is engaged in contingency planning arrangements co-ordinated by the Kent Resilience Forum.

Collection Fund Surplus/Deficit Calculation

- 47 Rules governing the operation of the collection fund require the Council to make an estimate on 15 January (or the next working day) each year of the fund's likely surplus or deficit at the end of the current financial year, in respect of council tax transactions. The amount so estimated is to be shared between the District Council, County Council, Fire and Police in proportion to their precepts on the collection fund. Each authority's share is to be taken into account by the authority in calculating its council tax for the year following the year in which the surplus or deficit has been estimated.
- 48 The estimated surplus/deficit at 15 January 2019 was zero, whilst the actual surplus balance at 31 March 2019 was £43,700. The balance is relatively small in the context of the gross council tax collectible during 2018/19 of approximately £89.5m.
- 49 The purpose of the calculation at 15 January 2020 is to estimate the likely surplus or deficit balance on the collection fund at 31 March 2020. This is based on the tax bills issued for the year, current collection performance and the level of bad debt provision held.
- 50 The overall estimated balance at 31 March 2020 is again zero, meaning that there is no apportionment required between District, County, Fire and Police.

Current Budget Position

- 51 The 10-year budget (**Appendix B**) shows a fully funded 10-year position. By continuing to use the 10-year budget strategy, this council remains in a strong position going forward.
- 52 **Appendix D** shows the changes in the 10-year Budget since it was last approved by Council in February 2019.

Agenda Item 6d

- 53 ***Progress on the savings plan*** - 2020/21 is the tenth year of using the 10-year budget. Prior to the current budget setting process, 164 savings items have been identified totalling £7.6m. The majority of these savings have already been achieved and Portfolio Holders, Chief Officers, Heads of Service and Service Managers have worked closely to deliver these savings.
- 54 ***Changes since the 10-year budget started*** - The table below shows how the Net Service Expenditure has changed since 2010/11. This shows that the budget has reduced by £4.7m (28%) in real terms.

Net Service Expenditure	£000
2010/11 (budget)	16,711
2019/20 (2010/11 budget +2% inflation per year)	19,971
2019/20 (budget)	15,251
Difference	4,720

2020/21 Budget and Council Tax

- 55 After allowing for the growth and savings agreed and the key changes made during this budget process, the resulting net expenditure for 2020/21 is £15.581m. As shown in **Appendix E** this results in Council Tax income of £11.264m, meaning that the District element of the Band D charge will be £219.96.
- 56 When the other preceptors announce their increases, details will be included in **Appendix M**.

Capital Programme

- 57 A report setting out the proposed 2020/23 Capital Programme, with supporting documentation in a standard format for individual scheme bids was presented to the Finance and Investment Advisory Committee on 23 January 2020 and Cabinet on 4 February 2020.
- 58 Scheme bid documents were received for all new schemes which included the proposed funding methods.
- 59 Unspent budgets in the current year's programme (2019/20) can be carried forward to 2020/21, subject to Cabinet approval, when the outturn is known.

- 60 **Appendix Hi** summarises the position if all schemes are approved and indicates the funding method proposed. **Appendix Hii** contains the bids for each capital scheme.
- 61 Council will be informed at the meeting of any changes recommended by Cabinet.

Integration with other budget reports on the Cabinet Agenda

- 62 Separate reports on the Treasury Management Strategy, Capital Strategy and Property Investment Strategy are being presented to Cabinet and Council. The attached revenue budgets take into account the recommendations and revenue implications set out in those reports as well as the Capital Programme.

Opinion under Section 25 of the Local Government Act 2003 (LGA 2003)

- 63 Under the LGA 2003 the Statutory Finance Officer (Chief Finance Officer) is required to give Members an opinion on the robustness of the budget estimates and the adequacy of reserves.
- 64 In terms of the robustness of the budget, the following sources of assurance were taken into account:
- The Strategic Business and Financial Planning process used for the 2020/21 budget.
 - The Financial Strategy, including a 10-year Budget, clear financial objectives and sensitivity analysis.
 - Growth and savings suggestions proposed.
 - The strong financial control structure and effective performance management within the Council, confirmed by feedback from external auditors.
 - Clear budget responsibilities at individual officer level.
 - Effective monitoring regime giving early notification of potential financial issues through the use of the Finance and Investment Advisory Committee.
 - Effective Internal/External audit system, with risk-based audits, reporting through the Audit Committee.
 - Set aside of earmarked funds for potential liabilities in the medium term.
 - Effective strategic and operational risk management.

Agenda Item 6d

- 65 The budget complies with the principles and standards within the CIPFA (Chartered Institute of Public Finance and Accountancy) Financial Management Code.
- 66 As is the case every year, inevitably there are a number of risk factors within the 2020/21 budget proposals; these are set out in some detail in **Appendix K**. This Appendix was also considered by the Finance and Investment Advisory Committee on 23 January 2020. Some of the more significant items are set out below.

a) Pay costs

Pay costs are budgeted on 100% basis, with a 2% inflationary pay award assumption in 2020/21 included and with a separate vacancy saving target. With controls over the appointment of any staff and monitoring of staff numbers as well as costs, pay costs are subject to a high level of control. However, the national pay award for 2020/21 has not yet been agreed.

b) Income

In-depth monitoring of income budgets will continue throughout the year and will be given regular consideration by the Finance and Investment Advisory Committee.

c) Pensions funding

The next actuarial valuation will take effect from 2023/24 and an increase assumption has been included in the 10-year budget from then.

d) Investment receipts

The Treasury Management Strategy will be kept under review and brought back to Members for consideration as necessary during the year. The proposed Strategy for 2020/21 is reported separately on this agenda.

e) Capital investment

Property Investment Strategy income is included in the 10-year budget. Members are assured that any property acquisitions will be supported by a thorough business case and approved by the relevant Portfolio Holders.

f) Growth

The 10-year budget has no allowance for growth until 2027/28 as it is anticipated that where possible this will be met through additional savings or the Budget Stabilisation Reserve.

- 67 Members will recognise that budget risk cannot be avoided completely. However, the structures already in place and the actions being put in place should ensure that next year's overall revenue spend figure is achieved, particularly through the Council's flexible approach to budgeting allowing the risk areas to be compensated by those that are underspent or over achieve on income.

Adequacy of Reserves

- 68 Ensuring the adequacy and sustainability of the Council's reserves continues to be a key part of the budget process. Individual balances have been reviewed as part of writing this report and the detailed work is set out in **Appendix J**. This review should ensure that all provisions and earmarked reserves are adequate for their purposes.
- 69 It is recommended that the Council hold a minimum General Fund reserve balance of 10% of its net Revenue Budget, for emergencies.
- 70 The strong formal advice of the Section 151 officer to the Council is that every effort must be made to achieve the agreed savings in order to ensure financial sustainability and preserve the level of reserves for future commitments. The Council should avoid, at all costs, the General Fund Reserve balance reducing below 10% of its Net Service Expenditure (for 2020/21 this equates to £1.5m).

Referendums relating to council tax increases

- 71 Section 72 of the Localism Act 2011 inserted Section 52ZB into the Local Government Finance Act 1992. This sets out the duty on local authorities, fire authorities and Police and Crime Commissioners (PCCs) to each determine whether the amount of council tax they plan to raise for a financial year is excessive. If an authority's relevant basic amount of council tax is excessive, the provisions in relation to the duty to hold a referendum apply.
- 72 The Secretary of State has published draft thresholds in relation to 2020/21 council tax levels. District councils will be allowed a Band D council tax increase of the higher of 2% or £5 (for a Band D property). This council is therefore able to increase Band D council tax by up to 2.3% (£5 for a Band D property) without requiring a referendum. As in previous years, no equivalent principles are being proposed for Town and Parish Councils although the Government has said that they will keep this under review and take action if necessary.

Local Council Tax Reduction Scheme 2020/21

- 73 The Council Tax Reduction scheme replaced Council Tax Benefit with effect from 1 April 2013.
- 74 Under the Council Tax Reduction provisions, the scheme for pensioners is determined by Central Government and the scheme for working age

Agenda Item 6d

applicants is determined by the Council. Pensioners broadly receive the same level of support that was previously available under the Council Tax Benefit scheme.

- 75 Schedule 1A (5) of the Local Government Finance Act 1992 as amended requires local authorities to consider the following:
- For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme.
 - The authority must make any revision to its scheme, or any replacement scheme, no later than 11th March in the financial year preceding that for which the revision or replacement scheme is to have effect.
- 76 The 2019/20 Local Council Tax Reduction Scheme was approved by Council on 15 November 2018 after a consultation with residents.
- 77 Further details can be found in **Appendix L** and a copy of the full scheme is available upon request.
- 78 It is recommended that the Local Council Tax Reduction Scheme 2019/20, be rolled forward to 2020/21, with effect from 1 April 2020.

Key Implications

Financial

All financial implications are covered elsewhere in this report.

Legal Implications and Risk Assessment Statement.

There are no legal implications.

For the effective management of our resources and in order to achieve a sustainable budget it is essential that all service cost changes and risks are identified and considered. The budget risk analysis is included as **Appendix K**.

Current and future challenges together with risks were included in the Service Dashboards presented to the Advisory Committees and each Service Change Impact Assessment (SCIA) included the likely impacts including a risk analysis.

An effective integrated policy and priority driven long-term financial and business process is required for the Council to deliver on its priorities and maintain a sustainable budget. It is also essential that continuous improvements are identified and implemented in order to take account of the changing climate within which the Council operates and to meet the expectations of both Government and the public on the quality of service demanded from this Council.

The risks associated with the 10-year budget approach include uncertainty around the level of shortfall and the timing of key announcements such as future changes

to Business Rates Retention. The risk will be mitigated by continuing to review assumptions and estimates and by updating Members throughout the process.

The Council has in place a number of specific reserves and provisions to address identified risks.

Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups.

Individual equalities assessments have been completed for all Service Change Impact Assessments (SCIAs) to ensure the decision-making process is fair and transparent. These were included in the Budget Update 2020/21 reports to Cabinet on 5 December 2019 and 9 January 2020.

Community Impact and Outcomes

In making any budget proposals, Members need to consider the impact on customers, service quality and staff well-being, to ensure that the budget supports the Council's aspirations for customer-focused services.

Conclusions

The budget process has once again been a major financial challenge for a council that already provides value for money services to a high standard. The 10-year budget shows a fully funded position over the whole period which keeps this council in a strong position going forward.

The future financial prospects for the public sector remain difficult however, this budget ensures the Council remains in a financially sustainable position.

If the council tax resolution attached in **Appendix P** is approved, the Sevenoaks District Council element of the band D council tax will be £219.96.

Appendices

Appendix A - Budget timetable

Appendix B (i) - 10-year budget - Revenue

Appendix B (ii) - 10-year budget - Balance Sheet

Appendix C - Summary of the Council's agreed

savings and growth items

Appendix D - Summary of changes to the 10-year Budget

Appendix E - Summary of Council Expenditure and Council Tax

Appendix F - Summary of service analysis in budget book format

Appendix G - Analysis of pay costs

Appendix H (i) - Capital Programme 2020-23 (also being considered by Finance and Investment Advisory Committee on 23 January 2020)

Appendix H (ii) - Capital Programme bids

Appendix J - Reserves

Appendix K - Risk analysis (also being considered by Finance and Investment Advisory Committee on 23 January 2020)

Appendix L - Local Council Tax Reduction Scheme 2020/21

Appendix M - Latest information on precepting authorities (only in Council report)

Appendix N - Town and Parish Council precepts and council tax rates (only in Council report)

Appendix P - Council tax setting recommendations (only in Council report)

Appendix Q - Council tax rates across the district (only in Council report)

Background Papers

[Report to Cabinet 14 February 2019 - Budget and Council Tax Setting 2019/20](#)

[Report to Cabinet 12 September 2019 - Financial Prospects and Budget Strategy 2020/21 and Beyond](#)

[Report to People and Places Advisory Committee 1 October 2019, Improvement and Innovation Advisory Committee 3 October 2019, Housing and](#)

[Health Advisory Committee 8 October 2019, Development and Conservation Advisory Committee 15 October 2019, Cleaner and Greener Advisory Committee 29 October 2019, Finance and Investment Advisory Committee 21 November 2019 - Budget 2020/21: Service Dashboards and Service Change Impact Assessments \(SCIAs\)](#)

[Report to Cabinet 5 December 2019 - Budget Update 2020/21](#)

[Report to Cabinet 9 January 2020 - Budget Update 2020/21](#)

Adrian Rowbotham

Chief Officer Finance and Trading

This page is intentionally left blank

2020/21 Budget Setting Timetable

	Date	Committee
Stage 1		
Financial Prospects and Budget Strategy 2020/21 and Beyond	3 September	Finance & Investment AC
	12 September	Cabinet
↓		
Stage 2		
Review of Service Dashboards and Service Change Impact Assessments (SCIAs)	1 October	People & Places AC
	3 October	Improvement & Innovation AC
	8 October	Housing & Health AC
	15 October	Development & Conservation AC
	29 October	Cleaner & Greener AC
	21 November	Finance & Investment AC
↓		
Stage 3		
Budget Update (incl. Service Change Impact Assessments (SCIAs), feedback from Advisory Committees)	5 December	Cabinet
↓		
Stage 4		
Budget Update (incl. Government Settlement information)	9 January	Cabinet
↓		
Stage 5		
<i>Budget Update and further review of Service Change Impact Assessments (if required)</i>	<i>January - February</i>	<i>Advisory Committees</i>
↓		
Stage 6		
Budget Setting Meeting (Recommendations to Council)	4 February	Cabinet
↓		
Stage 7		
Budget Setting Meeting (incl. Council Tax setting)	25 February	Council

Note: The Scrutiny Committee may 'call in' items concerning the budget setting process.

This page is intentionally left blank

Ten Year Budget - Revenue

Appendix Bi

	Budget 2019/20	Plan 2020/21	Plan 2021/22	Plan 2022/23	Plan 2023/24	Plan 2024/25	Plan 2025/26	Plan 2026/27	Plan 2027/28	Plan 2028/29	Plan 2029/30
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Expenditure											
Net Service Expenditure c/f	14,687	15,251	15,581	15,947	16,328	16,852	17,245	17,643	18,098	18,612	19,133
Inflation	608	666	472	481	487	493	499	505	513	521	530
Superannuation Fund deficit and staff recruitment & retention	0	0	0	0	100	0	0	50	0	0	0
Net savings (approved in previous years)	(181)	(358)	44	0	0	0	(1)	0	1	0	(1)
New growth	256	160	(5)	0	(50)	0	0	0	100	100	100
New savings/Income	(119)	(138)	(145)	(100)	(13)	(100)	(100)	(100)	(100)	(100)	(100)
Net Service Expenditure b/f	15,251	15,581	15,947	16,328	16,852	17,245	17,643	18,098	18,612	19,133	19,662
Financing Sources											
Govt Support: Revenue Support Grant	0	0	0	0	0	0	0	0	0	0	0
New Homes Bonus	0	0	0	0	0	0	0	0	0	0	0
Council Tax	(10,917)	(11,264)	(11,618)	(11,983)	(12,357)	(12,741)	(13,136)	(13,542)	(13,933)	(14,335)	(14,747)
Business Rates Retention	(2,132)	(2,139)	(2,182)	(2,226)	(2,271)	(2,316)	(2,362)	(2,409)	(2,457)	(2,506)	(2,556)
Collection Fund Surplus	0	0	0	0	0	0	0	0	0	0	0
Interest Receipts	(200)	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(300)
Property Investment Strategy Income	(1,258)	(1,428)	(1,468)	(1,508)	(1,558)	(1,558)	(1,558)	(1,655)	(1,655)	(1,655)	(1,696)
Contributions to/(from) Reserves	(353)	(378)	(365)	(175)	(161)	(604)	194	208	221	236	249
Total Financing	(14,860)	(15,509)	(15,933)	(16,192)	(16,647)	(17,519)	(17,162)	(17,698)	(18,124)	(18,560)	(19,050)
Budget Gap (surplus)/deficit	391	72	14	136	205	(274)	481	400	488	573	612
Contribution to/(from) Stabilisation Reserve	(391)	(72)	(14)	(136)	(205)	274	(481)	(400)	(488)	(573)	(612)
Unfunded Budget Gap (surplus)/deficit	0	0	0	0	0	0	0	0	0	0	0

Assumptions

Revenue Support Grant:	nil all years
Business Rates Retention:	Business Rates Retention safety-net in 19/20 plus 2% in later years
Council Tax:	2.3% in 20/21, 2% in later years
Council Tax Base:	Increase of 438 Band D equivalent properties in 20/21, 580 from 21/22, 480 from 27/28
Interest Receipts:	£300,000 in 20/21 onwards
Property Investment Strategy:	£1.428m in 20/21, £1.468m in 21/22, £1.508m in 22/23, £1.558m from 23/24, £1.655m from 26/27, £1.696m from 29/30
Pay award:	2% in all years
Other costs:	2.25% in all years
Income:	2.5% in all years except for off-street car parks which are an average of 3.5% per annum from 19/20 - 23/24

This page is intentionally left blank

Ten Year Budget - Balance Sheet

Balance Sheet		31/3/19	31/3/20	31/3/21	31/3/22	31/3/23	31/3/24
		Actual	Plan	Plan	Plan	Plan	Plan
		£000	£000	£000	£000	£000	£000
Long Term Assets							
Property, Plant and Equipment	1	39,671	39,521	39,371	39,221	39,071	38,921
Investment Property		30,917	30,917	30,917	30,917	30,917	30,917
Long Term Investments		50	50	50	50	50	50
Long Term Debtors		1,442	1,356	1,270	1,184	1,180	1,176
		<u>72,080</u>	<u>71,844</u>	<u>71,608</u>	<u>71,372</u>	<u>71,218</u>	<u>71,064</u>
Current Assets							
Short-term Investments		18,078	14,553	13,595	13,094	12,683	12,077
Cash and Cash Equivalents		2,774	2,774	2,774	2,774	2,774	2,774
Inventories		69	69	69	69	69	69
Short Term Debtors		6,545	6,545	6,545	6,545	6,545	6,545
Assets held for Sale		181	181	181	181	181	181
Payments in Advance		0	0	0	0	0	0
		<u>27,647</u>	<u>24,122</u>	<u>23,164</u>	<u>22,663</u>	<u>22,252</u>	<u>21,646</u>
Current Liabilities							
Receipts in Advance		(8,320)	(8,320)	(8,320)	(8,320)	(8,320)	(8,320)
Short Term PWLB Loan		(176)	(176)	(176)	(176)	(176)	(176)
Short Term Creditors		(8,467)	(8,468)	(8,469)	(8,470)	(8,471)	(8,472)
Short Term Provisions		(2,699)	(2,699)	(2,699)	(2,699)	(2,699)	(2,699)
		<u>(19,662)</u>	<u>(19,663)</u>	<u>(19,664)</u>	<u>(19,665)</u>	<u>(19,666)</u>	<u>(19,667)</u>
NET CURRENT ASSETS		7,985	4,459	3,500	2,998	2,586	1,979
Long Term Liabilities							
Long Term Creditors		(351)	(350)	(349)	(348)	(347)	(346)
Long Term PWLB Loan		(5,014)	(4,840)	(4,666)	(4,492)	(4,318)	(4,144)
Long Term Provisions		(256)	(256)	(256)	(256)	(256)	(256)
Net Pensions Liability	2,3	(87,574)	(86,084)	(84,594)	(83,104)	(81,614)	(80,124)
Capital Grants Receipts in Advance		(126)	(443)	(504)	(504)	(504)	(504)
		<u>(93,321)</u>	<u>(91,973)</u>	<u>(90,369)</u>	<u>(88,704)</u>	<u>(87,039)</u>	<u>(85,374)</u>
TOTAL NET ASSETS		<u>(13,256)</u>	<u>(15,670)</u>	<u>(15,261)</u>	<u>(14,334)</u>	<u>(13,235)</u>	<u>(12,331)</u>
USABLE RESERVES							
Usable Capital Receipts Reserve		(4,186)	(2,242)	(2,242)	(2,242)	(2,242)	(2,242)
Earmarked Reserves		(19,374)	(17,568)	(16,641)	(16,232)	(15,995)	(15,563)
General Fund		(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)
		<u>(25,060)</u>	<u>(21,310)</u>	<u>(20,383)</u>	<u>(19,974)</u>	<u>(19,737)</u>	<u>(19,305)</u>
UNUSABLE RESERVES							
Capital Adjustment Account		(30,058)	(29,908)	(29,758)	(29,608)	(29,458)	(29,308)
Revaluation Reserve		(18,812)	(18,812)	(18,812)	(18,812)	(18,812)	(18,812)
Accumulated Absences Account		152	152	152	152	152	152
Pensions Reserve	2,3	87,574	86,084	84,594	83,104	81,614	80,124
Collection Fund Adj Account		(7)	(7)	(7)	(7)	(7)	(7)
NNDR Collection Fund Revenue Account		(375)	(375)	(375)	(375)	(375)	(375)
Deferred Capital receipts		(158)	(154)	(150)	(146)	(142)	(138)
		<u>38,316</u>	<u>36,980</u>	<u>35,644</u>	<u>34,308</u>	<u>32,972</u>	<u>31,636</u>
TOTAL RESERVES		<u>13,256</u>	<u>15,670</u>	<u>15,261</u>	<u>14,334</u>	<u>13,235</u>	<u>12,331</u>

Notes to Balance Sheet

- Property will depreciate and will not be replaced, vehicles will depreciate and be replaced.
- Pensions figures are based on the actual FRS17 figures required to be included in the statutory accounts. An actuarial revaluation is completed every three years which is used to calculate the true position of the pension scheme.
- Pensions liability decrease due to payments being made to reduce the deficit.

Ten Year Budget - Balance Sheet

Balance Sheet continued		31/3/25	31/3/26	31/3/27	31/3/28	31/3/29	31/3/30
		Plan	Plan	Plan	Plan	Plan	Plan
		£000	£000	£000	£000	£001	£002
Long Term Assets							
Property, Plant and Equipment	1	38,771	38,621	38,471	38,321	38,171	38,021
Investment Property		30,917	30,917	30,917	30,917	30,917	30,917
Long Term Investments		50	50	50	50	50	50
Long Term Debtors		1,172	1,168	1,164	1,160	1,156	1,152
		<u>70,910</u>	<u>70,756</u>	<u>70,602</u>	<u>70,448</u>	<u>70,294</u>	<u>70,140</u>
Current Assets							
Short-term Investments		11,318	11,459	10,870	10,529	10,112	9,623
Cash and Cash Equivalents		2,774	2,774	2,774	2,774	2,774	2,774
Inventories		69	69	69	69	69	69
Short Term Debtors		6,545	6,545	6,545	6,545	6,545	6,545
Assets held for Sale		181	181	181	181	181	181
Payments in Advance		0	0	0	0	0	0
		<u>20,887</u>	<u>21,028</u>	<u>20,439</u>	<u>20,098</u>	<u>19,681</u>	<u>19,192</u>
Current Liabilities							
Receipts in Advance		(8,320)	(8,320)	(8,320)	(8,320)	(8,320)	(8,320)
Short Term PWLB Loan		(176)	(176)	(176)	(176)	(176)	(176)
Short Term Creditors		(8,473)	(8,474)	(8,475)	(8,476)	(8,477)	(8,478)
Short Term Provisions		(2,699)	(2,699)	(2,699)	(2,699)	(2,699)	(2,699)
		<u>(19,668)</u>	<u>(19,669)</u>	<u>(19,670)</u>	<u>(19,671)</u>	<u>(19,672)</u>	<u>(19,673)</u>
NET CURRENT ASSETS		1,219	1,359	769	427	9	(481)
Long Term Liabilities							
Long Term Creditors		(345)	(344)	(343)	(342)	(341)	(340)
Long Term PWLB Loan		(3,970)	(3,796)	(3,622)	(3,448)	(3,274)	(3,100)
Long Term Provisions		(256)	(256)	(256)	(256)	(256)	(256)
Net Pensions Liability	2,3	(78,634)	(77,144)	(75,654)	(74,164)	(72,674)	(71,184)
Capital Grants Receipts in Advance		(504)	(504)	(504)	(504)	(504)	(504)
		<u>(83,709)</u>	<u>(82,044)</u>	<u>(80,379)</u>	<u>(78,714)</u>	<u>(77,049)</u>	<u>(75,384)</u>
TOTAL NET ASSETS		<u>(11,580)</u>	<u>(9,929)</u>	<u>(9,008)</u>	<u>(7,839)</u>	<u>(6,746)</u>	<u>(5,725)</u>
USABLE RESERVES							
Usable Capital Receipts Reserve		(2,242)	(2,242)	(2,242)	(2,242)	(2,242)	(2,242)
Earmarked Reserves		(14,978)	(15,293)	(14,878)	(14,711)	(14,468)	(14,153)
General Fund		(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)
		<u>(18,720)</u>	<u>(19,035)</u>	<u>(18,620)</u>	<u>(18,453)</u>	<u>(18,210)</u>	<u>(17,895)</u>
UNUSABLE RESERVES							
Capital Adjustment Account		(29,158)	(29,008)	(28,858)	(28,708)	(28,558)	(28,408)
Revaluation Reserve		(18,812)	(18,812)	(18,812)	(18,812)	(18,812)	(18,812)
Accumulated Absences Account		152	152	152	152	152	152
Pensions Reserve	2,3	78,634	77,144	75,654	74,164	72,674	71,184
Collection Fund Adj Account		(7)	(7)	(7)	(7)	(7)	(7)
NNDR Collection Fund Revenue Account		(375)	(375)	(375)	(375)	(375)	(375)
Deferred Capital receipts		(134)	(130)	(126)	(122)	(118)	(114)
		<u>30,300</u>	<u>28,964</u>	<u>27,628</u>	<u>26,292</u>	<u>24,956</u>	<u>23,620</u>
TOTAL RESERVES		<u>11,580</u>	<u>9,929</u>	<u>9,008</u>	<u>7,839</u>	<u>6,746</u>	<u>5,725</u>

SCIA Year	No.	Description	2011/12 - 2019/20 £000	2020/21 £000	Later Years £000	Total £000
		Cleaner and Greener Advisory Committee				
2016/17	8	Playgrounds: reduction in asset maintenance (reversal of temporary saving item)			7	
2016/17	9	Public Conveniences: reduction in asset maintenance (reversal of temporary saving item)			8	
2019/20	3	Bradbourne Lakes - Consultancy (reversal of temporary growth item)		(60)		
2019/20	7	Car Parking - Enforcement for Tandridge DC (reversal of temporary saving item)			30	
		Development and Conservation Advisory Committee				
		No savings or growth agreed from 2020/21 onwards				
		Finance and Investment Advisory Committee				
2011/12	62,63	Staff terms and conditions - savings agreed by Council 18/10/11		(187)		
		Housing and Health Advisory Committee				
		No savings or growth agreed from 2020/21 onwards				
		Improvement and Innovation Advisory Committee				
2017/18	10	Apprenticeship Levy (reversal of temporary growth item)		(45)		
2018/19	3	Swanley Local Office contract		(15)		
2018/19	13	IT Developers: funding for two years (reversal of temporary growth item)		(51)		
		People and Places Advisory Committee				
		No savings or growth agreed from 2020/21 onwards				
		Minor movements between years			(1)	
		Total Savings	(7,366)	(202)	44	(7,524)
		Total Growth	2,201	(156)	0	2,045
		Net Savings	(5,165)	(358)	44	(5,479)

This page is intentionally left blank

Summary of Changes to the 10-year Budget

Appendix D

SCIA Year	SCIA No.	Advisory Committee	Description	Year	Ongoing	2019/20 Impact £000	10-year Budget Impact £000
Growth proposals supported by Cabinet 05/12/19 and 09/01/20 (detailed SCIA's were included in previous Cabinet reports)							
2020/21	1	IAC	Apprenticeship Levy	2020/21	3 yrs	50	150
2020/21	4	CGAC	Parks - Rural: increased tree surgery/retting costs to meet health and safety obligations	2020/21	Yes	10	100
2020/21	5	CGAC	CCTV: reduction in income	2020/21	Yes	10	100
2020/21	6	CGAC	Car Parks: business rates	2020/21	Yes	45	450
2020/21	9	FIAC	Finance Team restructure	2020/21	Yes	35	350
2020/21	11	CGAC	Parks - Rural: Establish a programme of suitable tree planting	2020/21	Yes	5	50
2020/21	13	IAC	Electric car project	2020/21	No	5	5
Savings/additional income proposals supported by Cabinet 05/12/19 and 09/01/20 (detailed SCIA's were included in previous Cabinet reports)							
2020/21	2	IAC	Mobile phone charges and mileage costs reduction	2020/21	Yes	(10)	(100)
2020/21	3	DCAC	Additional Development Management income and cost recovery in Strategic Planning	2020/21	Yes	(11)	(335)
2020/21	7	CGAC	Environmental Health: Change in apportionment of costs with Dartford BC	2020/21	Yes	(20)	(200)
2020/21	8	CGAC	Postal costs: changes to postal arrangements	2021/22	Yes	0	(180)
2020/21	10	FIAC	Insurance contract renewal	2020/21	3 yrs	(87)	(261)
2020/21	12	IAC	Print: reduction in print/paper usage	2020/21	Yes	(5)	(50)
2020/21	14	IAC	Advertising income	2020/21	Yes	(5)	(50)
Sub Total						22	29
Remove 2020/21 new savings target						93	930
Base Changes:							
Rolled on to 2029/30 and base figures updated to 2019/20 budget						0	(11)
Sub Total						0	(11)
Assumption Changes:							
Interest Receipts: increase from £250,000 to £300,000 per year						(50)	(500)
Property Investment Strategy: revised assumptions						(117)	(824)
Council Tax Base updated						31	337
Council Tax 2020/21: increase from 2% to 2.3%						(34)	(385)
Transfer Council Tax increase above 2% to 'Net Zero Transition Fund'						34	385
Sub Total						(136)	(987)
Total 10-year Budget change gap/(surplus)						(21)	(39)

i.e: (£3,900) per annum

This page is intentionally left blank

Summary of Council Expenditure & Council Tax

	2019/20 Budget Net Expenditure £000	2020/21 Budget Net Expenditure £000
Service expenditure before Support Services and Capital Charges including trading accounts (see Appendix F)	15,483	15,813
Capital Charges and Support Services charged outside the General Fund	(232)	(232)
Sub Total	15,251	15,581
Non allocated expenditure: Collection Fund adjustment	0	0
Net Service Expenditure excluding capital charges	15,251	15,581
Revenue Support Grant inc CTS	0	0
Retained Business Rates	(2,132)	(2,139)
New Homes Bonus	0	0
Council Tax Requirement - Sevenoaks DC	(10,917)	(11,264)
Collection Fund Surplus	0	0
Grant & Council Tax income	(13,049)	(13,403)
Net Expenditure after Grant & Council Tax, before interest	2,202	2,178
Less: Interest and Investment income	(200)	(300)
Less: Property Investment Strategy Income	(1,258)	(1,428)
Amount to be met from Reserves	744	450
Contributions (to) / from reserves		
Earmarked Reserves		
Capital	(148)	(148)
Budget Stabilisation	391	72
Pension fund valuation	0	59
Financial Plan	501	501
Net Zero Transition Reserve	0	(34)
Planned contribution from General Fund Reserve	0	0
	744	450

	2018/19	2019/20	2020/21
Taxbase	49,903	50,772	51,208
	£	£	£
Council Tax @ Band D	208.80	215.01	219.96

Council Tax Summary

Band D charge

% Change % Share

% Change % Share

Kent County
Kent Fire
Kent Police

Sevenoaks District
Average Town/Parish

This page is intentionally left blank

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19	Budget 19/20	Budget 20/21
	£'000	£'000	£'000
Summary			
Customer & Resources	3,301	3,300	3,468
Finance & Trading	8,277	8,591	8,464
People & Places	1,723	1,805	1,967
Planning & Regulatory Services	1,904	1,931	2,006
	<u>15,205</u>	<u>15,627</u>	<u>15,904</u>
Direct Services		(144)	(91)
Items outside General Fund		(232)	(232)

	Actuals 18/19	Budget 19/20	Budget 20/21
	£'000	£'000	£'000
Summary			
Pay Costs	11,589	12,803	13,768
Premises and Grounds	2,118	1,923	2,020
Transport	94	63	63
Supplies & Services	2,447	2,294	2,258
Supplies & Services IT	900	979	991
Agency & Contracted	4,421	3,747	3,315
Agency & Contracted - Partnerships	3,103	3,049	3,239
Agency & Contracted - Direct Services	4,148	4,274	4,344
Transfer Payments - Benefits	25,699	28,090	25,641
Transfer Payments - Other	344	139	139
Support Services	0	52	52
Funds drawn to/from Reserves	133	(344)	(451)
Capital Charges	0	124	379
Income - Other	(2,372)	(2,765)	(2,521)
Income - Gov Gnts	(26,502)	(28,037)	(26,033)
Income - Fees and Charges	(8,285)	(7,173)	(7,530)
Recharges	(244)	(324)	(324)
Recharges - Partnerships	(2,389)	(3,267)	(3,445)
Service expenditure before re-allocation of Support	<u>15,205</u>	<u>15,627</u>	<u>15,904</u>
Direct Services (net)		(144)	(91)
Items outside General Fund		(232)	(232)
		<u>15,251</u>	<u>15,581</u>

Analysis of budget changes between 19/20 and 20/21

Base Budget 2019/20	15,251
Inflation	666
Net Savings agreed previous years	(358)
New Growth	160
New savings/income	(138)
Proposed Budget 2020/21	<u>15,581</u>

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
People & Places			
All Weather Pitch	(5)	(5)	(5)
Community Safety	235	199	209
Community Development Service Provisions	(5)	(6)	(6)
Community Housing Fund	0	0	0
The Community Plan	57	55	60
Dunton Green Projects - S106	0	0	0
Dunton Green Projects	0	0	0
Economic Development	48	59	37
Economic Development Property	315	268	415
Energy Efficiency	20	5	0
Grants to Organisations	174	181	180
Gypsy Sites	(15)	(6)	(1)
Health Improvements	46	51	52
Homeless	134	253	247
Housing Register	4	6	0
Disabled Facilities Grant Administration	(20)	(20)	(50)
Housing	211	148	204
Housing Initiatives	56	48	49
Homelessness Prevention	0	0	0
Housing Energy Retraining Options (HERO)	37	45	48
Leisure Contract	144	182	108
Leisure Development	20	20	20
Partnership - Home Office	0	0	0
Private Sector Housing	168	228	294
Administrative Expenses - Communities & Business	31	22	22
Administrative Expenses - Housing	0	0	0
Sevenoaks Switch and Save	0	0	0
Tourism	26	33	27
One You - Your Home Project	0	0	0
Choosing Health WK PCT	1	0	0
Community Sports Activation Fund	0	0	0
Dementia Area Project - Run Walk Push	0	0	0
PCT Health Checks	0	0	0
Homelessness Funding	0	0	0
Leader Programme	5	5	5
PCT Initiatives	0	0	0
Sportivate Inclusive Archery Project	0	0	0
Sport Satellite Clubs	0	0	0
Troubled Families Project	0	0	0
West Kent Business Rates Retention	0	0	0
West Kent Enterprise Advisor Network	0	0	0
West Kent Kick Start	0	0	0
West Kent Partnership	0	0	0
West Kent Partnership Business Support	0	0	0
Youth	36	34	51
Total Service Expenditure	1,723	1,805	1,967

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
People & Places			
Pay Costs	1,585	1,849	2,119
Premises and Grounds	27	10	10
Transport	19	13	14
Supplies & Services	187	153	83
Supplies & Services IT	0	0	0
Agency & Contracted	776	474	479
Transfer Payments - Other	333	139	139
Funds drawn to/from Reserves	56	(76)	(70)
Income - Other	(346)	(461)	(548)
Income - Gov Gnts	(338)	(39)	0
Income - Fees and Charges	(569)	(257)	(257)
Recharges	(8)	0	0
Total Service Expenditure	1,723	1,805	1,967

Analysis of budget changes between 19/20 and 20/21

Base Budget 2019/20	1,805
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	48
Planned savings agreed previous years	0
<u>SCIA 2020/21</u>	
SCIA 02 - Mobile Phones and Mileage	(1)
SCIA 10 - Insurance	(71)
Other Adjustments	186
Proposed Budget 2020/21	1,967

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
Customer & Resources			
Asset Maintenance IT	277	283	289
Benefits Admin	222	4	52
Benefits Grants	(26)	(25)	(25)
Civic Expenses	17	17	17
Corporate Projects	92	102	102
Democratic Services	146	148	161
Dartford Rev&Ben Partnership Hub (SDC costs)	0	0	0
Elections	142	136	145
Land Charges	(26)	(105)	(108)
Local Tax	69	(119)	(90)
Register of Electors	227	223	237
Administrative Expenses - Corporate Services	20	17	23
Administrative Expenses - Legal and Democratic	68	69	70
Administrative Expenses - Human Resources	15	4	9
Administrative Expenses - Revenues and Benefits	0	0	0
Street Naming	(10)	6	2
Support - Rev & Ben Control	0	239	217
Support - Counter Fraud	35	55	56
Support - Contact Centre	457	536	574
Support - IT	1,024	1,117	1,116
Support - Legal Function	196	241	255
Support - Local Offices	28	19	0
Support - Nursery	2	0	0
Support - Human Resources	326	338	367
Total Service Expenditure	3,301	3,300	3,468

Net Service Expenditure analysed by Chief Officer

	Actuals	Budget	Budget
	18/19	19/20	20/21
	£'000	£'000	£'000
Customer & Resources			
Pay Costs	3,657	3,889	4,177
Premises and Grounds	70	0	0
Transport	4	3	4
Supplies & Services	505	483	490
Supplies & Services IT	801	898	909
Agency & Contracted	416	223	206
Agency & Contracted - Partnerships	1,897	1,778	1,902
Agency & Contracted - Direct Services	8	12	12
Transfer Payments - Benefits	25,699	28,090	25,641
Transfer Payments - Other	2	0	0
Support Services	0	0	0
Funds drawn to/from Reserves	(51)	(306)	(337)
Income - Other	(895)	(1,055)	(663)
Income - Gov Gnts	(26,135)	(27,991)	(26,026)
Income - Fees and Charges	(527)	(726)	(746)
Recharges	(199)	(202)	(202)
Recharges - Partnerships	(1,951)	(1,797)	(1,899)
Total Service Expenditure	3,301	3,300	3,468

Analysis of budget changes between 19/20 and 20/21

Base Budget 2019/20	3,300
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	110
Planned Savings agreed previous years	(66)
<u>SCIAs 2020/21</u>	
SCIA 02 - Mobile Phones and Mileage	(5)
SCIA 10 - Insurance	(8)
SCIA 12 - Print	(5)
Other Adjustments	141
Proposed Budget 2020/21	3,468

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
Finance & Trading			
Action and Development	0	8	8
Asset Maintenance Argyle Road	120	141	77
Asset Maintenance CCTV	15	18	18
Asset Maintenance Countryside	2	9	9
Asset Maintenance Other Corporate Properties	40	33	34
Asset Maintenance Direct Services	19	80	41
Asset Maintenance Hever Road	38	38	39
Asset Maintenance Leisure	189	182	186
Asset Maintenance Playgrounds	7	8	9
Asset Maintenance Support & Salaries	49	104	236
Asset Maintenance Sewage Treatment Plants	2	9	9
Asset Maintenance Public Toilets	2	7	7
Bus Station	12	13	7
Car Parks	(1,770)	(1,951)	(1,985)
CCTV	268	264	277
Civil Protection	61	71	69
Consultation and Surveys	0	4	4
Corporate Management	996	1,056	1,083
Corporate - Other	127	116	(23)
Dartford Audit Partnership Hub (SDC Costs)	0	0	0
Car Parking - On Street	(495)	(494)	(480)
Emergency	65	68	69
Parking Enforcement - Tandridge DC	(18)	(29)	(29)
Equalities Legislation	0	20	20
Estates Management - Buildings	1	(11)	(2)
Estates Management - Grounds	121	118	125
External Communications	185	201	216
Housing Advances	1	1	1
Housing Other Income	(16)	(14)	(14)
Housing Premises	18	15	16
Kent Resource Partnership	0	0	0
Asset Maintenance Operatives	(5)	0	4
Markets	(191)	(185)	(192)
Members	428	455	464
Misc. Finance	1,700	1,763	1,494
Parks - Greensand Commons Project	2	0	0
Parks and Recreation Grounds	126	185	132
Parks - Rural	152	130	163

Finance & Trading (Continued)	Actuals	Budget	Budget
	18/19	19/20	20/21
	£'000	£'000	£'000
Performance Improvement	(0)	(1)	(0)
Public Transport Support	0	0	0
Refuse Collection	2,710	2,781	2,826
Administrative Expenses - Chief Executive	15	22	22
Administrative Expenses - Direct Services	0	0	0
Administrative Expenses - Finance	46	32	32
Administrative Expenses - Transformation and Strategy	3	5	5
Administrative Expenses - Property	5	3	3
Administrative Expenses - Transport	9	7	7
Street Cleansing	1,404	1,467	1,495
Support - Audit Function	169	185	196
Support - Central Offices	449	473	488
Support - Exchequer and Procurement	127	116	151
Support - Central Offices - Facilities	276	271	276
Support - Finance Function	214	183	234
Support - General Admin	150	166	184
Support - General Admin (Print Shop)	(12)	(37)	(34)
Support - General Admin (Post/Scanning)	171	184	189
Support - Health and Safety	15	22	19
Support - Direct Services	45	51	49
Support - Procurement	7	6	6
Support - Property Function	56	49	53
Public Conveniences	61	49	47
Treasury Management	106	126	125
Total Service Expenditure	8,276	8,591	8,464

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
Finance & Trading			
Pay Costs	3,195	3,484	3,695
Premises and Grounds	2,014	1,908	2,006
Transport	65	34	35
Supplies & Services	1,564	1,524	1,555
Supplies & Services IT	88	78	80
Agency & Contracted	2,505	2,679	2,278
Agency & Contracted - Partnerships	138	211	221
Agency & Contracted - Direct Services	4,104	4,225	4,294
Support Services	0	41	41
Funds drawn to/from Reserves	143	0	(82)
Capital Charges	0	124	379
Income - Other	(686)	(887)	(892)
Income - Gov Gnts	(26)	(7)	(7)
Income - Fees and Charges	(4,586)	(4,395)	(4,700)
Recharges	(34)	(122)	(123)
Recharges - Partnerships	(208)	(306)	(316)
Total Service Expenditure	8,277	8,591	8,464

Analysis of budget changes between 19/20 and 20/21

Base Budget 2019/20	8,591
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	256
Planned Savings agreed previous years	(105)
SCIA 2020/21	
SCIA 01 - Apprenticeship Levy	50
SCIA 02 - Mobile Phones and Mileage	(3)
SCIA 04 - Tree Maintenance	10
SCIA 05 - CCTV Income	10
SCIA 06 - Car Parks Business Rates	45
SCIA 09 - Finance Team Restructure	35
SCIA 10 - Insurance	(8)
SCIA 11 - Tree Planting	5
SCIA 13 - Electric Car Project	5
SCIA 14 - Advertising Income	(5)
Other Adjustments	(422)
Proposed Budget 2020/21	8,464

Net Service Expenditure analysed by Chief Officer

	Actuals	Budget	Budget
	18/19	19/20	20/21
	£'000	£'000	£'000
Planning & Regulatory Services			
Building Control Discretionary Work	0	0	0
Building Control Partnership Members	0	0	0
Building Control Partnership Hub (SDC Costs)	0	0	0
Building Control	(155)	(129)	(127)
Conservation	97	92	118
Dangerous Structures	2	3	3
Dartford Environmental Hub (SDC Costs)	0	0	0
EH Commercial	303	263	281
EH Animal Control	7	1	4
EH Environmental Protection	353	405	387
Licensing Partnership Hub (Trading)	0	0	0
Licensing Partnership Members	0	0	0
Licensing Regime	(16)	10	(7)
Planning Policy	581	569	535
LDF Expenditure	0	0	0
Planning - Appeals	215	203	212
Planning - CIL Administration	(49)	(68)	(67)
Planning - Counter	0	0	(6)
Planning - Development Management	217	222	252
Planning - Enforcement	264	280	308
Planning Performance Agreement	0	0	0
Administrative Expenses - Building Control	5	12	12
Administrative Expenses - Health	1	10	9
Administrative Expenses - Licensing	2	8	8
Administrative Expenses - Planning Services	86	46	48
Taxis	(8)	4	35
Air Quality (Ext Funded)	0	0	0
Total Service Expenditure	1,905	1,931	2,005

Net Service Expenditure analysed by Chief Officer

	Actuals 18/19 £'000	Budget 19/20 £'000	Budget 20/21 £'000
Planning & Regulatory Services			
Pay Costs	3,153	3,582	3,777
Premises and Grounds	7	5	5
Transport	6	11	11
Supplies & Services	191	135	131
Supplies & Services IT	10	2	2
Agency & Contracted	724	370	351
Agency & Contracted - Partnerships	1,068	1,060	1,116
Agency & Contracted - Direct Services	36	37	38
Transfer Payments - Other	9	0	0
Support Services	0	11	11
Funds drawn to/from Reserves	(15)	38	38
Income - Other	(445)	(362)	(418)
Income - Gov Gnts	(4)	0	0
Income - Fees and Charges	(2,603)	(1,796)	(1,826)
Recharges	(3)	0	0
Recharges - Partnerships	(230)	(1,165)	(1,231)
not budget lines	0	0	0
Total Service Expenditure	1,904	1,930	2,005

Analysis of budget changes between 19/20 and 20/21

Base Budget 2019/20	1,930
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	68
Planned Savings agreed previous years	0
<u>SCIAs 2020/21</u>	
SCIA 02 - Mobile Phones and Mileage	(1)
SCIA 03 - Planning Income	(11)
SCIA 07 - EH Partnership Split	(20)
SCIA 10 - Insurance	1
Other Adjustments	38
Proposed Budget 2020/21	2,005

PAY COST ESTIMATES SUMMARY 2020/21

Line No.		2019/20 BUDGET	2020/21 BUDGET	2019/20 FTE	2020/21 FTE
1a	People & Places	752,441	774,782	15.73	13.69
1b	People & Places - Housing	291,728	348,255	6.20	7.60
1c	Strategic Properties	278,934	446,784	5.00	7.00
2a	Corporate Services	2,642,128	2,608,032	69.55	58.69
2b	Revenues & Benefits	1,527,266	1,617,683	43.28	43.14
3a	Finance	1,393,506	1,720,346	24.64	30.41
3b	Operational Services	535,185	637,087	14.99	16.04
3c	Operational Services (TASK)	3,294,721	3,660,515	97.17	111.12
3d	Parking & Amenity Services	475,097	500,703	13.00	13.00
3e	Property Services	571,492	605,575	15.98	15.98
4a	Planning	2,178,491	2,263,813	48.51	49.50
4b	Building Control	335,816	372,577	7.00	8.00
4c	Environmental Health	667,950	696,339	12.57	12.57
4d	Licensing	390,689	463,066	10.67	10.59
		15,335,444	16,715,557	384.29	397.33
	Other Salary Costs				
5	Vacancy Savings	(147,380)	(150,328)	0.00	0.00
	SUB-TOTAL	15,188,064	16,565,230	384.29	397.33
6	People & Places (Ext)	667,272	683,413	18.70	17.35
7	People & Places - Housing (Ext)	55,405	0	1.50	0.00
8	KRP (Ext)	117,902	122,818	2.00	2.00
	GRAND TOTAL	16,028,644	17,371,460	406.49	416.68

NOTES

1) Externally funded posts (lines 6 to 8) have been excluded from earlier lines. The income will show elsewhere in the 2020/21 budget

This page is intentionally left blank

Capital Programme 2020-23

Chief Officer/Scheme	Funding Source							Total over 3 year programme period £000
				2019/20	2020/21	2021/22	2022/23	
		Total approved scheme £000	Previous year spend £000	Forecast £000	Budget £000	Budget £000	Budget £000	
People & Places								
Parish projects	Capital Receipts	51	-	-	51	-	-	51
White Oak Leisure Centre - pre construction	Capital Receipts	550	-	550	-	-	-	0
Disabled Facilities Grants (gross)	Better Care Fund	-	-	1,100	1,100	1,100	1,100	3,300
Finance & Trading								
Property Investment Strategy	Prop. Inv. Reserve	50,300	25,775	3,730	5,000	5,000	10,795	20,795
Commercial vehicle replacements	Vehicle Renewal Res.	-	-	548	548	563	575	1,686
Buckhurst 2- Residential	Capital Receipts	6,472	1,727	5,249	-	-	-	0
CCTV	Capital Receipts	70	50	20	-	-	-	0
TOTAL				11,197	6,699	6,663	12,470	25,832

Funding Sources

Capital Receipts	-5,819	-51	-	-
Financial Plan Reserve & Cap Receipts				
Vehicle Renewal Reserve	-548	-548	-563	-575
Property Investment Strategy ***	-3,730	-5,000	-5,000	-10,795
Better Care Fund (KCC)	-1,100	-1,100	-1,100	-1,100
Internal Borrowing				
Capital Reserve (from Revenue)				
External Borrowing				
	-11,197	-6,699	-6,663	-12,470

*** Part will be funded from Capital Receipts, Reserves, Internal Borrowing and External Borrowing.

This page is intentionally left blank

Capital Programme 2020/23

Scheme Bid Document - Scheme: Disabled Facility Grant

Description: Money provided by the Better Care Fund for the provision of both mandatory and discretionary activities to ensure those eligible for assistance remain residing in their own home along with the new requirement to fund initiatives to better integrate housing with social care and Health Services, through preventive and responsive services.

Service : Private Sector Housing

Portfolio Holder/Chief Officer : Cllr Piper/Lesley Bowles

Financials :

CAPITAL COSTS	Period	2020/21	2021/22	2022/23
	TOTAL			
	£000	£000	£000	£000
Gross scheme cost	3,300	1,100	1,100	1,100
External Contributions (list)				
Better Care Fund, via KCC	(3,300)	(1,100)	(1,100)	(1,100)
Net scheme cost	0	0	0	0

ONGOING REVENUE IMPLICATIONS

(excluding loss of interest)

Running costs

Income streams

Net cost	0	0	0
----------	---	---	---

Funding Source : Scheme will be fully funded from the Better Care Fund.

Other Resource Implications :	
Staffing	Managed with existing staffing establishment
Asset Values	Assets not in Council ownership

Justification: Statutory Duty

It is a statutory duty to provide DFGs to older and or disabled residents. The Council's DFG service is eligible for Ministry of Housing, Communities and Local Government (MHCLG) funding. Larger grants are managed by Home Improvement Agency (HIA).

From 2015 the Better Care Fund for Kent has been administered by KCC (ring fenced for and passed onto each District).

Capital Programme 2020/23

Scheme Bid Document - Scheme: Vehicle Replacement Programme

Description: Purchase of replacement commercial fleet vehicles that have reached the end of their fully depreciated operational life.

Service : Direct Services

Portfolio Holder/Chief Officer : Councillor Margot McArthur/Adrian Rowbotham

Financials :

CAPITAL COSTS	TOTAL	2020/21	2021/22	2022/23
	£000	£000	£000	£000
Gross scheme cost	1,686	548	563	575
External Contributions (list)				

Net scheme cost	1,686	548	563	575
-----------------	-------	-----	-----	-----

ONGOING REVENUE IMPLICATIONS

(excluding loss of interest)

Contribution to Vehicle replacement Reserve	47	47	47
Income streams			
Net cost	47	47	47

Funding Source: Funding is via the vehicle replacement fund which is financed by fixed transport charges, the sale of old vehicles and by an annual revenue contribution. Fixed transport charges include an annual replacement fund contribution as well as individual depreciation charges levied on each fleet purchase over predetermined periods.

Other Resource Implications :	
Staffing	Managed by Direct Services fleet management.
Asset Values	Approximately £4 million

Justification: Key Infrastructure

To maintain services, mainly statutory. Supports all the Council's priorities

Statement of Reserves and Provisions

1. This appendix sets out details of the reserves and provisions held by the council. These balances have been subject to a detailed review as part of the budget process. **The items in bold show the changes that are being recommended.**
2. One of the requirements of the Financial Planning Strategy is to have flexible use of the Budget Stabilisation Reserve. The fund incorporates any annual under-spends and absorbs any annual over-spends. **It is recommended that any variance in the 2020/21 budget is put into this reserve or absorbed by this reserve.**
3. **Set up a Net Zero Carbon Emissions Reserve.** This would help to fund the schemes that result from the Net Zero report presented to Council on 19 November 2019.

The table below sets out the reserves and provisions held at 1 April 2019

	01/04/19	Purpose (some further details are included in the Statement of Accounts 2018/19)
Provisions	£000	
Business Rates Appeals	2,547	The Council has to provide for its share of the costs arising from successful appeals by business ratepayers.
Accumulated Absences	152	Absorbs the difference that would otherwise arise on the General Fund Balance from accruing for compensated absences (e.g. annual leave) earned but not taken in the year. Opposite entry in Unusable Reserves.
Municipal Mutual Insurance (MMI)	257	A solvent run-off of MMI is now unlikely which may result in Councils being liable to clawback of monies paid out.
Sub Total	2,956	
Capital Receipts		
Capital Receipts	559	Balance from previous asset sales and mortgage repayments. Can be used to fund future capital expenditure.
Earmarked Reserves		
Action and Development	396	To fund ad hoc and unplanned expenditure (including emergencies and flooding).
Asset Maintenance	1,000	To fund emergency works to assets.
Budget Stabilisation	7,938	To support decisions required to continue to produce a balanced budget in future years.
Business Rates Retention	565	To manage the volatility in yearly cash flows in the Collection Fund caused by the complexities in the Business Rates Retention Scheme.
Capital Financing	592	Annual contributions from revenue to fund some capital projects.
Carry Forward Items	707	For specific items agreed by Cabinet, e.g. if a project has slipped between years.
Communities and Business	351	External funding received for ongoing and future projects.
Community Infrastructure Levy Administration	185	To be spent on the administration of the levy.
Corporate Project Support	586	To fund invest to save projects and external expertise required to investigate proposed projects.
District Elections	104	To fund future District Elections.

Financial Plan	1,364	To support the 10-year budget and Property Investment Strategy.
Sewerage	206	Potential liabilities relating to earlier sewerage installations and contribute to the costs of other sewerage systems.
Homelessness Prevention	255	To assist in the delivery of the Homelessness Reduction Act.
Housing Benefit Subsidy	444	Provides a cushion against large movements in reclaimable sums in any year.
IT Asset Maintenance	682	To fund future IT asset maintenance costs.
Local Plan	491	To help support the Local Plan.
New Homes Bonus (NHB)	406	NHB is being kept separate and used to fund the Property Investment strategy.
Pension Fund Valuation	500	To contribute towards downturns in future pension fund actuarial valuations.
Re-organisation	423	To fund actions taken to achieve annual budget savings.
Swanley Station Improvements	750	Community Infrastructure Levy spending board funding.
Vehicle Insurance	299	Own vehicle damage for the commercial vehicle fleet. Contributions are made from the trading accounts.
Vehicle Renewal	532	Vehicle replacement for the commercial vehicle fleet. Contributions are made from the trading accounts each year
Others	594	Includes Rent Deposit Guarantee, Local Strategic Partnership, Electoral Registration etc.
Sub Total	19,372	
General Fund	1,500	Acts as a working balance to meet unexpected issues during the year, for which a minimum of 10% of net service expenditure recommended. It also meets any planned deficits on the revenue account.
TOTAL	24,388	

Definitions:

Provisions - funds set aside for liabilities or losses which are known obligations but are uncertain as to amounts or dates. Expenditure can be charged direct against the Provision without being reflected in the Revenue Account.

Capital Receipts - money received from the sale of assets (normally land and buildings) and the repayment of grants and advances (e.g. mortgage repayments). Such receipts can only be used to repay debt, or to finance capital investment.

Earmarked Reserve - amounts set aside for purposes falling outside the definition of Provisions. Expenditure should not be charged direct to reserves but shown in the Revenue Account with the transfer to or from the reserve distinguished from service expenditure.

Unallocated Reserve - the General Fund balance. This amount is not set-aside for a specific purpose.

Risk Factors 2020/21

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Pay Costs	£15.2m total costs	3	4	12	2% pay increase = £304k. Budget assumptions: 2% pay award in all years.	Largest single item of cost. Complex drivers across the organisation. Staff recruitment and retention.	New salary bands introduced from 1 April 2019 which reduced the costs of annual increments. Formal sickness & overtime monitoring. Separate control on agency staff. Part of National Agreement.	£152k
Pensions Funding	£15m deficit	1	3	3	1% change in employers contribs = £100k.	Deficit on County Fund. Future actuarial results. Government review.	£100k included in 10- year budget in 2023/24 to contribute towards any additional pensions costs when the next valuation takes place	£100k
Major Service Income areas					See below by income type	Income subject to local economic conditions. Some very large single-source income targets (see below).	Strict monitoring, with trend analysis.	

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
- Development Management	£0.9m	3	3	9	10% reduction would be £90k.	Volatile activity levels in the housing market and general economic conditions. Fluctuations in income with major applications	Current year income is above target. Continue to monitor.	£9k
- Building Control	£0.4m	3	3	9	10% reduction would be £40k	Volatile activity levels in the housing market and general economic conditions. Competition from commercial organisations	Current year income is above target. Continue to monitor.	£4k
- Car Parks	£2.6m	1	4	4	10% reduction would be £260k	General economic conditions; central government directives	Current year income is below. Continue to monitor.	£26k
- On-Street Parking	£1.0m	1	3	3	10% reduction would be £90k	General economic	Current year is above target. Continue to	£10k

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
						conditions. Legislative constraints on spending surpluses. Reverts to KCC control	monitor and review.	
Partnership working and partner contributions	£0.7m	3	2	6	Impact on individual projects is high. (As reported to Legal and Democratic AC on 04/10/18, we save over £700k pa by working in Partnerships)	Partner actions delayed. Agreed funding not received by SDC. Partnerships ending.	Separate accounting arrangements. Active liaison with partners on service arrangements Written partnership agreements.	£7k
External Funding Awards including Leader project	£0.1m	3	2	6	Up to £104k Impact on individual projects is high	Time limited to Dec 20. Potential risk from uncertainty over replacement of project funds from UK government and other funding providers	Exit strategies in place.	£1k

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Changes in service demand		3	3	9	Impacts will vary depending on service.		Service planning in place Continue to lobby Government where changes are due to new Gov't requirements.	
Interest Rates	£0.25m 20/21 budget	3	3	9	£250k per 0.5%.	Large cash variance from small rate changes. Reducing availability of suitable counter parties	Use of professional advisers. If internal borrowing is used for capital investment projects in 2020/21 there will be less cash earning bank interest.	£2.5k
Investments	£25.7m balance at Nov 2019	1	5	5		Financial institutions going into administration.	Investment strategy regularly reviewed by FIAC. Use of professional advisers.	n/a
Asset base maintenance	£0.7m	2	2	4	Annual budget is based on historic expenditure.	Unexpected problems occurring with financial implications. Reducing budget levels. Ageing assets particularly for leisure	20-year maintenance programme developed to manage budgeted expenditure. Reserve funds set aside. Policy of reducing asset liabilities wherever possible.	n/a

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Capital Investment resources (Capital receipts, Capital Financing Reserve, Financial Plan Reserve, Internal Borrowing, External Borrowing)	Capital Receipts 20/21 £14.6m, Capital Financing reserve £0.59m. (balances at Nov 2019).	2	2	4	Risks taken into account in the Capital Programme report.	Capital receipt levels modest.	External funding sought wherever possible. Capital Investment priorities in place. Property Review being pursued to secure asset sales. External Borrowing approved as an option for future investments	n/a
Property Investment Strategy	£29.5m invested at November 2019 £1.428m rental income in 20/21	3	3	9		Market value of property may reduce below price at acquisition	External property investment advisors retained for each acquisition; due diligence undertaken pre-purchase. Purchases only made within strategy, which is kept under review.	£14k

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Rental Income from Investment Property (non- Property Investment Strategy)	£0.1m in 2020/21 budget	1	2	2	Dependant on financial strength of tenants + good management to reduce impact of void periods.	Property tenants unable to pay rents/length of void premises/ability to source new tenants	Due diligence prior to letting to new tenants; tight control on rent payments	£1k
Disposal of surplus assets	£15.0m forecast in 19/20 - 22/23)	2	4	8	Risks taken into account in the Capital Programme and Asset Maintenance report.	Planning conflict. Resources required to bring sites forward.	Land Owner/Planning protocols in place. In-house property team. Planned Property Review disposal programme.	n/a
Government Support: Revenue Support Grant	£0 in 2019/20 revenue budget				n/a	n/a	Excluded grant from budget from 16/17 onwards so SDC became self-sufficient from govt. funding; Adequate level of General Reserve held.	n/a

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Government Support: Retained Business Rates	£2.1m in 2020/21	5	4	20	£20k per 1% change	Government changing baseline and therefore safety net levels. Time delays in decisions on appeals. High volume of successful valuation appeals. Central government intends to introduce business rate but timeline uncertain.	10-year budget strategy gives ability to gradually adjust for changes. Adequate level of General Reserve held.	£20k
Council tax Referendum limits	£11.2m Council Tax income in 20/21	4	3	12	£100k per 1% Government controls on changes in council tax rates	Council tax increases limited budgeted at 2% or £5 in 20/21 per draft announcement but subject to change dependant on final Government announcement.	Draft 10-year budget includes council tax increase assumptions for future years.	£112k

Issue	£ Scale	Likelihood 1 (low) - 5 (high)	Impact 1 (low) - 5 (high)	Total Score	Potential Annual Impact and Sensitivity Analysis	Risk Areas	Controls and Actions in place	Cash impact of 1% change in budgeted expenditure or income
Future Service Changes by Government		4	4	16		Additional services without consequent resources, e.g. previous examples of Maint. of trees on common land. Government directives on income charging e.g. Personal searches. Potential changes on health responsibilities.	Monitor proposals. Respond to consultations with local view.	
Fuel cost increases for Direct Services	£0.5m	5	2	10	10% increase would be £50k	Changes in global oil prices.	Continue to monitor fuel usage and efficiency. Vehicle replacement programme.	£5k

Local Council Tax Reduction Scheme 2020/21

1. Summary
 - 1.1 To recommend the rolling forward of the Local Council Tax Reduction Scheme 2019/20, effective from 1 April 2020.

2. Background and discussions
 - 2.1 The Council is required to approve a local scheme of support for council tax each year and this must have been done by 11 March of the preceding financial year. The local scheme was therefore updated for 2019/20 on 20 November 2018. It is now recommended that the scheme approved for 2019/20 be rolled forward to 2020/21, with effect from 1 April 2020.
 - 2.2 This scheme provides protection for pensioners in line with the Government's decision that pensioners would see no reduction in their entitlement from that under the old council tax benefit rules. It also reduces the entitlement of working age claimants by 20%.
 - 2.3 The award of council tax reduction is by way of a discount which reduces the amount of council tax collected. Most of this reduction is borne by the major preceptors, with the Council suffering a reduction of approximately 12% of the total.

3. Financial Implications
 - 3.1 The annual cost of the current CTRS is £5.888m of which £2.966m relates to working-age claimants. A large proportion of this cost is borne by the major preceptors.

4. Legal Implications
 - 4.1 The scheme is governed by the Local Government Act 2013.

This page is intentionally left blank

COUNCIL 25 FEBRUARY 2020

COUNCIL TAX SETTING 2020/21

LATEST INFORMATION ON PRECEPTING AUTHORITIES

Town and Parish Councils

- 1 A list of town and parish council precepts is attached at Appendix N and total £4,637,560. The increase in the average band D council tax for Town and Parish Councils is 4.14% and results in an average band D council tax figure of £90.56 for 2020/21.

Kent County Council

- 2 Kent County Council met on 13 February 2020 and their precept is £69,195,160. This will result in a band D council tax of £1,351.26. These are the figures including the addition of the council tax flexibility offer for authorities responsible for adult social care.

Kent Police and Crime Commissioner

- 3 The Kent Police and Crime Panel met on 6 February 2020 and approved the Kent Police and Crime Commissioner's proposed precept of £10,402,881. This will result in a band D council tax of £203.15.

Kent and Medway Towns Fire Authority

- 4 Kent and Medway Towns Fire Authority met on 14 February 2020 and their precept is £4,060,273. This will result in a band D council tax of £79.29.

This page is intentionally left blank

TOWN & PARISH COUNCIL PRECEPTS							
	2019/20			2020/21			
Town / Parish Council	Tax Base	Precept £	Council Tax Band D (£)	Tax Base	Precept £	Council Tax Band D (£)	Band D Change (%)
Ash-cum-Ridley	2,460.65	109,984	44.70	2,459.75	115,358	46.90	4.92
Badgers Mount	334.28	27,420	82.03	334.98	27,420	81.86	-0.21
Brasted	778.50	37,900	48.68	778.10	37,900	48.71	0.06
Chevening	1,450.74	70,000	48.25	1,456.01	65,000	44.64	-7.48
Chiddingstone	602.66	38,755	64.31	604.75	41,500	68.62	6.70
Cowden	435.77	22,009	50.51	449.88	22,700	50.46	-0.10
Crockenhill	660.41	82,160	124.41	659.12	82,000	124.41	0.00
Dunton Green	1,323.31	133,400	100.81	1,321.92	136,000	102.88	2.05
Edenbridge	3,556.04	513,234	144.33	3,697.28	554,973	150.10	4.00
Eynsford	945.99	79,763	84.32	948.87	81,757	86.16	2.18
Farningham	664.59	46,754	70.35	666.28	46,754	70.17	-0.26
Fawkham	283.39	13,053	46.06	292.04	13,855	47.44	3.00
Halstead	782.28	45,435	58.08	778.40	49,250	63.27	8.94
Hartley	2,555.38	133,697	52.32	2,556.57	137,773	53.89	3.00
Hever	610.42	39,545	64.78	620.75	41,521	66.89	3.26
Hextable	1,666.94	147,541	88.51	1,698.15	153,088	90.15	1.85
Horton Kirby & S Darenth	1,299.56	103,672	79.77	1,302.24	106,858	82.06	2.87
Kemsing	1,839.00	131,000	71.23	1,853.31	148,000	79.86	12.12
Knockholt	634.77	43,710	68.86	634.27	44,366	69.95	1.58
Leigh	948.18	39,500	41.66	961.50	46,000	47.84	14.83
Otford	1,709.88	176,117	103.00	1,720.71	184,168	107.03	3.91
Penshurst	835.95	44,519	53.26	837.74	46,238	55.19	3.62
Riverhead	1,249.06	53,310	42.68	1,247.77	53,255	42.68	0.00
Seal	1,253.83	73,320	58.48	1,303.53	74,780	57.37	-1.90
Sevenoaks Town	9,637.63	1,141,385	118.43	9,690.61	1,215,276	125.41	5.89
Sevenoaks Weald	615.09	44,000	71.53	617.77	46,200	74.79	4.56
Shoreham	685.46	40,000	58.35	683.97	43,200	63.16	8.24
Sundridge	932.07	63,240	67.85	937.54	65,000	69.33	2.18
Swanley	5,607.45	590,600	105.32	5,663.91	614,502	108.49	3.01
Westerham	2,068.71	226,720	109.59	2,066.03	237,200	114.81	4.76
West Kingsdown	2,344.35	103,600	44.19	2,364.13	105,668	44.70	1.15
Totals	50,772.34	4,415,343		51,207.88	4,637,560		
Average			86.96			90.56	4.14

This page is intentionally left blank

COUNCIL 25 FEBRUARY 2020COUNCIL TAX SETTING 2020/21**RECOMMENDATIONS**

- (a) That the Capital Programme 2020/23 and Asset Maintenance 2020/21 budget of £687,000 be approved (Cabinet 4 February 2020 - Capital Programme & Asset Maintenance);
- (b) that it be noted that at the Cabinet meeting on 9 January 2020 the Council calculated as its council tax base for the year 2020/21:
- (i) for the whole Council area as 51,207.88 being Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended, (the “Act”); and
 - (ii) for dwellings in those parts of its area to which a parish precept relates as in the attached Appendix N;
- (c) that the council tax requirement for the Council’s own purpose for 2020/21 (excluding Town and Parish precepts) be calculated as £219.96;
- (d) that the following amounts be calculated for the year 2020/21 in accordance with Sections 31 to 36 of the Act:
- (i) £56,302,245 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Town and Parish Councils.
 - (ii) £40,401,000 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
 - (iii) £15,901,245 being the amount by which the aggregate at (d)(i) above exceeds the aggregate at (d)(ii) above, calculated by the Council, in accordance with Section 31A(4) of the Act, as its council tax requirement for the year (Item R in the formula in Section 31B of the Act).
 - (iv) £310.52 being the amount at (d)(iii) above (Item R), all divided by (b)(i) above (Item T),

calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its council tax for the year (including Town and Parish precepts).

(v) £4,637,560 being the aggregate amount of all special items (Town and Parish precepts) referred to in Section 34 (1) of the Act (as per the attached Appendix N).

(vi) £219.96 being the amount at (d)(iv) above, less the result given by dividing the amount at (d)(v) above by the amount at (b)(i) above (Item T), calculated by the Council, in accordance with Section 34 (2) of the Act, as the basic amount of its council tax for the year for dwellings in those parts of its area to which no Town or Parish precept relates.

(e) that it be noted that for the year 2020/21 the Kent County Council, the Kent Police & Crime Commissioner and the Kent & Medway Towns Fire Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each category of dwellings in the Council's area as indicated in the table below:-

<u>Valuation Bands</u>	<u>Precepting Authority</u>			
	Sevenoaks District Council £	Kent County Council £	Kent Police & C.C. £	Kent & Medway Towns Fire Authority £
A	146.64	900.84	135.43	52.86
B	171.08	1,050.98	158.01	61.67
C	195.52	1,201.12	180.58	70.48
D	219.96	1,351.26	203.15	79.29
E	268.84	1,651.54	248.29	96.91
F	317.72	1,951.82	293.44	114.53

G	366.60	2,252.10	338.58	132.15
H	439.92	2,702.52	406.30	158.58

- (f) that the Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in Appendix Q as the amounts of council tax for the year 2020/21 for each part of its area and for each of the categories of dwellings; and
- (g) that the Council's basic amount of council tax for 2020/21, shown in (d)(vi) above, is not excessive in accordance with principles approved under Section 52ZB of the Local Government Finance Act 1992.

NOTES ON COUNCIL TAX RECOMMENDATIONS

<u>Recommendation</u>	<u>Note</u>
(b)	This is the tax base in terms of band D equivalents approved by the Cabinet on 9 January 2020.
(c)	The District's council tax requirement (band D).
(d)(i)	Estimated gross revenue expenditure for 2020/21 including reserves and parish precepts.
(d)(ii)	Estimated gross revenue income for 2020/21 including Government support but excluding net council tax requirement.
(d)(iii)	Net council tax requirement in cash terms including Town and Parish precepts.
(d)(iv)	Net council tax requirement in band D terms including Town and Parish precepts.
(d)(v)	Total of Town and Parish precepts.
(d)(vi)	The District's council tax requirement (band D).
(e)	The District Council, County Council, Police & Crime Commissioner and Fire Authority precepts expressed for each valuation band.
(f)	The aggregate tax demand set out over each valuation band. Shown in Appendix Q in case of last minute amendments.
(g)	Confirmation that any increase in the council tax requirement is not excessive and, hence, that no referendum is required.

PARISHES ONLY

Part of the Council's area	Valuation Bands							
	A £	B £	C £	D £	E £	F £	G £	H £
Ash-cum-Ridley	31.27	36.48	41.69	46.90	57.32	67.74	78.17	93.80
Badgers Mount	54.57	63.67	72.76	81.86	100.05	118.24	136.43	163.72
Brasted	32.47	37.89	43.30	48.71	59.53	70.36	81.18	97.42
Chevening	29.76	34.72	39.68	44.64	54.56	64.48	74.40	89.28
Chiddingstone	45.75	53.37	61.00	68.62	83.87	99.12	114.37	137.24
Cowden	33.64	39.25	44.85	50.46	61.67	72.89	84.10	100.92
Crockenhill	82.94	96.76	110.59	124.41	152.06	179.70	207.35	248.82
Dunton Green	68.59	80.02	91.45	102.88	125.74	148.60	171.47	205.76
Edenbridge	100.07	116.74	133.42	150.10	183.46	216.81	250.17	300.20
Eynsford	57.44	67.01	76.59	86.16	105.31	124.45	143.60	172.32
Farningham	46.78	54.58	62.37	70.17	85.76	101.36	116.95	140.34
Fawkham	31.63	36.90	42.17	47.44	57.98	68.52	79.07	94.88
Halstead	42.18	49.21	56.24	63.27	77.33	91.39	105.45	126.54
Hartley	35.93	41.91	47.90	53.89	65.87	77.84	89.82	107.78
Hever	44.59	52.03	59.46	66.89	81.75	96.62	111.48	133.78
Hextable	60.10	70.12	80.13	90.15	110.18	130.22	150.25	180.30
Horton Kirby & S Darent	54.71	63.82	72.94	82.06	100.30	118.53	136.77	164.12
Kemsing	53.24	62.11	70.99	79.86	97.61	115.35	133.10	159.72
Knockholt	46.63	54.41	62.18	69.95	85.49	101.04	116.58	139.90
Leigh	31.89	37.21	42.52	47.84	58.47	69.10	79.73	95.68
Otford	71.35	83.25	95.14	107.03	130.81	154.60	178.38	214.06
Penshurst	36.79	42.93	49.06	55.19	67.45	79.72	91.98	110.38
Riverhead	28.45	33.20	37.94	42.68	52.16	61.65	71.13	85.36
Seal	38.25	44.62	51.00	57.37	70.12	82.87	95.62	114.74
Sevenoaks Town	83.61	97.54	111.48	125.41	153.28	181.15	209.02	250.82
Sevenoaks Weald	49.86	58.17	66.48	74.79	91.41	108.03	124.65	149.58
Shoreham	42.11	49.12	56.14	63.16	77.20	91.23	105.27	126.32
Sundridge	46.22	53.92	61.63	69.33	84.74	100.14	115.55	138.66
Swanley	72.33	84.38	96.44	108.49	132.60	156.71	180.82	216.98
Westerham	76.54	89.30	102.05	114.81	140.32	165.84	191.35	229.62
West Kingsdown	29.80	34.77	39.73	44.70	54.63	64.57	74.50	89.40

GRAND TOTAL

Part of the Council's area	Valuation Bands							
	A £	B £	C £	D £	E £	F £	G £	H £
Ash-cum-Ridley	1,267.04	1,478.22	1,689.39	1,900.56	2,322.90	2,745.25	3,167.60	3,801.12
Badgers Mount	1,290.34	1,505.41	1,720.46	1,935.52	2,365.63	2,795.75	3,225.86	3,871.04
Brasted	1,268.24	1,479.63	1,691.00	1,902.37	2,325.11	2,747.87	3,170.61	3,804.74
Chevening	1,265.53	1,476.46	1,687.38	1,898.30	2,320.14	2,741.99	3,163.83	3,796.60
Chiddingstone	1,281.52	1,495.11	1,708.70	1,922.28	2,349.45	2,776.63	3,203.80	3,844.56
Cowden	1,269.41	1,480.99	1,692.55	1,904.12	2,327.25	2,750.40	3,173.53	3,808.24
Crockenhill	1,318.71	1,538.50	1,758.29	1,978.07	2,417.64	2,857.21	3,296.78	3,956.14
Dunton Green	1,304.36	1,521.76	1,739.15	1,956.54	2,391.32	2,826.11	3,260.90	3,913.08
Edenbridge	1,335.84	1,558.48	1,781.12	2,003.76	2,449.04	2,894.32	3,339.60	4,007.52
Eynsford	1,293.21	1,508.75	1,724.29	1,939.82	2,370.89	2,801.96	3,233.03	3,879.64
Farningham	1,282.55	1,496.32	1,710.07	1,923.83	2,351.34	2,778.87	3,206.38	3,847.66
Fawkham	1,267.40	1,478.64	1,689.87	1,901.10	2,323.56	2,746.03	3,168.50	3,802.20
Halstead	1,277.95	1,490.95	1,703.94	1,916.93	2,342.91	2,768.90	3,194.88	3,833.86
Hartley	1,271.70	1,483.65	1,695.60	1,907.55	2,331.45	2,755.35	3,179.25	3,815.10
Hever	1,280.36	1,493.77	1,707.16	1,920.55	2,347.33	2,774.13	3,200.91	3,841.10
Hextable	1,295.87	1,511.86	1,727.83	1,943.81	2,375.76	2,807.73	3,239.68	3,887.62
Horton Kirby & S Darent	1,290.48	1,505.56	1,720.64	1,935.72	2,365.88	2,796.04	3,226.20	3,871.44
Kemsing	1,289.01	1,503.85	1,718.69	1,933.52	2,363.19	2,792.86	3,222.53	3,867.04
Knockholt	1,282.40	1,496.15	1,709.88	1,923.61	2,351.07	2,778.55	3,206.01	3,847.22
Leigh	1,267.66	1,478.95	1,690.22	1,901.50	2,324.05	2,746.61	3,169.16	3,803.00
Otford	1,307.12	1,524.99	1,742.84	1,960.69	2,396.39	2,832.11	3,267.81	3,921.38
Penshurst	1,272.56	1,484.67	1,696.76	1,908.85	2,333.03	2,757.23	3,181.41	3,817.70
Riverhead	1,264.22	1,474.94	1,685.64	1,896.34	2,317.74	2,739.16	3,160.56	3,792.68
Seal	1,274.02	1,486.36	1,698.70	1,911.03	2,335.70	2,760.38	3,185.05	3,822.06
Sevenoaks Town	1,319.38	1,539.28	1,759.18	1,979.07	2,418.86	2,858.66	3,298.45	3,958.14
Sevenoaks Weald	1,285.63	1,499.91	1,714.18	1,928.45	2,356.99	2,785.54	3,214.08	3,856.90
Shoreham	1,277.88	1,490.86	1,703.84	1,916.82	2,342.78	2,768.74	3,194.70	3,833.64
Sundridge	1,281.99	1,495.66	1,709.33	1,922.99	2,350.32	2,777.65	3,204.98	3,845.98
Swanley	1,308.10	1,526.12	1,744.14	1,962.15	2,398.18	2,834.22	3,270.25	3,924.30
Westerham	1,312.31	1,531.04	1,749.75	1,968.47	2,405.90	2,843.35	3,280.78	3,936.94
West Kingsdown	1,265.57	1,476.51	1,687.43	1,898.36	2,320.21	2,742.08	3,163.93	3,796.72

Item 6 (e) - Property Investment Strategy Update.

The attached report was considered by the Cabinet, and the relevant minute extract is below:

Cabinet (Minute 63, 4 February 2020)

The Finance & Investments Portfolio Holder presented the report which provided an update on the progress of the Property Investment Strategy to date and looked at the future direction of the strategy.

He set out that the Property Investment Strategy had been a major tool in helping the council achieve financial self-sufficiency and continue to deliver a balanced 10-year budget.

It was important to continue with the Property Investment Strategy to deliver increased income to fund the revenue budget as the Council continued to receive no direct Government funding. No changes to the current Property Investment Strategy criteria were recommended.

The Chief Officer for Finance and Trading set out that this was the annual update report as part of the budget process. The report provided Members with an update on the progress of the Property Investment Strategy to date and looked at the future direction of the Strategy.

The Strategy was approved by Council in July 2014 to enable the Council to be more in control of its future by aiming to become financially self-sufficient from direct Government funding. The Strategy had been a major factor in achieving this aim and the 2020/21 budget, if approved, would be the fifth consecutive budget to show the Council as financially self-sufficient, a major achievement for a Local Authority.

The Council had agreed that £50m could be spent on the strategy over four tranches and including the Sennocke Hotel, £29.5m of which had been spent.

All acquisitions had been supported by a thorough business case and approved by the Improvement & Innovation Portfolio Holder and Finance & Investments Portfolio Holder as required. The schemes had been funded by capital receipts, reserves or internal borrowing. No external borrowing had been used to date, although Council had approved that external borrowing may be used for future investments.

The budgeted net income for the current year was £1.258m and it was forecast that £1.348m would be achieved. It was assumed that the income budget would increase by £300,000 by 2023/24. This was after putting £100,000 per annum into the Property Investment Strategy Maintenance Reserve to help cover future liabilities.

Agenda Item 6e

The annual report also gave Members the opportunity to review the Strategy criteria and feed their comments to Council. The criteria agreed by Council last year could be found at Appendix A.

The Finance & Investment Advisory Committee had considered the same report.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that the Property Investment Strategy criteria be approved.

PROPERTY INVESTMENT STRATEGY UPDATE REPORT

Council - 25 February 2020

Report of	Chief Officer Finance and Trading
Status	For Decision
Also considered by	Finance and Investment Advisory Committee - 23 January 2020 Cabinet - 4 February 2020
Key Decision	No

Executive Summary:

This report provides an update on the progress of the Property Investment Strategy to date and looks at the future direction of the strategy.

The Property Investment Strategy was approved by Council on 22 July 2014 to support the aim of the council becoming more financially self-sufficient as Government Support continued to reduce.

The acquisitions to date have helped the council achieve this aim and are currently overachieving the income budgets previously agreed by Members. This report provides an update on those acquisitions.

The report proposes changes to the Property Investment Strategy net income assumptions included in the 10-year budget which will result in an increase of £300,000 from 2019/20 to 2022/23.

In a changing property market, it is important to review the criteria of the strategy on a regular basis.

Portfolio Holder	Cllr. Matthew Dickins
Contact Officers	Adrian Rowbotham, Ext. 7153 Alan Mitchell, Ext 7483

Recommendation to Finance and Investment Advisory Committee:

- a) That the report be noted.
- b) Forward comments to Cabinet including recommended changes to the Property Investment Strategy criteria.

Recommendation to Cabinet:

- a) Cabinet considers any comments from Finance and Investment Advisory Committee and notes the report.
- b) Any changes to the Property Investment Strategy criteria be recommended to Council

Recommendation to Council:

Council agrees the updated Property Investment Strategy criteria recommended by Cabinet.

Introduction and Background

- 1 In recent years Sevenoaks District Council has been faced with ongoing reductions in Government Support culminating in it no longer receiving Revenue Support Grant from 2017/18. This has led to a number of decisions that have been taken through the 10-year budget process to try and ensure that the council remains in a financially sustainable position going forwards.
- 2 On 7 November 2013, Cabinet approved the Corporate Plan which set out key focus areas for the organisation including the need to become more financially self-sufficient. The agreed plan articulated an approach of investing in assets that will generate revenue income to allow less reliance on diminishing Government Support. It goes on to state that this could be done either through the review of use of reserves or through borrowing at low interest rates.
- 3 On 22 July 2014, Council agreed the Property Investment Strategy with specific criteria. The criteria were last updated at Council on 26 February 2019 and the current criteria are included at Appendix A.

Funding Agreed to Date

- 4 A total of £50.3m of funding for the Property Investment Strategy (including the Sennocke Hotel) has been agreed to date as follows:
 - £5m Council 22 July 2014
 - £3m Council 17 February 2015
 - £10m Council 21 July 2015
 - £7.3m (total spend) Sennocke Hotel Council 3 November 2015
 - £25m Council 25 April 2017

Activity to Date

5 A summary of the expenditure to date is included in the following table:

Date	Activity	Total Cost £000	Annual Income Yield %
Activities achieving the required return			
Apr 2015	Suffolk House, Sevenoaks (including refurb.) (office)	4,892	9.6% (7.1% before refurb.)
May 2015	Swanley Petrol Station and Supermarket	2,566	7.4%
Mar 2017	26-28 Pembroke Road, Sevenoaks (office)	4,673	5.9%
Aug 2018	Premier Inn Hotel, Sevenoaks	7,332	5.7%
Other Activities			
Feb 2015	Swanley Working Men's Club (including demolition)	1,393	-
2016/17	Quercus 7 set up costs	13	-
Feb 2017	96 High Street, Sevenoaks (retail, office) and associated site	4,525	Currently 3.5% Basic option 7% Other options 7%+
May 2017	Croft Road, Westerham (housing option)	50	
2018/19 onwards	Quercus 7 investments (debt 60%, equity 40%)	4,061	
	Total	29,505	

6 £20.8m of the £50.3m approved is therefore unspent.

7 **Swanley Working Men's Club** (February 2015) - The premises were demolished in July 2016. This site will be part of the gateway to Swanley. Work is continuing to establish viable redevelopment options for this site

Agenda Item 6e

which take into account its location in the Town Centre and requirement to meet the Property Investment Strategy return on investment criteria. This work is linked to the sites at 27-37 High Street and White Oak Leisure Centre in Swanley.

- 8 **Suffolk House, Sevenoaks (April 2015)** - This office building is in a town centre location with diminishing levels of office stock in the area. It consists of a total of 16,699 sq ft of office space over four floors with 84 parking spaces. It is managed by a property management company with costs recoverable under a service charge. All floors have now been refurbished to grade A standard office space and the price per square foot is now significantly higher than when the building was purchased. All space is currently let and a yield of over 9% is being achieved.
- 9 **Swanley Petrol Station and Supermarket (May 2015)** - The property comprises a 2,789 sq ft convenience store building with 15 car parking spaces, 8 multi-fuel pump forecourt with jet wash and car wash on a 0.589 acre site. The property is let on a lease expiring in August 2030.
- 10 **Quercus 7 set up costs** - expenditure was approved by Council on 31 March 2015 to be funded from the Property Investment Strategy Reserve.
- 11 **96 High Street, Sevenoaks (February 2017)** - This premises consists of ground floor retail space, 1st and 2nd floor office space with residential potential and development opportunity to rear. The most basic option of refurbishing the office space and selling the land to the rear will give a 7% annual return. The land at the rear is next to a council car park which in turn is next to the bus station and therefore has the potential to be a catalyst for wider development. Work on the options for the site are continuing, which take into account its location in the Town Centre and requirement to meet the Investment Strategy return on investment criteria. A 'meanwhile use' has been found for the remainder of the property. The first and second floors have been let to the Second Floor Studios CIC, which has converted the space into 19 artists' studios and this agreement lasts until 2021.
- 12 **26-28 Pembroke Road, Sevenoaks (March 2017)** - This is a modern freehold office investment in Sevenoaks town centre. The 10,499 sq ft building over three floors has 56 car parking spaces is currently fully let on a ten-year lease.
- 13 **Croft Road, Westerham** - This land formally in the Council's ownership was sold to a developer to build 18 residential units which are being built in two phases. The council took up an option to acquire two houses at a discount (based on an agreed price formula), one house in each phase. Construction of the first phase has been completed and the option to acquire one house was exercised on behalf of Quercus 7, and it has since been let on an Assured Shorthold Tenancy providing regular monthly income. Consideration of exercising the second option will be given once construction is close to completion of the second phase.

- 14 All of the Council’s acquisitions have been supported by a thorough business case and approved by the Improvement & Innovation Portfolio Holder in consultation with the Finance & Investment Portfolio Holder as required by Council.
- 15 **Premier Inn Hotel, Sevenoaks (August 2018)** - The 83 bed Premier Inn was completed in July 2018 and opened for trading on 4 August 2018. The hotel scheme and the funding method were separately approved by Council, but it is recognised as a Property Investment Strategy asset with the income being included in the figures below. Following an initial rent-free period, income has been received from May 2019 and is reflected in the budget from 2019/20.

Property Investment Strategy Income

- 16 The 10-year budget approved by Council on 26 February 2019 included net Property Investment Strategy income of £1.258m in 2019/20 and £1.311m in 2020/21.
- 17 Net income of £1.348m is forecast in 2019/20, therefore £90,000 above the budget. This is due to interest from loans the Council has issued to Quercus 7.
- 18 It is proposed that the budget for 2020/21 be increased from £1.311m to £1.428m to reflect the income expected from the current portfolio.
- 19 It is proposed that the budget for 2021/22 be increased from £1.311m to £1.468m per annum, 2022/23 be increased from £1.311m to £1.508m and 2023/24 be increased from £1.411m to £1.558m.
- 20 Therefore, the income assumptions are proposed to be updated as follows:

Property Investment Strategy Income		
	Previous Assumption	Proposed Assumption
2019/20	£1.258m	£1.258m
2020/21	£1.311m	£1.428m
2021/22	£1.311m	£1.468m
2022/23	£1.311m	£1.508m
2023/24	£1.411m	£1.558m
2024/25 - 2025/26	£1.455m	£1.558m
2026/27 - 2028/29	£1.655m	£1.655m
2029/30	£1.696m	£1.696m

- 21 These changes will result in an increase of £300,000 from 2019/20 to 2023/24.
- 22 All of the net income budgets proposed are after transferring £100,000 per annum into the Property Investment Strategy Maintenance Reserve.

Funding Sources

- 23 The £29.5m spent to date has been funded by:
- Property Reserve and Financial Plan Reserve £11.7m. Funds put aside for the Property Investment Strategy agreed as part of the annual budget setting process including New Homes Bonus.
 - Capital receipts £9.5m. Proceeds from the sale of council assets.
 - Internal borrowing £4.3m. From council balances. No interest is paid but Minimum Revenue Provision (MRP) is charged. MRP is the minimum amount which must be charged to the revenue account each year and set aside as provision for repaying loans and meeting other credit liabilities. This is a requirement for any form of borrowing so that an amount is set aside to repay the loan. An MRP charge of £150,000 is forecast in 2019/20.
 - Internal borrowing £4.0m. From council balances for Quercus 7 investments.
 - External borrowing £nil. This funding method would incur interest and MRP costs each year.
- 24 Funding options will be considered on a case by case basis and may be funded by reserves, capital receipts, internal borrowing or external borrowing. Due to current commitments it is likely that a significant proportion will come from external borrowing. The Public Works Loan Board rates increased by 100 basis points (1%) on 9 October 2019 which has made this funding option less attractive (PWLB 30-year annuity loan interest rate at 03/01/20 is 2.86%).
- 25 During 2019, a Member Working Group investigated Income Strip Funding as an additional funding source (as requested by Council) and recommended that this should be considered for funding suitable future schemes.
- 26 Each scheme will also be analysed to decide whether it is preferable to proceed as the council or via Quercus 7.

Future Opportunities

- 27 Due to the number of developments planned for the next few years it is recommended that the emphasis for any further acquisitions are for sites where no further work is required rather than those with development potential.

Risks

- 28 The risks of the Property Investment Strategy are included in Appendix B. The risks are reviewed each year and were initially analysed by the Audit Committee on 9 September 2014.
- 29 The Council's Strategic Risk Register was also agreed by the Audit Committee on 17 September 2019 and the relevant category for the Property Investment Strategy is also included in Appendix B.
- 30 Property Investment is inherently more risky than leaving reserves in the bank but this has been taken to account when approving the Property Investment Strategy and setting the investment criteria. Treasury investment returns remain below inflation levels resulting the gradual erosion of funds. A separate report on the Treasury Management Strategy 2020/21 is also being presented at this meeting.
- 31 The risks of each potential investment are considered by carrying out due diligence to include the following:
- Valuation.
 - Market conditions.
 - Covenant strength of tenants.
 - Terms of leases.
 - Structural surveys.
 - Funding options.
 - Future costs.
- 32 It should be recognised that there is likely to be a time when there are business reasons to dispose of assets currently owned and invest elsewhere instead.
- 33 The Scrutiny Committee set up a Property Investment Strategy Member Working Group at their meeting on 5 July 2016 and reported their findings at the Scrutiny Committee on 30 March 2017.
- 34 The Member Working Group concluded that the benefits of the Property Investment Strategy do outweigh the risks, provided that the council remains constantly aware of changes in the market and financial risks.
- 35 Internal Audit completed an audit report on the Property Investment Strategy in 2017/18. The audit opinion given in the report was of full assurance.
- 36 The audit report conclusion was as follows: "Audit fieldwork confirmed effective governance and financial arrangements are in place for the delivery of the Property Investment Strategy. The attainment of set

Agenda Item 6e

objectives is being achieved. Existing arrangements are fit for purpose for the delivery of the Strategy and comply with Council procedures.”

- 37 CIPFA continue to issue guidance on commercial property investments which may affect the ability to borrow for certain investments and also to borrow in advance of need. Officers will continue to monitor this situation and report to Members if any changes are likely to affect the ability for future investments to meet the Property Investment Strategy criteria.

Property Investment Strategy Criteria

- 38 The annual update report gives Members the opportunity to review the Property Investment Strategy criteria previously agreed. The current criteria are included in Appendix A.
- 39 The Property Investment Strategy criteria also applies to Quercus 7.

Key Implications

Financial

As previously stated in this report, the Property Investment Strategy is a major contributor to deliver the aim of the council remaining financially self-sufficient.

It is expected that a significant proportion of future Property Investment Strategy funding will be provided by external borrowing. Each acquisition will be looked at on a case by case basis to ensure that the most appropriate funding method is used.

Legal Implications and Risk Assessment Statement.

Legal resources would be required to undertake legal pre-purchase due diligence for any future acquisitions. This would be undertaken either internally by the Council’s Legal Team or externally and a decision would be made on a case by case basis.

A full risk analysis is included at Appendix B to this report.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.]

Value for Money and Asset Maintenance

Value for money derived from available finances when looked at in conjunction with the Treasury Management Strategy has the ability to be increased via the Property Investment Strategy.

Conclusions

In acknowledgement of the position with Government Support and the continued low returns on investment of reserves, further investment in the Property Investment Strategy will continue to ensure that the Council remains financially self-sufficient.

Appendices

Appendix A - Property Investment Strategy

Appendix B - Property Investment Strategy - Risk Analysis

Background Papers

[Report to Council 22 July 2014 - Investment Strategy](#)

[Report to Audit Committee 9 September 2014 - Investment Strategy Risk Register](#)

[Report to Council 17 February 2015 - Budget and Council Tax Setting 2015/16](#)

[Report to Council - 21 July 2015 - Property Investment Strategy](#)

[Report to Council - 25 April 2017 - Property Investment Strategy Update](#)

Adrian Rowbotham

Chief Officer Finance and Trading

This page is intentionally left blank

Property Investment Strategy (agreed by Council 26/02/19)

1. The strategy will consist of a diversified and balanced portfolio of investment assets with regard to the following considerations.
2. Established property investment practice has evolved based on long standing markets for assets in main stream sectors such as Offices, Retail, Industrial and Residential. Investing in these traditional asset categories in a balanced fashion, allows for a lower risk investment when compared to emerging markets such as Student Accommodation, Nursing Homes and Medical Centres.
3. When considering the tenure of an asset, freehold would be preferable to leasehold. Freehold provides for greater levels of security against a leasehold asset that would effectively decrease in value over time. However, assets on long leasehold basis may still be suitable for consideration.
4. Whilst properties let to only one tenant may offer an acceptable level of risk, multi-tenanted properties would be favourable as they offer the opportunity to minimise the impact of any one part of the asset being vacant due to tenant default or lease expiry. If assets are occupied by a single tenant, then detailed financial due diligence would be undertaken to ascertain their financial stability.
5. Investment opportunities are restricted to those within a 50-mile radius of the Council's Argyle Road offices or within Kent and Medway, however recognising that this may need to be changed in future if legislation is amended.
6. Based on the above considerations and taking into account local market conditions, a lot size of between £1m and £10m has been set. This is to avoid the lower part of the local market where private high net worth individuals would be seeking to invest and also the high end, where Pension Funds and Life Assurance Funds tend to dominate.
7. Given the likely risk profile of an asset meeting the above considerations, the following has been set. The income yield be 3%+ above the Council's average treasury management return (currently 0.9%) when not borrowing or internally borrowing, and 3%+ above the borrowing rate (currently 3.1% for 30 years) when externally borrowing, based on an average over 10 years. (Flexibility may be applied to those opportunities that show an acceptable social return on investment).
8. A limited number of opportunities that include the potential for development should also be considered. This approach may have the potential to deliver an additional 20-30% return on investment.
9. Where sites that are already in the ownership of the Council could be redeveloped in partnership with neighbouring sites, added value can be

derived from 'marriage' of the sites. Consideration should be given to Joint Venture (JV) projects that maximise value, with priority given to those which would result in the delivery of assets meeting the investment criteria.

10. It is expected that external specialist property investment advisors will be retained on each transaction, advising on suitability having undertaken detailed pre purchase due diligence, including valuation, risk analysis and lease / title reviews.
11. Taking all of the above considerations into account, the current criteria are:
 - i. Income yield of 3%+ above the Council's average treasury management return (currently 0.9%) when not borrowing or internally borrowing, and 3%+ above the borrowing rate (currently 3.1% for 30 years) when externally borrowing, based on an average over 10 years. (Flexibility may be applied to those opportunities that show an acceptable social return on investment
 - ii. Individual Properties or Portfolios
 - iii. Lot size of £1m - £10m subject to multiple tenants for lots over £5m
 - iv. Freehold / Long Leasehold
 - v. Single or Multi Tenanted
 - vi. Asset categories: Industrial, Office, Retail, Trade Counter and Private Residential
 - vii. Investment opportunities be restricted to those within a 50-mile radius of the Council's Argyle Road offices or within Kent and Medway, however recognising that this may need to be changed in future if legislation is amended.
 - viii. Potential to increase rental income, through pro-active Asset Management
12. It is proposed that initially, the Strategic Asset Management and Operational Property Management of the portfolio be delivered from existing resource within the Council's Economic Development and Property Team. There will however be times when specialist external advice is needed and this work will be commissioned on an 'as required' basis, funded from the income from the assets. This approach is to be reviewed regularly, including ongoing resource requirements, as the portfolio grows.
13. Funding for the acquisition of assets should be reviewed on a case by case basis but could be derived from a number of sources:
 - Receipts from previous property disposals.

- Receipts from proposed land / property disposals in future years.
 - Internal borrowing.
 - Borrowing from the Public Works Loan Board.
 - Borrowing from the Municipal Bonds Agency.
 - Income strip funding.
14. Each scheme will also be analysed to decide whether it is preferable to proceed as the council or via Quercus 7.

This page is intentionally left blank

Property Investment Strategy - Risk Analysis

Risk	Risk Areas	Likelihood 1(low)- 5(High)	Impact 1(low)- 5(High)	Total Score	Controls
Downturn in property market	Capital value and income potential reduce for purchased assets	4	3	12	Continued monitoring of markets. Red Book Valuation undertaken as part of acquisition process.
Upturn in property market	Purchase cost of potential assets increases	2	4	16	Continued monitoring of markets. Adjusting purchase criteria to reflect market movement. Consider sales of assets for capital gain. Red Book Valuation undertaken as part of acquisition process.
Increase in interest rates (borrowing)	Cost of borrowing increases with detrimental impact on income	4	3	12	Ensure most competitive rate achieved if borrowing, fixed term if possible. Consider increased use of reserves to ensure loan to value ratios are acceptable.
Increase in interest rates (investment)	Lower rate of return when compared to other potential treasury management income	4	1	4	Consider revising income return criteria upwards. Consider disposal of assets for re-investment
Restrictions on borrowing	Potential changes to the Prudential Code regarding what borrowing can be used for	4	3	12	Variety of funding sources. Amend property search criteria.
Available opportunities	Market opportunities meeting investment criteria not available.	4	4	16	Identify opportunities early and move swiftly to acquire. Review Property Investment Strategy criteria annually.

Changes in Tenant Demand	Certain types of property may become less favourable with tenants.	3	3	9	Construct a varied portfolio by use, i.e. mixture of shops, offices, industrial, residential etc.
Obsolescence of Asset	Physical obsolesce in terms of building fabric and fit out	3	4	12	Ensure Full Repairing and Insuring Leases are in place via pre-purchase due diligence. Have building surveys undertaken to establish condition of building. Establish Property Investment Strategy Maintenance Reserve.
Tenant default	Loss of rental income, increased costs incurred	3	4	12	Undertake financial due diligence of tenants pre-purchase, obtain the best possible tenant covenants. Look for guarantors or cash deposits where covenants are considered weak. Consider multi-tenanted properties in order to diversify risk. Ensure robust credit control procedures in place. Monitor tenant company performance.
Void periods	Loss of rental income, holding costs incurred - rates, utilities etc. Costs of re-letting	3	4	12	Monitoring tenancies as described above. Move quickly to appoint letting agents should a void period appear likely. Act expediently in concluding legal process of letting.
Illiquidity of Property Assets	Asset identified for disposal to raise capital receipt or for reinvestment	2	4	8	Ensure that assets are kept “sale ready” in terms of documentation and information.

Staff Resources	Lack of suitably professionally qualified staff	2	3	6	Ensure that appropriately professionally qualified staff, with experience in Property Investment, are available to act on the Council's behalf.
Residential Properties - generally all of the above plus greater landlord input, more management intensive	Residential Properties generally require a more active landlord involvement, maintaining the structure and services of a property - maintenance costs and management costs are therefore higher.	3	3	9	Ensure that increased holding costs are factored into purchase valuations Appoint external professionals to manage landlord and tenant processes Ensure that tenant deposits are taken

Strategic Risk Register Item - Agreed by Audit Committee 17 September 2019								
Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
SR02: Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy								
Lead Officer: Adrian Rowbotham & Andrew Stirling								
<ul style="list-style-type: none"> Ability to seek appropriate investment opportunities Appetite for risk within investment strategy to enable the Council to generate target returns Ability to deliver sufficient funds to maximise the opportunities presented through the Property Investment Strategy Appetite to prudentially borrow over the medium to long term The cost of interest payments Lack of capacity or skilled professionals to advise on investment and borrowing strategies Ineffective governance processes that could result in opportunities being missed or being ineffectively scrutinised Ineffective use of Quercus 7 to support the Council's investment strategy Ability to borrow funds 	<ul style="list-style-type: none"> Lack of diversity in investments Cost of interest payments Negative impact on budgets, reserves and the ability to deliver Council projects Poor financial health Unable to maintain low increases in council tax levels Reputational damage Poor outcome for the Audit of Accounts or Value for Money assessment and potential for increased intervention 	4	4	16 H	<ul style="list-style-type: none"> Council approved Property Investment Strategy, with defined rates of return demonstrating risk appetite Governance arrangements defined with appropriate delegations agreed Qualified and experienced officers in post Professional, external advisers engaged to support the development of strategies and fill skills gaps Effective budget setting and financial monitoring processes embedded Effective financial governance including reports to FAC, Cabinet, Audit Committee and Scrutiny Committee Regular Quercus 7 Board and Trading Board meetings - including regular review of investment parameters to monitor market fluctuations 	3	3	9 M

Assessing and quantifying threats and opportunities

How likely is it to happen?

What would the impact be?

Likelihood x Impact = Risk Rating

Low Risk: Risk rating of 1 to 6

Medium Risk: Risk rating of 8 to 12

High Risk: Risk rating of 15 to 25

Likelihood	Very Likely (5)	Low (5)	Medium (10)	High (15)	High (20)	High (25)
	Likely (4)	Low (4)	Medium (8)	Medium (12)	High (16)	High (20)
	Possible (3)	Low (4)	Low (6)	Medium (9)	Medium (12)	High (15)
	Unlikely (2)	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	Very Unlikely (1)	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
		No Impact (1)	Minor (2)	Significant (3)	Serious (4)	Breakdown of Services (5)
		Impact				

This page is intentionally left blank

Item 7 (a) - Licensing Act 2003 - Statement of Licensing Policy.

The attached report was considered by the Licensing Committee, and the relevant minute extract is below:

Licensing Committee (Minute 18, 7 January 2020)

Members considered the report which detailed that the current Statement of Licensing Policy would expire at the end of March 2020 and a new Statement of Licensing Policy was required from 1 April 2020. The policy, as set out in Appendix A defined how the Council's responsibilities under the Licensing Act 2003 would be carried out and administered by the Council as the Licensing Authority. Public consultation on the draft policy took place over an 8 week period between 21 October 2019 and 13 December 2019. Feedback, suggestions and comments within the scope of the Licensing Act 2003, were presented in Appendix B to the report.

The Licensing Partnership Manager advised that formatting and typographical errors had been brought to his attention by the Chairman and this would be changed in the final Policy. He also highlighted to Members the comment received in Appendix B regarding CCTV, and the proposed wording as detailed in paragraph 17.14 in the Policy. Members discussed the pros and cons of CCTV and the proposed wording.

As a result of the debate, the Chairman put to the vote whether the suggested wording in paragraph 17.4 should be kept in the policy and it was agreed.

Members further discussed some of the changes in the policy and suggested that the final two bullet points in paragraph 12.4 should be removed.

Members asked questions of clarification, and were informed that at the beginning of December 2019 there were 342 premises licences. Members were advised that the late night levy, if introduced, it would mean all premises who operated late night across the district would be charged an additional fee regardless of whether they were in problem areas, as required by law. The levy income was distributed so that a percentage would go to the Police for dealing with the crime and disorder and anti-social behaviour caused by the late night licence. It was suggested by the Head of Licensing that if and when the law changed to allow the levy to be targeted only in problem areas that would be the time to consider it.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Agenda Item 7a

Resolved: That it be recommended to Council, that the 'Statement of Licensing Principles 2020-2025' as revised policy be adopted subject to

- a) formatting and typographical corrections; and
- b) the removal of the final two bullet points in paragraph 12.4.

LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Council - 25 February 2020

Report of Chief Officer Planning & Regulatory Services

Status: For approval

Also considered by: Licensing Committee - 7 January 2020

Key Decision: No

Executive Summary:

The Council is required by law to publish a statement of licensing principles at least every five years under the Licensing Act 2003 and accompanying Guidance issued by the Home Office.

The purpose of the policy is to define how the Council's responsibilities under the Act are going to be exercised and administered by the Council acting as the Licensing Authority. Sevenoaks's existing Statement of Licensing Policy 2015-2020 runs until the end of March 2020 therefore a new Statement of Licensing Policy for the District is required from 1 April 2020.

This report supports the Key Aim of sustainable economy.

Portfolio Holder Cllr. Margot McArthur

Contact Officer Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree the 'Statement of Licensing Principles 2020-2025 (attached as **Appendix A** to this report) be recommended to the Council as revised Policy to come into effect from 1 April 2020.

Recommendation to Council

That the 'Statement of Licensing Principles 2020-2025' as revised Policy be adopted as from 1 April 2020.

Reason for recommendation: Under Section 5 of the Licensing Act 2003 the Licensing Authority must have a Statement of Licensing Policy. The last Policy was reviewed in 2015 and will expire on 31 March 2020.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy which will be brought before the Committee in January 2020.

Introduction and background

- 1 The Licensing Act 2003 requires the Council, acting as the Licensing Authority (LA) under the Act, to determine and publish a Statement of Licensing Policy (SLP) at least once every five years. Sevenoaks current SLP runs from 01/04/2015 - 31/03/2020. A new SLP for the District is therefore required, to be published and applicable from 1 April 2020 onwards.
- 2 The Statement of Licensing Policy 2020-2025 can be reviewed and updated at any time during the life of the document. The Council keeps the SLP under constant review and, from time to time, may commission research to inform changes to policy.
- 3 The SLP sets out how licensed premises are likely to be permitted to operate and the document covers the following:
 - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
 - b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
 - c) The LA's approach to regulation & expected standards; and
 - d) The scheme of delegation.
- 4 The scheme of delegation for Licensing will be reviewed at a local level during the life of the new SLP and updated to reflect any resulting changes in line with the relevant legislative requirements.
- 5 The four licensing objectives under the Licensing Act 2003 are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
- 6 Each objective has equal weight under the legislation.
- 7 The Licensing Authority must carry out its functions with a view to promoting the licensing objectives.
- 8 The SLP applies to new licence applications and applications to vary existing licences (e.g. where an increase in hours is requested). It also applies to existing licences that are brought to review (e.g. where public nuisance is being caused). The new document also confirms the expectations on existing licence holders, such as the requirement to pay annual fees and wider responsibilities such as those set out within the

Immigration Act 2016.

- 9 The SLP, along with current national guidance issued by the Home Secretary issued from time to time and the primary legislation as set out in the Licensing Act 2003 ('the Act'), forms the basis on which licensing decisions are made by the Council acting as the LA and how licensed premises are likely to be permitted to operate.
- 10 The purpose of the SLP is to outline the approach that Sevenoaks will take to implementing the Licensing Act 2003 locally and to provide guidance for applicants, residents and Responsible Authorities under the Act.
- 11 'Responsible Authorities' include Kent Police, Kent Fire & Rescue Service, the Council's Health & Safety, Planning and Environmental Protection Teams, Children's Safeguarding, Public Health and Trading Standards.
- 12 As at the beginning of December 2019, x premises licences are held within Sevenoaks District - this includes bars, pubs, clubs, off-licences, restaurants and private members' clubs.
- 13 Activities regulated under the Licensing Act 2003 include:
 - The retail sale of alcohol;
 - The supply of alcohol to members of private clubs;
 - The supply of hot food/ or hot drinks between 11pm and 5am; and
 - The provision of regulated entertainment to the public, or club members or with a view to profit, such as:
 - Film exhibitions;
 - Performance of plays;
 - Indoor sporting events;
 - Boxing or wrestling entertainment;
 - Playing of recorded music; and
 - Dance performances.
- 14 In terms of 'regulated entertainment' exceptions apply under the Act - e.g. for film exhibitions, no licence is required between 8am and 11pm, where the number of people in an audience is fewer than 500. However, venues serving alcohol alongside theatre performances would still need a licence.
- 15 The SLP document does not cover any activity that is outside the scope of the Licensing Act 2003. In addition, the document does not seek to set out operational activities or plans for all work planned or undertaken which relates to the Licensing Act 2003, nor to capture all the wider work being undertaken or planned around alcohol in the District.

Agenda Item 7a

- 16 The Planning and Licensing regimes operate in parallel, with separate legislation governing each policy. Planning considerations are outside the scope of the SLP 2020-2025. In addition, the SLP gives guidance only and each case is considered on a case by case basis under the applicable legislation.

Proposal and Reasons

- 17 The new draft SLP for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.
- 18 The final draft has been produced as a result of the following stages:
- 19 **Stage 1: Production of first draft:** The first draft of the new SLP was produced by undertaking a review of the policy document and benchmarked against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).
- 20 The outcomes from the above and key difference between the current SLP and the Draft were as follows:
- 21 **Format:** Changes were made to the structure and language to improve accessibility and understanding of the positions outlined in the draft document.
- 22 **Legislative updates:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.
- 23 **Suspensions:** Since April 2013 it has been possible to suspend licences when annual fees have not been paid. A clearer statement on the Policy for licensing fees and the actions taken if these are not paid when due is now in the SLP.
- 24 In addition, the updated draft indicates that applicants may seek the views of the Responsible Authorities before formally submitting an application, and that there may be a charge for this service.
- 25 **Deregulations 2015:** Information relating to the 2015 deregulations of the Licensing Act 2003 have been included under the 'Background' section of the policy, immediately following regulated entertainment.
- 26 **Pre-application advice:** The Council will be introducing the provision

of pre-application advice for Licensing.

- 27 **Stage 2: Production of final draft:** Public Consultation on the draft SLP took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.
- 28 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.
- 29 A notification email was sent to all Responsible Authorities, Sevenoaks District Council elected members, all premises and personal licences holder (issued by Sevenoaks District Council) and any applicant which has submitted a Temporary Event Notice (TEN) in 2019.
- 30 In addition the Council consulted with the following trade representatives:
 - Institute of Acoustics
 - Alcohol Concern
 - British Beer & Pub Association
 - Action on Smoking & Health
 - National Pubwatch
 - Magistrates Association
 - Chartered Institute of Environmental Health
 - Sevenoaks District Council's Safety Advisory Group
- 31 During the 8 week public consultation, 5 submission were received.

Conclusion

- 32 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

Key Implications

Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council's Statement of Licensing Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Agenda Item 7a

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the Council is ensuring a consistency of approach.

Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have 'due regard' to the need to -

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

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had 'due regard'. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

Appendices:

Appendix A -Statement of Licensing Policy - 2020-2025

Appendix 7B ON WEBSITE ONLY

<https://cds.sevenoaks.gov.uk/documents/s40450/xx%20Licensing%20Policy%20Responses%20Appendix%20B.pdf?J=3>

Background Papers: Licensing Act 2003

Richard Morris
Chief Officer Planning & Regulatory Services

This page is intentionally left blank

STATEMENT OF LICENSING POLICY

Licensing Act 2003

1 April 2020 until 31 March 2025

ALL applications will be considered on their merits, as well as against the relevant policy and statutory framework

Statement of Licensing Policy

Introduction

Sevenoaks District Council is a member of the Licensing Partnership, which includes the London Borough of Bexley, Maidstone Borough Council and Tunbridge Wells Borough Council; however, this policy relates to Sevenoaks District.

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 1 April 2020 and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The 2003 Act requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are:

- to minimise nuisance and disturbance to the public through the licensing process;
- to help build a fair and prosperous society that properly balances the rights of people and their communities;
- to integrate its aims and objectives with other initiatives, policies plus strategies that will:
 - reduce crime and disorder;
 - encourage tourism;
 - encourage an early evening and night time economy which is viable, sustainable and socially responsible;
 - reduce alcohol misuse;
 - encourage employment;

 - encourage the self-sufficiency of local communities;
 - reduce the burden of unnecessary regulation on business;
 - encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

In the preparation of this Policy the Licensing Authority will have regard to the local strategies on crime prevention, planning, transport, culture, tourism and economic development to ensure proper coordination and integration of the aims and actions of these policies.

The Act is part of a wider government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol related harm. The Licensing Authority will continue to develop strategies with the Police and the other enforcement agencies, as appropriate for the management of the night-time economy. Central to this is the enforcement of the law relating to sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

1. Consultation

1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- the Chief Officer of Police for Kent
- the Fire and Rescue Authority for Kent
- one or more persons who appear to the authority to represent the interests of persons carrying on licensed businesses in the council area
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act
- any other bodies the council deemed appropriate
- members of the public who requested to be consulted and have responded previously.

1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:

- all ward members
- all parish councils

Agenda Item 7a

- all bordering local authorities
- Kent Police Licensing Team
- all responsible authorities under the Licensing Act 2003
- British Beer & Pub Association

2. Background

2.1 When administering licensing matters the council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are the:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Safety
- Protection of Children from Harm

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the revised guidance issued under section 182 of the Act (revised), the Police Reform and Social Responsibility Act 2012 and the Live Music Act 2012.

2.4 The 2003 Act further requires the Licensing Authority to monitor, review and where appropriate, amend its Statement of Licensing Policy. Where significant changes or a review of this Policy is undertaken, the Licensing Authority will consult with those parties listed at paragraphs 1.2 and 1.3 above and others prior to amending the Policy and also in preparing each statement of Licensing Policy in the future. Minor amendments reflecting legislative changes will be undertaken by officers to maintain accuracy.

2.5 Sevenoaks District Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
 - the performance of a play

- an exhibition of a film
- an indoor sporting event
- boxing or wrestling entertainment
- a performance of live music (subject to some exemptions)
- playing of recorded music
- performance of dance
- entertainment of a similar description to the above 3.
(where they take place in the presence of an audience for the purpose of entertaining them)
- Provision of late night refreshment

2.6 It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

2.7 You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.8 There are exemptions from the need for a licence for music entertainment, in defined circumstances as set out in Home Office guidance, including for:

- Places of public worship, village halls, church halls and other similar buildings
- Schools
- Hospital
- Local Authority premises
- Incidental music – music that is incidental to other activities that aren't classed as regulated entertainment.

2.9 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.10 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates

Agenda Item 7a

- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of the mandatory condition, in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

2.11 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling

3. Licensing Authority general Policy considerations

3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.

3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.

3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.

3.4 The Licensing Authority expects applicants to have advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy.

3.5 **Pre application advice is available from licensing officers upon paid request.** It is not for licensing officers to determine the business needs and capabilities of an applicant but provide advice in **regards to completing the relevant paperwork and in** relation to the licensing objectives.

3.6 **Supermarkets and other 'off' licensed premises selling alcohol.** The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.

3.7 All 'off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter proxy sales on behalf of under 18's.

3.8 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.

3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.

3.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.

3.11 **Designated Premises Supervisor (DPS) at alcohol licensed premises.** Whilst this role has a limited definition under the Licensing Act 2003, it is **usual** that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

3.12 The Licensing Authority would **prefer** the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to **ensure training is** provided to staff in relation to alcohol sales.

3.13 **Whilst not obligatory**, the Licensing Authority **believes it desirable** that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

3.14 **Film Exhibitions.** The licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.

3.15 **Live Music.** It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.

3.16 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.

Agenda Item 7a

3.17 ***Deregulated Entertainment.*** Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities.

3.18 ***Late Night Levy (LNL).*** Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the district. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.

3.19 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this district.

3.20 ***Early Morning Alcohol Restriction Order (EMARO).*** The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider an imposition of this Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the district which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.

3.21 ***Licensing and planning permission.*** The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates.

3.22 ***Need for licensed premises and Cumulative Impact.*** 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.

3.23 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. **The licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation.**

3.24 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the district where there is a cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that support the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.

3.25 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

4. Responsible authorities and other persons

4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and can also be found on the Sevenoaks District Council web-site at Responsible Authorities.

4.2 When dealing with applications for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.

4.3 The Licensing Authority may only consider representations that are relevant. In that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.

4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

4.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

Agenda Item 7a

4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:

- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
- whether the representation raises a 'relevant' issue
- whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

4.9 The Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.

4.10 ***The Licensing Authority as a Responsible Authority.*** The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.

4.11 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware that impacts negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

5. Exchange of information

5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 and the Data Protection Act 2018 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

5.2 **Responsibilities under the Immigration Act 2016 and the Modern Slavery Act 2015.** The Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

5.3 In addition, we expect all licensed premises to familiarise themselves with and adhere to their responsibilities around the prevention of Illegal working under the Immigration Act 2016 and all aspects of the Act.

6. Human Rights and Equal Opportunities

6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.

6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

6.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

7. Compliance and enforcement

7.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.

7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and it has also adopted the Kent and Medway Enforcement Protocol.

7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.

7.4 The authority acknowledges that where annual fee payments for premises licences and club premises certificates are not made it must **notify the holder in writing and specify the date on which the suspension takes effect, this date must be at least 2**

Agenda Item 7a

working days after the day the authority gives the notice to suspend, the licence or certificate and may inform the Police Authority of the suspension.

7.5 Annual fees and suspension of licences or certificates for non-payment. The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses or club premises certificate where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.

7.6 Where a licence or certificate is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.

7.7 Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act, the Licensing Authority may decide not to suspend a licence or certificate or carry out enforcement pending payment of the overdue fee.

7.8 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

8. New Premises Licence

8.1 This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:

- Licensing Act 2003
- The Statement of Licensing Policy made under section 5 of the Licensing Act 2003
- Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.
- that any decisions made that depart from guidance or policy only do so for reasons set out in the decision.

8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional clarity on a request from delegated officer of the authority.

8.3 Officers will routinely check that the Public Notices are exhibited at the premises and the Public Notices are published in newspapers in accordance with the regulations.

8.4 Officers will usually notify ward councillors to whose ward the application relates, and the parish council for the relevant parish.

8.5 Where there are no representations **in relation to** an application **for a Premises Licence or a Club Premises Certificate**, the licence **or certificate** is automatically **deemed** granted after **28 day consultation period** under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into enforceable licence conditions.

8.6 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties, **following mediation**, agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

9. Variation to Licences

9.1 From time to time licensees may wish to change the nature of the business and vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.

9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.

9.3 Where applications are made for minor variations Licensing officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation **in accordance with section 34 of the Act**.

9.4 Where minor impact or no impact is considered officers will consult with the relevant (if any) responsible authorities.

10. Variations to specify a new Designated Premises Supervisor (DPS)

10.1 The Licensing Authority **strongly recommends** the nominated DPS on a licence be involved in, and supervise the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.

10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.

Agenda Item 7a

10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.

10.4 Where there are no representations the default position is to grant the variation.

10.5 Following the guidance issued under Section 182 of the Licensing Act 2003 with respect to representations in relation to crime & disorder. The Licensing Authority will add the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that are subject to representations will be referred for a hearing at which point the Sub Committee may approve or reject the application, if it considers it appropriate for the promotion of the crime prevention objective to do so.

11. Transfer of Premises Licence/ Club Premises Certificate

11.1 Before a licence transfer can be administered, the Licensing Authority expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.

11.2 It is acknowledged that in some cases holders of either a licence or certificate leave the premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot be contacted to give approval, a licence/ certificate will be transferred in accordance with the requirements of the Act.

11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process, unless it is agreed by the applicant and Police as unnecessary.

12. Provisional statement for premises

12.1 A provisional statement may be applied for where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.

12.2 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

12.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

12.4 In addition, this authority may refuse the premises licence application (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by way of representations at the provisional statement stage,
- which, in this authority's opinion, reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this authority will discuss any concerns with the applicant before making a decision.
- where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed.
- where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse, and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

13. Club Premises Certificate

13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.

13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.

13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a bona fide club and satisfies the legal conditions set out in the Act.

13.4 Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.

13.5 The fundamental principles for premises licence applications set out at [section 8](#) of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.

13.6 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice, or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.

Agenda Item 7a

13.7 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.

13.8 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.

13.9 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003.

14. Review of a Premises Licence or Club Premises Certificate

14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.

14.2 The Act allows a licence to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.

14.3 Although this Licensing Authority is also a Responsible Authority and entitled to bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).

14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.

14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with the Guidance issued by the Home office
- relevant to the non-promotion of the licensing objectives.

14.6 The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious.

14.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits **and allow the benefit of doubt where appropriate.**

14.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.

14.9 All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application.

14.10 All reviews **save, where agreed by all parties as unnecessary**, will lead to a hearing before a Sub-Committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

14.11 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the revocation of the licence will be considered.

15. Application to remove the mandatory requirement for a DPS.

15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.

15.2 The Act allows Management Committees at Community Premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.

15.3 Before considering an application the Licensing Authority will need to be satisfied that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether its main use is 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises, it is unlikely that such a premises would meet the definition of a community premises, and permission to remove the requirement for a DPS is likely to be refused.

15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village or community hall would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.

Agenda Item 7a

15.5 The licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the **sale and/or supply of alcohol from the premises**.

15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

16. Hearings

16.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.

16.2 A Sub-Committee will consist of three suitably trained members of the Licensing Committee. **No members will serve on a Sub-Committee involving an application for a licence or certificate within their own ward.** The Sub-Committee will be advised on the **legislation** by a **representative** of the Council's Legal Services Team. That **representative will** not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.

16.3 This Policy will play a key role in achieving consistency in decision **making**.

16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing **and to achieve an outcome satisfactory to all parties**.

16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.

16.6 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.

16.7 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

17. Licence Conditions

17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises

and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.

17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and 2014 (and any subsequent Mandatory Conditions that are introduced). **The Mandatory conditions apply irrespective of whether they are printed on the certificate or licence.**

17.3 Applicants will be expected to include appropriate steps within their operating schedule which will be **interpreted in accordance with the applicants intentions and then** converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.

17.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

17.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.

17.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.

17.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which are within the licensee's control.

17.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

17.9 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the **District.**

17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the

Agenda Item 7a

licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises. These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.11 In busier premises the Licensing Authority would expect to see a short (say 30 minutes) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in reducing noise and exuberance of customers before leaving the premises.

17.12 Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of the Security Industry Agency approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Licensing Authority will follow the guidance issued under Section 182 as amended with regards to representations made by the Policy in respects to crime and disorder.

17.13 Where appropriate, applicants for licences in the Town Centre areas, providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.14 The use of CCTV for most premises is unlikely to be appropriate or required. Applicants should consider the proposed use of the premises and whether CCTV would be appropriate. By way of example, a late night venue, with regulated entertainment and SIA registered door staff being present, might be the type of premises where CCTV would be appropriate. If in doubt, Applicants are encouraged to seek the advice and recommendations of the Police and if CCTV is to be provided, it should be to a quality and standard approved by the Police for evidence purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.15 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.

TO PROMOTE PUBLIC SAFETY

17.16 The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.

17.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

17.18 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

17.19 It is expected that an operating schedule will **indicate** occupancy limits for the following types of licensed premises:

- High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the prime activity is the sale of alcohol
- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment is likely to attract a large number of people.

TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE

17.20 The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.21 The **following list is an example of the types of matters the applicant should take into account when considering what steps (if any) are required in order to prevent public nuisance. This is not exhaustive:**

- Proximity of local residents to the premises
- Licensable activities proposed and customer base
- Hours and nature of operation
- Risk and Prevention of noise leakage from the premises from equipment customers and machinery
- Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park
- Availability of public transport to and from the premises
- Noise from use of the garden/outside space including smoking shelters
- Delivery and collection times and locations
- Impact of external security or general lighting on residents
- History of management of and complaints about the premises
- Applicant's previous success in preventing Public Nuisance

Agenda Item 7a

- Outcomes of discussions with the relevant Responsible Authorities
- Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- Collection of litter arising from the premises

17.22 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.23 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM

17.24 Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (**unless** specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

17.25 Steps to prevent children from harm must be included where:

- There is entertainment or services of an adult nature provided.
- There have been previous convictions for under age sales of alcohol.
- There is a known association with drug taking or dealing.
- There is a significant element of gambling on the premises.
- There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.26 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.27 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

18. Personal Licences

18.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

18.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed on Schedule 4 of the Licensing Act 2003.

18.3 Where a representation is received from the Police the Licensing Authority acknowledges that it has discretion whether or not to grant the licence.

18.4 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary. The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.

18.5 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.

18.6 The Licensing Authority requires all personal licence holders to advise it each time there is a change of their name or address. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.

18.7 The Licensing Authority anticipates that the Magistrates and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and to notify the Licensing Authority of any action taken in respect of a personal licence.

18.8 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

19. Temporary Event Notices (TEN)

19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.

19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have advised those residents and businesses and considered any potential impacts and how they may be mitigated.

19.3 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year (i.e. Jan – Dec). There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or place.

Agenda Item 7a

19.4 **Standard TEN.** A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.

19.5 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.

19.6 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.

19.7 **Late TEN.** A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.

19.8 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.

19.9 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.

19.10 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.

19.11 There are restrictions on the numbers of each type of TEN that can be submitted.

19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

20. Other relevant matters

20.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.

20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will

be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original **application specified that such adult entertainment was proposed to be provided.**

20.3 Gaming machines in licensed premises - Automatic entitlement. There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption **on** the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.

20.4 This authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
- gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the GA2005 has been committed on the premises.

20.5 Gaming Machine Permit – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.

20.6 In determining such matters, consideration will be given to the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.

20.7 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

20.8 Gambling in alcohol 'On' licensed premises. Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.

21. Information

Agenda Item 7a

21.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the [Sevenoaks District Council Website](#) or by contacting the licensing [Partnership Administration](#) team by email licensing@sevenoaks.gov.uk, or by telephone on 01732 227004.

Appendix A

Contact details of Local Authority Licensing Department

Sharon Bamborough
Licensing Partnership Manager
Email: sharon.bamborough@sevenoaks.gov.uk

Jessica Foley
Senior Licensing Officer
Email: jessica.foley@sevenoaks.gov.uk

Michael Moss
Licensing Officer
Email: michael.moss@sevenoaks.gov.uk

Licensing Partnership
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP
Email: licensing@sevenoaks.gov.uk
Telephone: 01732 227004

See the Sevenoaks District Council Website for details of the Town and Parish Councils within the District. Details of your local Councillors may also be obtained from the website.

Information on licensing applications being processed is available on the licensing pages of Sevenoaks District Council's website.

Appendix B

Responsible authorities

West Kent Fire Safety Office
424 Vale Road
Tonbridge
Kent TN9 1SW
Email: tonbridge.firesafety@kent.fire-uk.org
Tel: 01732 369429

Police Licensing and Drugs Officer
Licensing Coordinator
Community Safety Unit
Tonbridge and Malling Borough Council
Gibson Drive
Kings Hill
West Malling. ME19 4LZ
Email: west.division.licensing@kent.pnn.police.uk

Trading Standards
Kent County Council
1st Floor, Invicta House
County Hall
Maidstone
Kent. ME14 1XX
Tel: 03000 412000
TSwest@kent.gov.uk

Kent Child Protection Committee
Children's and Families
KCC Social Service
The Willows
Hilda May Avenue
Swanley
Kent BR8 7BT
kscb@kent.gov.uk

Local Planning Authority
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP
Tel: 01732 227200
DCSouth@sevenoaks.gov.uk

Public Health Kent
Kent Public Health Department
Room 3.45, Sessions House,
County Hall, County Road
Maidstone, Kent
ME14 1XQ
Tel: 0300 333 6379

Gillian.Montgomery@kent.gov.uk

Environmental Protection
Environmental Health Partnership
Civic Centre
Home Gardens
Dartford
Kent. DA1 1DR
Tel:: 01322 343231
Email: eh.support@dartford.gov.uk

Health and Safety
Environmental Health Partnership
Civic Centre
Home Gardens
Dartford
Kent. DA1 1DR
Tel: 01322 343231
Email: eh.support@dartford.gov.uk

Appendix C

References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003.

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics.

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999).

Code of Practice and Guidance Notes on Noise Control for Concerts and Outdoor Events.

The National Alcohol Harm Reduction Strategy Toolkit.

The Point of Sale Promotions published by BBPA

Public Places Charter

National Pubwatch

Appendix D

Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)

Sevenoaks and District Chamber of Commerce

54 High Street
Sevenoaks,
Kent. TN13 1YD
Tel: 01732 455188

Swanley & District Chamber of Commerce

Imperial House
46 High Street
Swanley
Kent. BR8 8BQ

Edenbridge Chamber of Commerce

c/o 53 High Street
Edenbridge,
Kent.
TN8 5AL

Disclosure and Barring Service (DBS)

Customer services
10 Greycoat Place
Westminster
London SW1P 1SB
Information line: 0300 0200 190
Email: customerservices@dbs.gov.uk

British Beer & Pub Association

Ground Floor
Brewers' Hall
Aldermanbury Square
London
EC2V 7HR
Tel: 020 7627 9191
contact@beerandpub.com
Press Office: 020 7627 9199

British Institute of Inn keeping (BII)

Infor House
1 Lakeside Road
Farnborough
GU14 6XP
Tel: 01276 684 449
Email: reception@bii.org

Agenda Item 7a

SIA

PO Box 74957

London. E14 1UG

Appendix E

Recommended delegation of functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Determination of a police or an environmental health officer objection to a temporary event notice		All cases	

Agenda Item 7a

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for a minor variation			All cases
Determination on review of Premises Licence following closure order;		All cases	

Appendix F

Sevenoaks District Council Film Classification Policy 2019

Purpose

1. The Licensing Authority (subsequently referred to as the Council) is responsible for authorising the public exhibition of films.
2. Sections 20 & 74 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the Licence/Certificate must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given by the British Board of Film Classification (the BBFC) or by the Council itself.
3. The purpose of this Policy is to set out the formal procedure for the Council to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or request to reclassify films.
4. Where a premise seeks or intends to exhibit film(s) that venue must be covered by a Premises Licence, Club Premises Certificate, or Temporary Event Notice under the Licensing Act 2003. There are some limited exemptions to the 2003 Act for community venues showing films without a 'view to profit', where the admission of children is subject to the recommendations of the BBFC or the Council itself.
5. The definition of 'children' is any person under the age of 18 years.
6. Under the Licensing Act 2003, the definition of the 'exhibition of a film' is the exhibition of moving pictures.
7. In summary, the public exhibition of all films on licensed premises must either be classified by the BBFC or authorised by the Council under the powers of the Licensing Act 2003.
8. The Council when authorising film(s) shall at all times take into account the Guidance issued under s.182 of the Licensing Act 2003 (as amended).
9. The Council may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in two different circumstances:
 - (a) A distributor of a film may appeal against the decision of the BBFC and request that the Council re-classifies/authorises the film for local screening (with recommendations on age restrictions); and
 - (b) An independent party may request that the Council reclassifies/authorises the film for local screening (with recommendations on age restrictions).
10. In addition, the Council may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:
 - A film festival covering a specific period of time;
 - A one off screening of a film; or

- A trailer for a film.

Exemptions

11. The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if either:
 - (a) It consists of or forms part of an exhibit put on show for any purpose of a museum or art gallery (the Licensing Act 2003 does not define a museum or art gallery so the ordinary meaning of the term is taken).
 - (b) Its sole or main purpose is to:
 - Demonstrate any product;
 - Advertise any goods or services (excluding the advertising or films); or
 - Provide information, education or instruction.
 - (c) The film is shown on a 'not-for-profit' basis held in a community premises between the hours of 8am and 11pm on any day provided that the audience does not exceed 500
 - Obtains consent to the screening from a person who is responsible for the premises; and
 - Ensures that each screening abides by age classification ratings.

Policy

12. In accordance with the s.182 Statutory Guidance issued to Licensing Authorities, the Council shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the Licensing Objectives.
13. Under the Licensing Act 2003, the Council must carry out its function with a view to promoting the Licensing Objectives;
 - (a) The prevention of crime and disorder
 - (b) Public safety
 - (c) Prevention of public nuisance
 - (d) Protection of children from harm
14. In terms of film exhibitions and festivals, the most relevant licensing objective is the protection of children from harm.

Protection of Children from Harm

15. Paragraph 2.41 of the Statutory Guidance issued to Authorities states:

The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as

Agenda Item 7a

exposure to strong language and sexual content and expletives (for example, in the context of exposure to certain films or adult entertainment).

Principles in Determining Film Classifications

16. The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. S.182 of the Guidance recommends that:

Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

17. The Council considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendations(s) on the restriction of access of children to the film(s). It should be noted however that the Council is not obliged to follow these guidelines.
18. Where a licensed premise seeks to exhibit a film that has not been classified by the BBFC then it will be responsibility of the Council to authorise that film. As such, the procedures outlined later in this document will be followed.
19. The Council recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
20. Applicants must ensure that all material that are the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
21. Any authorisations for the exhibition of film(s) issued by the Council shall only apply when the film(s) is exhibited within the District of Sevenoaks and does not affect the authorisation or recommendations in any other council area.
22. Once authorised by the Council, a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Council (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Service.

23. Films designed to be part of a film festival within the District, will be exempt from the payment of a classification fee, for up to five films per calendar year.
24. The issue of any authorisation by the Council is strictly limited to the authorisation within the District of Sevenoaks and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
25. The Council will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm Licensing Objective.
26. Where the Council authorises unclassified material to be shown the Council will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
27. The Council shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
28. A fee of £45 is payable per hour, even if the film duration is 15 minutes, you will be required to pay for the full hour and part thereof.
29. Where the Council has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

Procedures for approval of films already classified by BBFC

30. Applications for authorisation of films classified by the BBFC shall be referred to and determined by the Licensing Officer on behalf of the Council. Applications should be applied for online via the Council's website www.sevenoaks.gov.uk
31. All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Licensing Officer or arrangements made for a suitable venue to view the films. This will allow the officer time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions that the Officer may impose. In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.
32. Where an individual or organisation not connected with the film(s) requests re-classification of a BBFC classified film, they are not expected to provide a copy of the film(s). The Officer will then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give 28 days' notice before the proposed screening.

Agenda Item 7a

33. All requests must be accompanied with reasons for the request. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally shown only in cinemas for a relatively short period.
34. The Licensing Officer will then view the entire film and assess it against the BBFC guidelines and the s.182 Guidance and shall issue a Notice of Determination of the authorisation within five working days from the date of viewing. The Officer will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
35. Requests must be relevant to the protection of children from harm licensing objective and not frivolous, vexatious or repetitive. Requests may also be relevant to the prevention of crime and disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.
36. Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
37. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
38. In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Officer shall have regard to the s.182 Guidance, for example:
 - Persons Under the Age of (insert appropriate age) cannot be Admitted to any Part of the programme: and
 - Persons Under the Age Of (insert appropriate age) can only be admitted to the Programme If Accompanied by an Adult.

Procedures for approval of films not classified by the BBFC or Sevenoaks District Council

39. Applications for authorisation will in the first instance be considered by officers under delegate powers. Any request to authorise an unclassified film may however be referred to the Licensing Committee for determination.
40. Applications should be submitted on the Council's application form a minimum of 28 days before the proposed screening.
41. An application for authorisation should include the following information:
 - (a) The filmmaker;
 - (b) Such recommendation as may have been made by the filmmaker upon age limit for the intended audience for exhibition of the film;

- (c) Any existing classification issued by an existing classification body, whether within or outside the UK;
 - (d) A synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
 - (e) If known, a legitimate and legal internet site where the film or a portion of the film is available to view without charge;
 - (f) The language spoken in the film and whether there are subtitles in English;
 - (g) Any proposals on age restrictions for viewing the film that the applicant intends to impose; and
 - (h) Details of how age restrictions will be enforced.
42. All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Licensing Officer or arrangements made for a suitable venue to view the films. The cost to be borne by the applicant. This will allow the Officer time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions that the Officer may impose.

In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.

43. If the film contains dialogue in a language other than English, an interpreter, approved by the Council may be required for the classification, the cost to be borne by the applicant.
44. The Licensing Officer, whilst viewing the film(s) will have regard to BBFC Guidelines and the s.182 Guidance issued to Licensing Authorities and shall issue a Notice of Determination of the application within five working days from the date of the viewing.
45. When considering all such requests the Licensing Officer will pay particular attention to the Protection of Children from Harm Licensing Objective.
46. Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
47. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
48. In these circumstances, the licence holder will be required to display in a conspicuous position a Notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Officer shall have regard to the S.182 Guidance, for example:

Agenda Item 7a

- Persons Under the Age of (insert appropriate age) Cannot Be Admitted To Any Part of the Programme; and
 - Persons Under the Age Of (insert appropriate age) Can Only Be Admitted To The Programme If Accompanied By An Adult.
49. In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder Licensing Objectives, the Licensing Officer will formally advise the licence holder and applicant of any recommendations(s) on the restriction on the age of access for children to the film(s). This may also include any relevant notice required to be displayed by the licence holder inside and outside the premises. The licensed premise hosting the exhibition of film will be expected to comply with these recommendations.
50. The Council recognises the principal that adults should be free to choose their own entertainment and will not normally override this principle, as such; requests shall not normally be refused. However, in all cases the Council will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.

Licensing Act Mandatory Conditions

51. Where a Premises Licence authorises the exhibition of films, the licence must include the following mandatory conditions in accordance with Section 20 of the Licensing Act 2003:
- 1) Where a Premises Licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
 - 2) Where a film classification body is specified in the licence, unless paragraph 3 (b) applies, admission of children must be restricted in accordance with any recommendation by that body.
 - 3) Where:
 - (a) The film classification body is not specified in the Licence; or
 - (b) The relevant licensing authority has notified the holder of the Licence or the Club that holds the Certificate that this subsection applies to the film in question;admission of children must be restricted in accordance with any recommendation made by the licensing authority.
 - 4) In this section "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).
52. Where a Club Premises Certificate authorises the exhibition of films the Certificate must include the following mandatory conditions in accordance with Section 74 of the Licensing Act 2003

- 1) Where a Club Premises Certificate authorises the exhibition of films, the certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- 2) Where a film classification body is specified in the licence, unless paragraph 3 (b) applies, admission of children must be restricted in accordance with any recommendation by that body.
- 3) Where:
 - (c) The film classification body is not specified in the Certificate; or
 - (d) The relevant licensing authority has notified the club which holds the Certificate that this subsection applies to the film in question;
admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.
- 4) In this section “children” means persons aged under 18 and “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

This page is intentionally left blank

Item 7 (b) - Sexual Establishments - Statement of Licensing Policy.

The attached report was considered by the Licensing Committee, and the relevant minute extract is below:

Licensing Committee (Minute 19, 7 January 2020)

Members considered the report which detailed amendments to the ‘Sex Establishment Statement of Licensing Policy’ following an 8 week consultation. The policy set out how the Council would exercise and administer applications under the policy for Sex Shops, Sex Cinemas and Sexual Entertainment Venues submitted under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by The Policing and Crime Act 2009). The Licensing Partnership Manager advised that the additions to the Policy included equalities and human rights.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the Sexual Establishments Statement of Licensing Policy 2020-2023 be recommended to Full Council as revised Policy to come into effect from 1 April 2020.

This page is intentionally left blank

SEXUAL ESTABLISHMENT - STATEMENT OF LICENSING POLICY

Council - 25 February 2020

Report of Chief Officer Planning & Regulatory Services

Status: For approval

Also Considered by Licensing Committee - 7 January 2020

Key Decision: No

Executive Summary:

This report presents an amended 'Sex Establishment Statement of Licensing Policy' following an 8 week consultation. The purpose of the policy is to define how the Council will exercise and administer applications for Sex Shops, Sex Cinemas and Sexual Entertainment Venues submitted under Local Government (Miscellaneous Provisions) Act 1982 (as amended The Policing and Crime Act 2009).

This report supports the Key Aim of sustainable economy.

Portfolio Holder: Cllr. Margot McArthur

Contact Officer: Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree the 'Sexual Establishments Statement of Licensing Policy 2020-2023' (attached as **Appendix A** to this report) be recommended to the Council as a revised Policy to come into effect from 1 April 2020.

Recommendation to Council

That the Sexual Establishments Statement of Licensing Policy 2020-2023 as revised Policy be adopted as from 1 April 2020.

Reason for recommendation:

It is best practice for a Licensing Authority to have a Sexual Establishment Policy. The last Policy was reviewed in 2013 and has no expiry date.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy.

A proposed policy includes a new section called 'European Convention on Human Rights' and additional information has been provided on immigration and rights

Agenda Item 7b

to work under 'The Application Process'.

Introduction and background

- 1 Local Government (Miscellaneous Provisions) Act 1982 puts a duty on the Council, acting as the Licensing Authority (LA), to determine whether a premises is suitability for the activities proposed.
- 2 There is no legal requirement for the Council to have a 'Sex Establishment Policy (SEP).
- 3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under the Local Government (Miscellaneous Provisions) Act 1982; the document covers the following:
 - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
 - b) How the Council will assess the suitability of the premises
 - c) The LA's approach to regulation & expected standards; and
- 4 The existing SEP was approved in 2013.
- 5 The SEP 2020-2023 can be reviewed and updated at any time during the life of the document. The Council keeps the SEP under constant review to ensure services and expectations are transparent and promote public safety.
- 6 The new SEP 2020-2023 for the District is proposed to commence from 1 April 2020. The SEP 2020-2023 document does not cover any activity that is outside the scope of The Local Government (Miscellaneous Provisions) Act 1982 (for example, licensable activities regulated under the Licensing Act 2003).
- 7 There are currently no Sexual Entertainment premises within the District.

Proposal and Reasons

- 8 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people
- 9 The new draft SEP 2020-2023 for the District has retained its Kent wide template with an amendment to include 'European Convention on Human Rights'. In addition, the format of the current SEP has been updated in order to make the new document easier to read and more accessible.

- 10 The final draft was produced as a result of the following stages:
- 11 **Stage 1: Production of first draft:** The first draft of the new SEP was produced by undertaking a review of the policy document and benchmarked against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).
- 12 The outcomes from the above and key difference between the current SEP and the Draft were as follows:
- 13 **Equalities:** When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).
- 14 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.
- 15 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.
- 16 **Immigration:** The SEP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.
- 17 **Stage 2: Production of final draft:** Public Consultation on the draft SEP took place over an 8 week period between 21 October 2019 and 13 December 2019.
- 18 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SEP 2020-2025.
- 19 A notification email was sent to all Responsible Authorities under the Licensing Act 2003, Sevenoaks District Council's Elected Members and the business owners of Eureka (who may make an application under this Act in the future).

Agenda Item 7b

- 20 During the 8 week public consultation, there were no representations received.

Conclusion

- 21 The Council's processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over applications made for Sexual Entertainment premises.

Key Implications

Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council's Statement of Sexual Establishment Statement of Licensing Policy - 2020- 2023 will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the Council is ensuring a consistency of approach.

Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have 'due regard' to the need to -

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

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had 'due regard'. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

Officers have considered the impact of the proposals contained in

this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

Appendices

Appendix A -Sexual Establishment
Statement of Licensing Policy - 2020-
2023

Background Papers:

Local Government (Miscellaneous Provisions)
Act 1982

Richard Morris
Chief Officer Planning & Regulatory Services

This page is intentionally left blank

Sexual Establishments Statement of Licensing Policy 2020 to 2023

1. Overview

- 1.1 The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt schedule 3 of that Act.
- 1.2 Sevenoaks District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under Section 27 of the Policing and Crime Act 2009.
- 1.3 The adoption of schedule 3 as amended will enable the licensing authority, within its area, to discharge its function in relation to the following:
 - sexual entertainment venues (providing relevant entertainment)
 - sex shops
 - sex cinemas
- 1.4 Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) do not also require a premises licence, club premises certificate or temporary event notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Licensing Act 2003. However, if the premises also carries on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment) then this is not a provision of relevant entertainment and they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the Licensing Act 2003 for those other activities, subject to any exceptions contained in that Act.
- 1.5 In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 1.6 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act 2003. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance nor will providing entertainment facilities for the purposes of the provisions of relevant entertainment be regulated entertainment under the Licensing Act 2003.
- 1.7 If a local authority has not made a resolution to adopt the provisions introduced by section 27, Policing and Crime Act 2009 within one year of the Act coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make

such a resolution. The purpose of this duty is to ensure that local authorities consider the views of local people whether, for whatever reason, they have not adopted the provisions. This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.

1.8 The Licensing Authority have also taken into consideration the provisions of Section 17 Crime and Disorder Act 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.

1.9 The Licensing Authority is also aware that, at the time of formulating this policy, there is no evidence of any crime or disorder directly attributable to the operation of such establishments in the Sevenoaks area.

1.10 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement which is in compliance with:

a) The Regulator's Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede progress by the regulations we set out and, particularly, to consider the impact of regulations on small businesses; and

b) The Provisions of Services Regulations 2009 to ensure requirements are:

- i) Non-discriminatory
- ii) justified by an overriding reason relating to the public interest
- iii) proportionate to that public interest objective
- iv) clear and unambiguous
- v) objective
- vi) made public in advance
- vii) transparent and accessible

1.11 The Human Rights Act 1998 – The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention Right. The Council will take particular notice of the following relevant provisions of the European Convention on Human Rights:

- Article 6 – that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 – that everyone has the right to respect for their home and private life;
- Article 1 of the first protocol – that every person is entitled to the peaceful enjoyment of his or her possessions, including, for example, a licence.

In accordance with paragraph 4.21 of the Home Office guidance on Sexual Entertainment Venues, the Council will respect the need for its decisions to be necessary and proportionate for the prevention of disorder and crime, for the protection of health and morals, for the

Agenda Item 7b

Protection of the rights and freedoms of others, and, in the case of Article 1 of the First Protocol, that its decisions can be justified in the general interest.

The Equality Act 2010 brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

The Act simplifies, strengthens and harmonises the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The nine main pieces of legislation that have been merged are:

- The Equal Pay Act 1970
- The Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- The Employment Equality (Religion or Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulations 2003
- The Employment Equality (Age) Regulations 2006
- The Equality Act 2006, Part 2
- The Equality Act (Sexual Orientation) Regulations 2007

1.12 In certain instances we may conclude that a provision in the policy is either not relevant or is outweighed by other provisions. We will ensure that any decision to depart from the policy will be properly reasoned, based on material evidence and documented; giving clear and compelling reasons for doing so.

1.13 The Council sees the licensing process as an integral part of its approach to achieving its strategic and corporate objectives. **The following three core values will guide and define our policies for the District and the local area:**

- **Excellence: Outstanding services to all of our residents and customers.**
- **Value for Money: The highest quality for the best price.**
- **Innovation: Finding even better ways to deliver the services you need.**

These three Core Values develop the vision with the resulting five themes:

- 1.Environment**
- 2.Economy**
- 3.Housing**
- 4.Safest Places**
- 5.Health**

2. Policy

2.1 The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation
- Provide guidance on the process for making an application and the process the Council will follow in considering and determining an application.
- Assist any persons making representations in respect of an application to make properly directed and evidenced representations.

2.2 Notwithstanding this policy, each application will be assessed on its individual merit and granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

3. Functions

3.1 Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

3.2 This authority delegates its functions to those who sit on its Licensing Committee, or a sub-committee appointed for the purpose, with the exception of a renewal of a licence where no objections are received, which will be delegated to officers as set out in the Council's constitution.

4. Consultations

4.1 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people in order to comply with this duty. The Council has extensive experience of engaging with local people and will utilise that knowledge to ensure that any consultation exercise carried out under this duty will be fair and meaningful. The Council will seek to make any relevant information available to local people in order to inform them of the legislation, criteria and outcomes of the consultation.

4.2 For the purpose of this duty 'local people' are defined as anyone who lives or works in the local authority area.

4.3 The council will seek to consult with all those consulted on the Licensing Act 2003. A full list of those consulted is attached at Appendix C.

5. Definitions

5.1 For the purposes of this policy the following definitions will apply:

5.2 Sex Shop

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating

Agenda Item 7b

- a) sex articles; or
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity.

No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

5.3 Sex Article

Anything made for use in connection with, or for the purpose of stimulating or encouraging—

- a) sexual activity; or
- b) acts of force or restraint which are associated with sexual activity; and anything to which sub-paragraph below applies.

This sub-paragraph applies

- a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- b) to any recording of vision or sound, which
 - i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

5.4. Sex Cinema

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity; or
- b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only

- a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- b) of their use for an exhibition to which Section 6 of that Act (certain noncommercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

5.5. **Sexual Entertainment Venue:**

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Exemptions from being a Sexual Entertainment Venue

The following are not sexual entertainment venues for the purposes of this policy:

- a) sex cinemas and sex shops;
- b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time
 - i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii) no such occasion has lasted for more than 24 hours; and
 - iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in subparagraph (i));
- a) premises specified or described in an order made by the relevant national authority.

5.6. **Relevant entertainment:**

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Agenda Item 7b

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

However this list is not exhaustive and local authorities will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

5.7 **Nudity**

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

5.8 **Spontaneous Entertainment**

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or implied.

5.9 **The 'Organiser'**

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

6. **Planning**

- 6.1 The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the Local Government (Miscellaneous Provisions) Act 1982 and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process.
- 6.2 Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premises may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such as 'need' in determining a licence application as this is more appropriately dealt with by planning legislation.
- 6.3 Applicants are advised to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

7. European Convention on Human Rights

- 7.1 The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).
- 7.2 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.
- 7.3 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

8. The Application Process

- 8.1 Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.
- 8.2 A site plan of radius of $\frac{1}{4}$ of a mile (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue marking the site/premises boundary with a red line and define other types of businesses and residential properties around the site as listed at 12.11.
- 8.3 A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to licence as a sexual entertainment venue. All areas requiring to be licensed

Agenda Item 7b

should be outlined in red on the plan. If a part of the premises is within a licensed premises under the Licensing Act 2003 which will have a dual purpose then the plan should show the site where facilities for the public are shared such as toilets and bar.

- 8.4 The plan of the premises must show the position of all CCTV cameras and shall be with the approval of Kent Police and in accordance with the CCTV code of practice.
- 8.5 Plans may be considered in other scales with prior agreement with the Licensing Authority.
- 8.6 The council will not usually determine an application for the grant of a licence, unless, the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the premises.
- 8.7 The council has a responsibility to prevent immigration crime, specifically the prevention of illegal working on licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 8.8 In addition, we expect all licensed premises to familiarise themselves with and adhere to their responsibilities around the prevention of Illegal working under the Immigration Act 2016 and all aspects of the Act.

9. Notices

- 9.1 Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than seven days after the date the application is made.
- 9.2 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 days beginning with the date the application was made.
- 9.3 All notices should be in the form prescribed by the appropriate authority as detailed in Appendix B and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 9.4 The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

10. Objections

- 10.1 Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence. Objections should not be based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 10.2 When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue Service, UK Border Agency, The Local Safeguarding Children’s Board) within 28 days of the application.
- 10.3 Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority will not without the consent of the person making the objection reveal their name or address to the applicant.

11. Hearings

- 11.1 Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing Committee or Sub-Committee that is responsible for determining the application.
- 11.2 Whilst Schedule 3 does not make explicit provision for objectors to be heard, this Council believes it is right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.
- 11.3 Persons making written objections will also be informed of the date and time of the licensing sub-committee hearing where they will be invited to address the committee and ask questions relating to the application.
- 11.4 All objectors and applicants are reminded that they can if they wish be legally represented at their own expense at the hearing. Alternatively, they may, if they wish ask a Councillor to represent them.
- 11.5 In determining an application the Licensing Committee (or Sub-Committee) will consider the applicant’s presentation, the Council’s authorised officer report, police observations and objections.

Agenda Item 7b

- 11.6 All parties may use witnesses and supporting documentation however, copies of documents and details of witnesses must be submitted to the Licensing Committee (or Sub-Committee) for consideration prior to the hearing and in special circumstances with approval of all parties at the hearing.
- 11.7 The Licensing Committee (or Sub-Committee) will consider all the evidence presented to it during the hearing and members may ask questions of officers, applicants and objectors. After the evidence has been presented, all parties will be asked to leave to allow for the Licensing Committee (or Sub-Committee) to come to a decision on the application.
- 11.8 When a decision is reached the Licensing Committee (or Sub-Committee) will inform the applicant and relevant parties of their decision and the reasons for coming to that particular decision.
- 11.9 The decision of the Licensing Committee (or Sub-Committee) will be confirmed, in writing, to the applicant within seven working days of the meeting at which the application was considered giving reasons for the decision.

12. Refusal of a Licence

12.1 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

12.2 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than

the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard
 - i) to the character of the relevant locality; or
 - ii) to the use to which any premises in the vicinity are put; or
 - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

12.3 A decision to refuse a licence must be relevant to one or more of the above grounds.

12.4 In making any determination to refuse an application, renewal or transfer, the local authority will give consideration to:

a. Suitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, drugs, offences of a sexual nature or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

Any other reasonable cause, arising from:

- previous knowledge and experience of the applicant
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- any report about the applicant and management of the premises received from objectors

b. Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

- c. **The application exceeds the limit set on the number of the specific type of sex establishments generally or of a specific type in an area**
- d. **Appropriateness having regard to character of locality, use of premises in the vicinity or layout, character or condition of premises**

The local authority may refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of sex establishments or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality the use to which any premises in the vicinity are put or the layout, character or condition of the premises.

12.5 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 does not define 'relevant locality' further than to say that:

- In relation to premises, it is the locality where they are situated
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

12.6 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may consider a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

12.7 Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas.

12.8 Although a ward area could be considered as a relevant locality it is determined that certain wards are substantial in size and would cover a wide area. It could also raise a problem with borders of other wards where there could be a cluster of sex establishments.

12.9 The Licensing Authority has determined not to set specific relevant localities in respect of each type of sex establishment, instead judging each application it receives on its own individual merits and the character of the locality at the time of the decision.

In determining the relevant locality each case will be decided on its merit having consideration to the individual circumstances of the application.

12.10 In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the character of an area. This would include but not be limited to:

- The type of location (residential, commercial, industrial)

- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The levels of crime and disorder in the area.

12.11 The Local Authority would consider use of other premises in the vicinity which would include but not be limited to:

- Establishments whose patrons are likely to be adversely affected by the operation of the premises
- The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
- The proximity of educational establishments to the premises
- The proximity of places of worship to the premises
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity to shopping centres
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- The proximity to conservation areas, historic buildings and tourist attractions
- The proximity of other sex establishments

12.12 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the layout, character or condition of the premises including but not limited to the following

- The type of activity to which the application relates
- The duration of the proposed licence
- The days and hours of operation of the activity.
- Suitability of management systems to take into account the safety of its performers, customers and staff.

12.13 Visibility to passers-by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

13. Waivers

13.1 The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.

13.2 An applicant can apply for a waiver either as part of the application for a licence or separately. The Local Authority can grant a waiver if they consider that to require a

licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days' notice.

- 13.3 The Licensing Authority will consider applications for such waiving of the need for licences on an individual basis. However, it is felt that unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

14. Conditions

- 14.1 The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach both standard and specific conditions to a licence. The Licensing Authority has set out standard conditions (APPENDIX A) in respect of each type of licensed premises for which conditions may be taken and provided a pool of conditions. However, this list is not exhaustive and is merely to give an indication of what may be considered necessary for any individual licence.
- 14.2 The standard conditions will be placed on the particular type of establishment and others may be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote a safe and well managed premises. Each case will be dealt with on its individual merit.
- 14.3 Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:
- Hours of opening and closing
 - Visibility of the interior of the premises
 - Displays of advertisements
 - Any change to the type of premises
 - Minimum distance between audience and performers
 - The control of access to changing room facilities
 - The control of private viewings.
- 14.4 The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. Such condition may not be listed in the pool of conditions.

15. Duration of Licences

- 15.1 Licences for sex establishments will be granted for up to one year.

16. Appeals

- 16.1 The Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 permits appeals against the decision of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates Court. An appeal must be

made within 21 days of the decision of the Licensing Committee (Sub-Committee) to the Magistrates Court.

16.2 An appeal can be made in the following circumstances:-

- Refusal of an application for grant, renewal or transfer of a licence
- Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held
- A grievance relating to any term, condition or restriction on or subject to which a licence is held
- Revocation of a licence

16.3 There is no right of appeal for objectors.

16.4 There is no right of appeal against refusal on the ground that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

16.5 A person wishing to appeal against the council decision is strongly advised to seek assistance from a solicitor.

Appendix A

STANDARD TERMS, CONDITIONS & RESTRICTIONS RELATING TO SEX ESTABLISHMENTS

These regulations apply to the licences for sex establishments granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Definitions

In these regulations, save where the context otherwise requires, the following expressions shall have the following meanings:-

- i) "Sex Establishments", "Sex Cinema", "Sex Shop", "Sex Article", "Sexual Entertainment Venues" and "relevant entertainment and nudity" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) 1982 as amended.
- ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of building, which is subject of a licence for a sex establishment granted under the Third Schedule.
- iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
- iv) "Approved" means approved by the Council in writing.
- v) "The Council" means Sevenoaks District Council.
- vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

General

The following terms, conditions and restrictions are applicable to sex establishment licences. In the event of a conflict between these and any special conditions contained in a licence relating to a sex establishment the special condition shall apply.

The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any other enactment by law or regulation other than the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Sex Shops

Times of Opening

Condition 1

Except with the previous consent of the Council the premises shall not open to the public before 9.00am and shall not be kept open after 6.00pm

Except with the previous consent of the Council, the sex establishment shall not open on Sundays or any other Bank Holidays or any Public Holidays.

A notice displaying the times when the premises are open or closed shall be displayed on the entrance to the premises in a form and manner approved by the Council.

Conduct and Management of Premises

Condition 2

Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.

Condition 3

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 4

The holder of the licence shall keep exhibited in a suitable place within the shop premises, so that it can be easily seen by premises users, a copy of the licence and any conditions and regulations made and they shall be readily available for inspection by any of the following officers:-

- a) Duly authorised officer of Sevenoaks District Council
- b) Police Officer, and
- c) Officer of the Fire Authority

Condition 5

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 6

The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

Condition 7

The Licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

Condition 8

No person under the age of 18 shall be permitted entry to the premises or be employed in the business of sex establishments.

Condition 9

The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

Condition 10

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 11

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 12

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

Condition 13

No refreshment of any kind shall be provided nor any consumed on the licensed premises other than for any bona fide staff in a part of the premises not open to the public.

Use of the Premises

Condition 14

The sex shop shall be conducted primarily for the purpose of the sale of goods for retail and change of use of any portion of the premises from that licensed by the Council, shall not be made until the consent of the Council has been obtained thereto.

Condition 15

No change from a sex cinema or sexual entertainment venue to a sex shop or from a sex shop to a sex cinema or sexual entertainment venue shall be effected without the consent of the Council and neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, loaned or demonstrated in a sex cinema or sexual entertainment venue.

Goods available in sex establishments

Condition 16

All sex articles and other things displayed for sale, hire, exchange or loan within the sex shop, shall be clearly marked to be shown to the persons who are inside the sex shop, the respective charge being charged.

Condition 17

All printed matter for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect is to be prominently displayed within the sex establishment.

Condition 18

No film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film so certified.

Agenda Item 7b

- a) The screen of any equipment used should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.
- b) The screen shall be placed in such a position approved by the Council.
- c) Only clips for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.
- d) No film will be shown in its entirety.
- e) Films will not be shown at the customer's request.
- f) All trailers shown are to be approved by the British Board of Film Classification
- g) A warning notice will be placed on the screen stating "For staff use only" or "No customers allowed to operate".

External Appearances

Condition 19

No advertisement, words, letters, model, sign, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from the outside of the premises except:- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence by a Council.

Such display, advertisement, word, letters, model, sign, placard, notice, device, representation, drawing, writing or any matter or thing must have been approved by the Council.

Condition 20

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

Suggested notice 'PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES'

Condition 21

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Condition 22

- (a) The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screen or such other arrangements as approved by the Council.
- (b) This condition shall not be construed as lessening any obligation of the Licensee under Licence Condition 21.
- (c) Any such special precautions as may be necessary shall be taken to maintain the screening of the shop window during any cleaning process.

State, Condition and Layout of the Premises

Condition 23

The premises shall be maintained in good repair and condition throughout, including the front fascia of the shop and entrance to the satisfaction of the Council.

Condition 24

Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex establishment is open to the public.

Condition 25

The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit" or "Fire Exit".
- (ii) Doors and openings that lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked "Private – no access to the public".

Agenda Item 7b

- (iii) Save in the case of emergency no access shall be permitted through the premises adjoining or adjacent.

Condition 26

The external door/doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such device shall be maintained in good working order.

Condition 27

No alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall be made except with the prior approval of the Council.

Condition 28

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Safety

Condition 29

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Condition 31

Sevenoaks District Council reserves the right after grant, renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.

Condition 32

The licence may be revoked by Sevenoaks District Council if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Sex Cinemas

Film Categories

Condition 1

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U—Universal - suitable for all
- PG – Parental Guidance – some scenes may be unsuitable for young children
- 12 – Passed only for persons of 12 years and over
- 15 – Passed only for persons of 15 years and over
- 18 – Passed only for persons of 18 years and over
- Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Unclassified Films

Condition 2

The licensee must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

Restricted Films

Condition 3

Films restricted 18 (R18) may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Persons Under 18

Condition 4

No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Condition 5

Agenda Item 7b

No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

Advertising

Condition 6

No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority.

Condition 7

The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Condition 8

When the programme includes a film restricted R18, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18
CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE
PROGRAMME.

Condition 9

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers-by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Restricted 18

Condition 10

A register of all members and all visitors' books of their guests shall be available for immediate inspection by an authorised officer of the Council during any performance or at any other reasonable time.

Condition 11

Tickets shall in no circumstances be sold to persons other than to members.

Membership

Condition 12

The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

Condition 13

Membership shall be open to persons of both sexes of not less than 18 years of age

Condition 14

Agenda Item 7b

Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.

Condition 15

No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.

Condition 16

New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

Condition 17

An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.

Condition 18

Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member.

Condition 19

Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.

Condition 20

Membership cards shall be personal to the member and carry a photograph of the holder.

Condition 21

Neither membership tickets nor guest tickets shall be transferable.

Condition 22

Guest may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.

Condition 23

Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Articles

Condition 24

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

Display of Tariff and Charges

Condition 25

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Conduct and Management of Premises

Condition 26

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which they are responsible for its conduct.

Condition 27

A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which they are responsible for its conduct.

Condition 28

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 29

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 30

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

Condition 31

The Licensee or some responsible person nominated by them in writing for the purpose of managing a sex establishment in their absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 32

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Internal access to cinema

Condition 33

Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers-by and/or other areas within the building that are open to the public for other activities.

Condition 34

The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

Security

Condition 35

A member of staff is to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

Use of Premises

Condition 36

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

Safety

Condition 37

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Sexual Entertainment Venue

Times of Opening

Condition 1

The premises shall not open unless otherwise permitted:

[TIMES WILL BE SPECIFIED FOR EACH LICENCE]

Conduct and Management of Premises

Condition 2

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 3

The licensee or the responsible person shall maintain a daily register to be kept on the premises and produced to an authorised officer on request. The register to be completed each day within 30 minutes of the Sex Entertainment Venue opening for business and will record the name and contact details of any person who is to be responsible for managing the Sex Entertainment Venue in the absence of the licensee and details of all staff employed at the premises including performers.

Condition 4

A notice showing the name of the person responsible for the management of the sex entertainment venue on that day to be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 5

Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change.

Condition 6

The licensee shall ensure that no part of the building or its boundary is used by prostitutes (Male or Female) for the purposes of soliciting or any other immoral purposes. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

Condition 7

The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those that have been approved by the Council.

Condition 8

Licensee shall maintain good order on the premises and in particular shall ensure that no

- lewd conduct
- indecent behavior
- unlawful possession and/or supply of controlled drugs
- conduct likely to cause a breach of the peace on the premises
- offers of any sexual or indecent service for reward
- any acts of violence against person or property and/or the attempt or threat of such acts

takes place on the premises or in its immediate vicinity

Condition 9

A management operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by the Licensing Authority. This document shall be on going and under constant review.

Condition 10

All members of staff (except performers) shall be easily identifiable. If required by the Council or Kent Police in writing, the licensee shall ensure that during the hours the premises are open for relevant entertainment staff will wear a badge of a type/format approved by the Council indicating their name and that they are an employee or person working in the premises.

Age Restriction

Condition 11

No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

Condition 12

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES (Example of Notice)

Advertising

Condition 13

No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council.

Condition 14

The licence holder shall not display outside the premises, or on any advertising material, photographs or other images that indicate and suggest striptease or similar dancing takes place on the premises and which may be offensive.

Condition 15

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

External and Internal access to an area holding relevant entertainment

Condition 16

The entrances to the premises shall be of a material or covered with a material that will render the interior of the premises invisible to passers-by.

Condition 17

Windows and openings within the premises other than entrances will have curtains / blinds of a type and size that covers windows and openings which render the interior of the premises where relevant entertainment is taking place invisible to passers-by and/or other areas within the building that are open to the public for other activities.

Condition 18

Windows will remain closed whilst the premises or part of that premises is being used for relevant entertainment.

Layout of the premises

Condition 19

No fastening of any description shall be fitted upon any booth or cubicle within the premises.

Condition 20

All dance booths or cubicles are to be equipped with a panic alarm for safety.

Condition 21

Any changes to layout of the premises must be informed to the Licensing Authority in writing submitting plans. Alteration must not take place without prior written consent by the Licensing Authority

Condition 22

The licensee shall ensure that noise from the premises or vibration that is transmitted through the structure of the premises does not give rise to a nuisance to the occupiers of premises in the vicinity of the venue.

Condition 23

The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

Condition 24

Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked 'private' and remain closed other than for the purposes of the ingress and egress of management, staff and performers.

Entertainers/Performers

Condition 25

Agenda Item 7b

An appropriate room shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted public access to this room which shall be maintained at all times whilst the licensable activities are taking place and until such time as all performers using the dressing room have finished.

Condition 26

At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.

Condition 27

On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location.

Condition 28

Performers shall be aged not less than 18 years old.

Condition 29

Only the performers shall provide the entertainment, no audience participation shall be permitted.

Condition 30

No performance shall include a sex act with any other performer, persons in the audience or with the use of any object or animal.

Condition 31

In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Condition 32

Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in an area of the premises open to the public that is not a designated area for relevant entertainment.

Condition 33

All performers shall be aware of the management operation that will include a written policy on the conduct of performers.

Condition 34

Photography or videoing of performances should not be allowed.

Condition 35

There shall be routine checking of employment records and evidence that all prospective staff and performers have the right to work in the UK.

Condition 36

Performers should not be permitted to arrange contacts or liaisons, exchange telephone numbers or other means of making contact while on the premises.

Staffing

Condition 37

During any lap dancing performance, or private dance, performers may not:

- Touch customers in any way
- Performer must not be within 30cms (12”) from any part of a patron
- Climb onto furniture provided for patrons
- Simulate sex acts
- Use sex articles

Sale of Goods

Condition 38

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Entertainment Venue.

Display of Tariff and Charges

Condition 39

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 40

Agenda Item 7b

Where a charge is to be made for the company of a hostess or other companion this shall be identified on the tariff of charges to the satisfaction of the Council.

Condition 41

No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.

Condition 42

No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

Use of Premises

Condition 43

No change from a sex shop or sex cinema to a sexual entertainment venue cinema or from a sex entertainment venue to a sex shop or sex cinema shall be effected without the consent of the Council.

Pool of Possible Additional Conditions

Age Restriction

Condition A

All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.

Security

Condition B

Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times when relevant entertainment is taking place.

Condition C

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.

Condition D

CCTV to be installed to a standard agreed by police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system will have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system will be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings will be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

Entertainers/Performers

Condition E

Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.

Condition F

There shall be no physical contact between customers and the dancers at any time except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.

Staffing

Condition G

All staff employed to work at any premises licensed as a sex establishment shall be required to provide an enhanced criminal records bureau disclosure to the Licensing Authority in which the premises is located.

This page is intentionally left blank

Item 7 (c) - Statement of Hackney Carriage & Private Hire Policy.

The attached report was considered by the Licensing Committee, and the relevant minute extract is below:

Licensing Committee (Minute 20, 7 January 2020)

Members considered a report which set out an amended 'Statement of Hackney Carriage and Private Hire Policy', following an 8 week consultation. The policy defined how the Council would exercise and administer applications submitted under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The policy set out the expectations of the Council when licensing drivers, vehicles and operators.

The Licensing Partnership Manager advised that the key changes to the policy included: the addition of dual driver licence, clarification of Executive Vehicles, Immigration, removal of engine size, amendments to Penalty Points, declarations of cautions, human rights, VOSA right-off categories, and tinted windows.

Members discussed the comments that had been made regarding tinted windows by the Council's appointed garage and a representation of the Taxi Trade as set out in Appendix B of the report. Consideration was given to the needs of the trade, regulations and the ability to benchmark the different grades of tinting. Members were in agreement that Dunbrik's comments should be included within the Policy.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council, that the approval of the 'Statement of Hackney Carriage and Private Hire Policy 2020-2023' as revised policy be adopted as of 1 April 2020.

This page is intentionally left blank

STATEMENT OF HACKNEY CARRIAGE & PRIVATE HIRE POLICY

Council - 25 February 2020

Report of Chief Officer Planning & Regulatory Services

Also considered by: Licensing Committee - 7 January 2020

Status: For approval

Key Decision: No

Executive Summary:

This report presents an amended 'Statement of Hackney Carriage and Private Hire Policy' following an 8 week consultation. The purpose of the policy is to define how the Council will exercise and administer applications submitted under Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The policy sets out the expectations of the Council when licensing drivers, vehicles and operators.

This report supports the Key Aim of sustainable economy.

Portfolio Holder: Cllr. Margot McArthur

Contact Officer: Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree that the 'Statement of Hackney Carriage and Private Hire Policy 2020-2023' (attached as **Appendix A** to this report) be recommended to the Council as a revised Policy to come into effect from 1 April 2020.

Recommendation to Council

That the Statement of Hackney Carriage and Private Hire Policy 2020-2023 as revised Policy be adopted as from 1 April 2020.

Reason for recommendation:

While it is not a legal requirement, it is best practice for a Licensing Authority to have a Statement of Hackney Carriage & Private Hire Policy.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy. There have been a number of minor changes to the policy which is outlined in the contents of this report.

Introduction and background

- 1 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 put a duty on the Council, acting as the Licensing Authority (LA), to determine the suitability of licensed drivers, vehicles and Operators, with a view to public safety.
- 2 There is no legal requirement for the Council to have a 'Statement of Hackney Carriage and Private Hire Policy (SHCPHP).
- 3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976; the document covers the following:
 - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
 - b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
 - c) The LA's approach to regulation & expected standards; and
 - d) The scheme of delegation.
- 4 The last revision of the SHCPHP took place in February 2019.
- 5 The SHCPHP 2020-2023 can be reviewed and updated at any time during the life of the document. The Council keeps the SHCPHP under constant review to support the trade and continually improve of public safety.
- 6 The new SHCPHP 2020-2023 for the District is proposed to commence from 1 April 2020.
- 7 As of the start of December 2019 there were 342 Driver Licences, 278 Vehicle Licences and 42 Private Hire Operator Licences held within the Sevenoaks District, this includes both Hackney Carriage and Private Hire drivers.
- 8 The SHCPHP 2020-2023 document does not cover any activity that is outside the scope of The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Proposal and Reasons

- 9 The new draft SHCPHP 2020-2023 for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In

addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

- 10 The final draft has been produced as a result of the following stages:
- 11 **Stage 1: Production of first draft:** The first draft of the new SHCPHP was produced by undertaking a review of the policy document and benchmarking against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).
- 12 The outcomes from the above and key difference between the current SHCPHP and the Draft were as follows:
- 13 **Dual Drivers Licence:** Section 3 of the Policy which relates to Driver's Licence has been amended to include a new licence type: Dual. A Dual licence can only be obtained by a Hackney Carriage driver and will allow the driver to drive both Hackney Carriage and Private Hire vehicles without having to change or buy additional badges.
- 14 **Clarification on Executive Vehicles:** Section 4 of the Policy which relates to Vehicle Licences now includes a section under 4.7 which specifically relates to the expectation of the Council when considering plate exemptions for Private Hire vehicles.
- 15 **Immigration:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.
- 16 **Reference to engine sizes:** Any reference to engine sizes have been removed from the Policy.
- 17 **Tinted Windows:** The previous requirement for tinted windows has been removed as this was overly burdensome and costly to the trade. The sections relating to tinted windows now state "All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations. Additional wording was added during the consultation following a response from the Council's appointed garage.
- 18 **Amendments to Penalty Points:** A requirement of Officers to deal with penalty points within a specific timeframe (10 working days) was unrealistic. The issue of penalty points requires thorough investigation and it can take up to 2 weeks to obtain CCTV footage; this restriction has been removed to ensure complaints and penalties can be dealt with fairly.

Agenda Item 7c

- 19 **Declaration of cautions:** The convictions section of the Policy has been amended to include cautions.
- 20 **Human Rights:** Section 2 of the Policy which relates to Policy and procedures now includes a section under 2.2 called 'European Convention on Human Rights'.
- 21 **Amendments to VOSA write-off categories:** Any old VOSA categories have been replaced with the new write-off categories.
- 22 **Stage 2: Production of final draft:** Public Consultation on the draft SHCPHP took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.
- 23 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.
- 24 A notification email was sent to all Kent Police, all Sevenoaks District Council's licensed drivers, vehicle licence holders, PH Operators.
- 25 During the 8 week public consultation, 6 submission were received.

Conclusion

- 26 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

Key Implications

Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council's Statement of Hackney Carriage and Private Hire Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the

Council is ensuring a consistency of approach.

Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have ‘due regard’ to the need to -

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

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had ‘due regard’. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council’s ongoing duty.

Appendices:

Appendix A - Taxi Policy
Appendix B - Taxi Policy Responses

Background Papers:

Town Police Clauses Act 1847
Local Government (Miscellaneous Provisions Act 1976)

Richard Morris
Chief Officer Planning & Regulatory Services

This page is intentionally left blank

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

1 April 2020 – 31 March 2023

Agenda Item 7c

Effective from 1 April 2020

The Role of Licensing: Policy Justification

The aim of local authority licensing of Hackney Carriage and Private Hire trade is to protect the public by ensuring that all drivers, vehicles and operators are licensed in accordance with the Statutory Provisions and the Council's Policy. The Council is aware that the public should have reasonable access to Hackney Carriage (HC) and Private Hire Vehicle (PHV) services which are integral to local transport provisions.

Licensing requirements which are unduly stringent may prevent the supply of HC and PHV services, by increasing the cost of operation or restricting entry to the trade. Sevenoaks District Council recognises that an unduly restrictive approach may be detrimental to the public interest and could have adverse safety implications.

For example, it is important that a member of the public using a HC or PHV to travel alone late at night, can be confident the driver is "fit and proper" and the vehicle is safe. However, on the other hand if the supply of HC or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on streets late at night for a HC or PHV to become available.

Introduction

The Licensing Authority at Sevenoaks District Council (“the Council”) is responsible for processing all applications for hackney carriage and private hire licences including drivers, vehicles and private hire operators. The team also deals with complaints and compliance in relation to hackney carriage and private hire matters.

The licensing of hackney carriage and private hire drivers, vehicles and operators aims to secure the following objectives:

- All licensed drivers and operators are “fit and proper” persons **in accordance with the statutory legislation;**
- All vehicles **licensed by the Council** are **safe, comfortable, properly insured and available where and when required;**
- To encourage the use of environmentally friendly vehicles; **and**
- To encourage the use of vehicles that are accessible to persons who have disabilities.

The Council will ensure that these aims are met by setting minimum requirements for the licensing of drivers, vehicles and operators. These requirements include:

- Up to three yearly licensing of drivers including medical checks, criminal record clearance, an appropriate level of driving ability and a sound knowledge of the area.
- DVLA checks of all drivers’ licences at first application and at renewal.
- Five yearly licensing of private hire operators, **subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.**
- **Routine inspections of records maintained by private hire operators.**
- Annual licensing of vehicles **will include** inspections by **authorised officers which will incorporate mechanical vehicle testing and confirmation of appropriate documentation such as insurance certificate;**
- Investigation of complaints and enforcement of legislation and licence conditions with appropriate action taken in accordance with the Council’s Enforcement Policy statement.
- Ongoing training **and** development of the Council’s Licensing staff.
- Provision of information to the **hackney carriage and** private hire trades **with** members of the public through press releases and publications, the Council’s website and attendance at relevant forums.

Review of Policy and Procedures

2.1 Legislation

In undertaking its licensing function, the council will have particular regard for:

Agenda Item 7c

- Town Police Clauses Act 1847 and 1889
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equalities Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998
- Regulators Code

2.2 European Convention on Human Rights

The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).

The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

2.3 Taxi and Private Hire Licensing: Best Practice Guidance March 2010

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. Following widespread consultation, the DfT has produced Best Practice Guidance for licensing authorities which sets out standards which can be considered good practice in this area of licensing, although it also recognises that individual licensing authorities should produce their own policies in relation to specific licensing matters. This Guidance has been taken into consideration in preparing this policy. **Regard has also** been given to the Licensing Partnership and this has been seen as an opportunity to have some consistency across the three authorities. The Licensing Partnership includes Maidstone Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council. **This policy relates to Sevenoaks District Council.**

2.4 Consultation

The Council is keen to hear the views of persons who may be affected by this policy and has identified people and organisations that may be interested in commenting on this document. The Council has consulted widely and invited comments from any interested party in particular those listed below.

- Representatives of Sevenoaks licensed hackney & private hire drivers
- Representatives and trade groups of Sevenoaks taxi proprietors and private hire vehicle licence holders.
- Representatives of the **District's** Operators
- All District Councillors
- Town and Parish Councils
- Neighbouring Authorities
- Community Safety Unit
- Access Group
- Local businesses and residents
- The National Private Hire Association
- The National Taxi Association
- Members of the Public through the Council's Website
- Public Health Kent
- Chamber of Commerce
- Kent Police
- Kent County Council Traffic & Road Safety
- Kent County Council (School Contracts)
- Citizens Advice Bureau
- **Age Concern**

2.5 Implementation

The Policy and associated documentation are available for inspection on the Council's website.

The Policy will remain in existence for a period of **three** years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

Upon implementation of this Policy, the Authority expects licence-holders to comply with its terms immediately.

2.6 Online Forms

The Licensing Partnership has introduced online forms to facilitate applications. The authority is committed to keeping the cost of providing the licensing service down and online forms assist with this aim.

Agenda Item 7c

All **new** applications that are made online will require an applicant to meet with an officer to complete the application process, **unless the applicant is registered with the Disclosure and Barring Service update service; at this meeting all original documents are required to be presented.**

The **Council** will accept scanned accompanying documents or photographic images with online **renewal** applications. However, if the submitted images do not match with the electronic images **already** held by **the Licensing Partnership**, we reserve the right to require the original documentation to be presented to the Licensing Authority.

3. Hackney Carriage/ Private Hire or Dual Driver's Licence – New and Renewal applications

Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a district council shall not grant a driver's licence to drive a private hire vehicle or hackney carriage unless they are satisfied that an applicant is a fit and proper person.

In order for the Council to establish whether an applicant is fit and proper the applicant must provide evidence of:

- Honesty and trustworthiness
- Driving standard
- Medical fitness
- Criminal history
- Relevant knowledge of the district
- Understanding of English (spoken, written and reading)

All applicants must read the Council's Policy regarding convictions and cautions located at **Appendix 1** before considering whether to apply for a Hackney Carriage/ Private Hire Vehicle driver's licence.

Application forms must be completed in full. Any incomplete forms will be returned to the applicant as invalid. **An email address provided by an applicant or licensed driver is deemed to be valid for all email correspondence sent by officers, and can only be updated by written notification of a change of email address.**

Applications will only be accepted as valid if they include and/or are accompanied by the following:

- Application form provided by the Council, complete in its entirety and signed by the applicant.
- The appropriate fee. The current fees are available **from the licensing department or our website.**
- The applicant's original DVLA driving licence. Applicants must have held a full DVLA or EU licence for at least 1 year for a new application.
- A completed medical certificate
- Driving Standards **Assessment** practical taxi test and wheelchair test **for all new hackney carriage/ private hire drivers, delivered by an external company; details available on our website**
- Evidence of passing the Council's knowledge test (new applicants only);
- One recent, colour, passport sized photograph of the applicant (no sunglasses **or hats. Hats may only be worn for religious beliefs while showing full facial features.**)

Agenda Item 7c

- Applicants must obtain and submit to the Council the 8 digit driving licence 'Check Code' from the DVLA. The 'Check Code' is only valid for 21 days from the date of issue.
- Application for a Disclosure and Barring Service Enhanced Check completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed. This must include a check for 'adults and child workforce'.
- For all applicants who have lived in the United Kingdom for less than 5 years continuously, a certificate of good conduct from the appropriate embassy is required (new applications only).
- For those applicants not holding an EU passport, evidence will need to be provided of the applicant's right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority. The Licensing Authority may also contact the Home Office to carry out immigration checks when it is appropriate to do so.
- All applicants must provide original documentary evidence confirming their right to live and work in the UK. Any licence granted to drivers whose leave to remain in the UK is time limited will only be valid for the period which they are entitled to work in the UK. In order for the licence to be extended, drivers must produce further evidence to prove they have the right to work in the UK.
- Two items confirming the applicant's address.
- Documentary proof of the applicants National Insurance number.

3.1 Fee

All applications must be accompanied by the appropriate fee as prescribed from time to time by the Council. Licensing fees are reviewed on an annual basis and approved by the Council.

No refunds are payable where applications are not pursued or completed or where applications are refused e.g. as a result of relevant criminal records, where relevant information has been withheld or where applicants fail to meet application requirements. The Licensing Officers can advise individual applicants who have queries in relation to this issue and any such information is strictly confidential.

Any outstanding application older than 12 months will be destroyed. Should the applicant wish to pursue the application after 12 months a new application will need to be submitted with a fee together with a new Disclosure and Barring Service (DBS) and medical certificate.

3.2 Driving Standards

It is a statutory requirement that a licence will not be issued to any person, who at the time of the application has not held a full driving licence for a continuous period of one year immediately prior to the date of receipt of a valid application to the Council.

Driving licences issued by EU/EEA States and Countries detailed in the Driving Licences (Exchangeable Licences) Orders are also permitted to count towards the 1 year period qualification requirement for the grant of a private hire and/or hackney carriage licence.

In order to establish that an applicant has reached an acceptable driving standard, new applicants will also be required to have successfully undertaken the driving standards practical taxi test **delivered by one of the Council's nominated providers**.

Existing drivers may also be required to undertake this test where serious concerns are raised about the standards of their driving.

All new applications for a driver's licence will be required to successfully **complete a practical taxi test and wheelchair test without exception**.

Drivers of a wheelchair accessible vehicle (WAV's) must have undertaken the enhanced practical taxi test which includes the wheelchair exercise. If a driver changes his vehicle to a wheelchair accessible one then they must undertake the element that includes the wheelchair exercise.

A first time driver applicant must demonstrate by means of an online test, an acceptable knowledge of the Council's district. The **Council** may also require the applicant to demonstrate their knowledge of any byelaws, rules **and conditions** that apply to certain licence types.

3.3 Age

All applicants for HC/PHV driver licences will be assessed on their individual merits. Sevenoaks District Council does not consider it necessary to set a maximum age limit for drivers provided that regular medical checks are made (see 3.4), nor does it consider a minimum age limit, beyond the statutory limitations, to be appropriate.

3.4 Medical Fitness

There is a general recognition that it is appropriate for HC/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

- they carry members of the public who have expectations of a safe journey;
- they are on the road for longer hours than most drivers; and
- they may have to assist disabled passengers and handle luggage.

Sevenoaks District Council supports the widely held view that Group 2 medical standards should also be applied by local authorities to HC/PHV drivers.

All applicants will be required to obtain a Group 2 medical standards certificate signed by their GP **(or a Doctor listed under the British Medical Association (BMA), with full medical history supplied by your GP, may be used instead)**.

Agenda Item 7c

Once licensed, a new medical will be required to be undertaken at renewal (every 3 years) or annually once the driver reaches the age of 65 years.

The Group 2 medical standards now include the licensing of drivers with insulin treated diabetes. It is the policy of Sevenoaks District Council to apply the standards to taxi and PHV drivers with insulin treated diabetes. The criteria is summarised in Appendix 3.

Should concerns arise regarding the health of a licensed driver, the Council at any time may request further information or a further medical examination to be carried out and submitted. The Council reserves the right to revoke or suspend a licence if requested information is not submitted within 4 weeks of the request and a satisfactory explanation is not given for the failure to provide such information, or where the information provided raises further concerns as to the applicant's fitness to carry out their duties as a licensed driver.

3.5 Criminal Record

Prior to consideration of any application, the Council will obtain from the applicant a Disclosure & Barring Service (DBS) Enhanced Certificate in respect of the applicant, to be assessed in accordance with the Council's statement of policy about relevant convictions. This must include a check for working with adults and children.

It is recognised that many vehicles are used for the carriage of children and vulnerable persons and the Enhanced Disclosure is most appropriate.

Existing drivers will be required to submit an Enhanced Certificate, which includes whether an applicant is barred from working with children or adults, every 3 years at renewal unless they are signed up to the online service which will enable the Licensing Department to check directly with the DBS. The licence holder will be responsible for paying the relevant fee. All applicants are strongly advised to sign up to the DBS online checking service as the cost over every 3 years will be less, the certificate is portable and may be taken to another Licensing Authority and applications for the renewal of their taxi driver's licence may be made more easily online without the need to make an appointment to see a Licensing Officer.

Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to an Enhanced Certificate from the Disclosure & Barring Service which includes whether an applicant is barred from working with children or adults.

A licence will generally not be granted to any applicant who does not comply with the minimum requirements as set out in the Council's Statement of Policy about Relevant Convictions (see Appendix 2). Where several minor offences have been committed the Council will take into consideration any pattern of offending. The Council can also take

into consideration spent convictions and cautions when determining an application for a driver's licence.

A licence may be suspended or revoked pending the outcome of any investigation or trial where an existing driver is found to be awaiting trial or has been charged with a serious crime relating to;

- Driving or being in charge of a vehicle whilst under the influence of drink or drugs
- A drug related offence
- Indecent exposure, indecent assault or any of the more serious sexual offences or,
- Grievous bodily harm, wounding or assault or,
- Dishonesty

A licence may also be suspended or revoked where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought.

Any application from a new applicant charged with a serious offence as outlined above will not be determined until the outcome of that matter has been determined.

Where an existing driver commits an offence and/or breaches the licence conditions/byelaws, the nature and number of incidents will be taken into consideration when considering if the driver continues to be considered "fit and proper".

Complaints in relation to existing drivers will generally be held on file and taken into consideration for a period of three years from receipt. Although where a further warning is issued during this period, the original warning will be kept on file from the date of the most recent warning. Where a licence is revoked for persistent breach of licence conditions a period of 3 to 5 years should generally elapse before a further application is favourably considered.

A licence holder or applicant shall immediately notify the Council of any charges/convictions/cautions (including motoring offences) imposed during the term of their current licence or application.

3.6 Renewal of Licences

It is the driver's responsibility to ensure that their licence is renewed prior to the expiry of their current licence.

A licence may be renewed up to 6 weeks prior to the expiry date.

Any licence that is not renewed within 1 month following expiry will not be renewed and a new application in full will be required. A Driving Standards pass certificate will also need to be provided. Any licence that is renewed within the 1 month grace period may be subject to a late fee.

Agenda Item 7c

Where a licence holder will not be available at the time of renewal, for example due to an extended holiday, then they may apply in writing to the Licensing Office, prior to the expiry date, explaining their circumstances and request a waiver. If granted, this waiver will allow the licence holder to renew their licence after the expiry date or depending on the circumstances the licence can be renewed early. The date of renewal of the licence will start from the day after the expiry of the previous licence.

In any case, following expiry of a licence, the driver will not be considered licensed and will not be permitted to drive a licensed vehicle until such time as the licence has been renewed and a new licence has been issued.

The Council will endeavour to issue reminder letters at least six weeks prior to the expiry of a licence although there is no statutory duty for the Council to do so and the responsibility ultimately lies with the licensee to ensure that complete applications for renewal are submitted on time. Applicants are encouraged to submit their applications as soon as possible.

At each renewal a current driving licence must be in force, a renewal application must include a completed application form, fee, DBS enhanced check, Medical and a generated DVLA check code will be required (and provided on the application form).

Applicants are encouraged to make their renewal application online.

3.7 Change of Type of Licence

Licensees wishing to change from holding a private hire licence to a hackney carriage **or Dual Drivers Licence** will be required to undertake a knowledge test and the wheelchair element of the Driving Standards Assessment (or equivalent) before the licence is issued.

A licensed Hackney Carriage driver will be permitted to change to a Dual Drivers Licence, without the need for any additional tests or driving standard test. The required fee will need to be paid with the application and no refund will be payable in respect of an existing licence.

3.8 Surrender/Suspension/Revocation of Licence or Failure to Complete Application

In the event of the surrender of a driver's licence before its expiry or failure to complete the application process, there shall be no refund of the licence fee.

In the event of a driver's licence being suspended or revoked there shall be no refund of the licence fee. **In cases where a Drivers Licence has been revoked, a referral may be made by the Licensing Partnership, to the Council's Safeguarding group, to ensure the revoked driver is protected from the vulnerable position they find themselves in.**

3.9 Driver's Dress Code

Sevenoaks District Council is committed to encouraging the professional image of the hackney carriage and private hire trade, and considers that drivers of licensed vehicles are vocational drivers.

Therefore, the Council considers that drivers should conform to a minimum standard of dress, as set out in Appendix 4, in order to raise and maintain the profile of the licensed trade. The Authority does not impose such standards by way of conditions to any licence. However, it is expected that such standards will be maintained at all times.

3.10 Right of appeal

Where refusal, suspension or revocation of an application/licence has been advised by an Officer, the applicant/driver will be entitled to request the matter be referred to the Licensing Committee to discuss the concerns, unless the driver has lost his DVLA driving licence in which case revocation will be automatic. During this meeting the applicant/driver will be given every opportunity to state their case in relation to the issue(s) of concern. The Committee on hearing all the facts will decide whether to grant any licence or not.

Any applicant who is aggrieved by the Council's refusal to grant/suspend/revoke a driver's licence may appeal to a Magistrates Court within 21 days of being notified in writing of the decision.

In line with s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, as amended by s.52 of the Road Safety Act 2006, where it appears to the Council that it is in the interests of public safety for any revocation to have immediate effect there will be no right to drive as a private hire or hackney carriage driver pending an appeal. This power will only generally be invoked where there are allegations of serious violence offences, offences of a sexual nature or where there is considered to be a serious risk to passengers or members of the public in allowing the driver to continue as a hackney carriage/private hire driver.

3.11 Duration of Drivers' Licences

A Hackney Carriage or Private Hire Driver's Licence shall be valid for a standard term of three years (unless, for administrative reasons, a shorter period is appropriate).

4. Hackney Carriage / Private Hire Vehicle Licences

Section 47(2) of the Town Police Clauses Act 1847 permits a District Council to require that a Hackney Carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

Hackney Carriages licensed by this Licensing Authority are permitted to ply for hire anywhere within the Sevenoaks District. Plying for hire means a licensed HC vehicle may make their availability known to the public, but illuminating their roof sign. A HC can be hailed in the street by a member of the public and can also use appointed ranks.

Private Hire licensed by this Licensing Authority are only permitted to undertake bookings/fares made by a Private Hire Operator licensed by Sevenoaks District Council.

4.1 Environmental Considerations

The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.

It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the District by, in particular, reducing the levels of CO₂ emitted from petrol vehicles and the equivalent from diesel. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent on supplies of such fuel being made readily available. It may also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.

Clearly, emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion.

In view of the above detail, unless more urgent measures are introduced by central government in the meantime, this Council will monitor any research published and Government guidelines with a view to specifying vehicle emissions standards and promoting cleaner vehicles.

4.2 Taximeters

The Authority requires every vehicle licensed as a Hackney Carriage to be fitted with a taximeter. The taximeter shall be of a type which is EU approved or specifically authorised by the Council.

A Private Hire vehicle may be fitted with a taximeter. If a taximeter is fitted it shall be of a type which is EU approved or specifically authorised by the Council.

4.3 Roof Signs

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

The Authority requires that no Private Hire vehicle be fitted with a roof-mounted sign of any kind.

4.4 Numbers Limit

At the moment there is no restriction on how many hackney carriage vehicles can be licensed, Sevenoaks District Council will seek to address this matter when the need arises and may carry out a demand survey to seek clarification whether there is unmet demand for Hackney carriage vehicles within the whole district.

Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall grant a private hire vehicle licence provided the Council is satisfied that the vehicle is:

- Suitable in type, size and design for the use of a Private Hire Vehicle;
- Not of such a design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage;
- In a suitable mechanical condition;
- Safe; and
- Comfortable;
- That there is in force in relation to the use of the vehicle a policy of insurance that complies with the Road Traffic Act 1988.

Once licensed, a hackney carriage or private hire vehicle remains a hackney carriage or private hire vehicle until the licence either expires, is suspended or revoked. A licensed vehicle can, subject to very limited exemptions, only ever be legally driven by a driver who holds the relevant hackney carriage or private hire drivers' licence and appropriate insurance.

Sevenoaks District Council will not permit dual plating, therefore once a vehicle is licensed by Sevenoaks District Council it cannot be licensed with any other authority or Transport for London.

4.5 Wheelchair Accessible Vehicles

All hackney carriage vehicles requiring a new plate, must be wheelchair accessible; that is those that require the issue of a new Hackney Carriage plate number. (This does not apply to replacement vehicles, vehicles that are replacing damaged vehicles and ultra-low-emission vehicles (ULEV) that is vehicles that emit less than 75g/km of CO₂).

All vehicles that reach the end of their life with respect to being eligible for licensing as a licensed vehicle (i.e. 10 years since the date of its first registration) must be replaced by a wheelchair accessible vehicle. (This does not apply to change of ownership of vehicles or vehicles that are replacing damaged vehicles or a total loss.).

Wheelchair accessible vehicles may be either rear or side loading.

4.6 Applications

All applications submitted for the initial grant of a licence are advised to apply **at least 10 working days before** the licence is required to allow time for the licence to be processed.

Application forms must be completed in full, accompanied by all required documents and signed by the applicant and the operator where relevant. Any incomplete forms will be deemed invalid and returned immediately to the applicant.

Applications will only be acceptable as valid if they include and/or are accompanied by the following:

- Application form provided by the Council completed in its entirety and signed by the applicant and operator where relevant.
- Original vehicle registration document showing the applicant to be the registered keeper or other acceptable proof of ownership (the V5 New Keeper Supplement completed by the applicant or an official receipt from a registered company in the case of newly manufactured vehicles).
- When a renewal application is made online the authority will accept scanned documentation or a photograph of the documentation.
- Original documentation will only be required for new vehicles or if there is a discrepancy between the scanned copy held on file by the authority and the scanned/photograph submitted with an online renewal application.
- Certificate of insurance for the vehicle which covers the activity required (i.e. public or private hire) and which is valid on the date that the licence is due to come into force. With online applications we will accept emails from the insurance company sent to licensing@sevenoaks.gov.uk

4.7 Executive vehicles

The Council recognised there are occasions when the requirement to display an external identification plate may have the opposite effect in terms of customer safety and could

have commercial implications for the operating business, which may deter some corporate customers from using the service.

It is not intended that all Private Hire vehicles should be exempt from the Council requirement to display an external plate. Exemption from displaying an external plate may be in respects of individual vehicles only and applications for exempting a fleet of vehicles will not be permitted. Each application will be assessed on its own merit and each vehicle will be inspected by an authorised Council Officer to ensure it is suitable for executive exemption.

Applicants are required to show evidence that the vehicle is a prestige or top of the range vehicle, as represented by the manufacturer. Relevant consideration as to whether a vehicle is an executive hire car include but not limited to, cost, reputation, specification, appearance, perception and superior comfort levels.

The vehicle will be pristine condition with no visible defects, dents or blemishes to the external body work or internal trim and seating.

The type of work undertaken is 'executive' in nature. This means the vehicle is used specifically to provide transport under written contract to a company or person, or by the types of clients who, for security or personal safety reasons, would not want the vehicle to be identifiable.

Applications may only be made by a person holding a Private Hire Operators Licence issued by Sevenoaks District Council.

Sevenoaks District Council is entitled to recover cost relating to the administration of applications for an exemption notice. The fee to accompany an application for an exemption Notice will form part of the Hackney Carriage and Private Hire published fees and non-refundable.

Irrespective of when an exemption notice is granted, the exemption notice will expire on the same day as the expiration of the vehicle's current Private Hire Vehicle Licence, unless its otherwise surrendered or revoked. Exemption Notices may be renewed annually, subject to the vehicle continuing to be suitable for purpose.

4.8 Licence Fee

All applications must be accompanied by the appropriate fee as prescribed by the Council; the current scale of fees is available from the Council or on our website.

Licensing fees are reviewed on an annual basis and adopted by the Council following advertisement by a notice in a local newspaper. The notice will also be displayed at the Council Offices to allow for any comments to be made.

4.9 Insurance

Agenda Item 7c

All hackney carriage and private hire vehicles must be insured for public hire and reward, such insurance to provide cover for fully comprehensive.

The Council considers vehicle insurance to be a high priority and, therefore, requires all proprietors to provide evidence of continuous insurance cover throughout the period of the licence. Failure to provide evidence of insurance will result in the vehicle licence being suspended.

4.10 Testing of vehicles

In addition to the MOT testing requirements, all licensed vehicles are required to be tested at the Council's nominated testing station for compliance with the Council's policy.

Where concerns arise during the period of the licence regarding the mechanical fitness of a licensed vehicle the Council may request a further test to be undertaken. However, the Licensing Authority cannot require a vehicle to have more than 3 tests per year.

Where an application for a vehicle renewal is made after the expiry of the licence the application will be considered as a new application and any age restrictions will apply.

Any vehicle failing its examination test will be required to undertake and pass a further examination test before it can be licensed or, in the case of an existing licensed vehicle, before it can continue to be used as a licensed vehicle. This further examination is known as a retest. The proprietor is responsible for the cost of the retest and it must be paid in full prior to further testing taking place.

The Council will suspend a vehicle licence if the vehicle is not presented for its interim test (6 monthly) by the due date.

4.11 Re-allocation of Expired Hackney Carriage Vehicle Plates

If, when a hackney carriage licence expires, the vehicle is not re-licensed and the owner does not take steps to inform the Council of their intentions, then the plate will be re-allocated. A letter will be sent to the owner of the vehicle advising them that the licence has expired.

4.12 Type of vehicle

In order to assess vehicle suitability, the Council will take into account passenger safety, comfort and the design of the vehicle.

In order to be considered suitable to be licensed as a Hackney Carriage the vehicle must comply with the basic specification set out in Appendix 5A and 5B and pass the Council's vehicle inspection test.

Any vehicle complying with the basic specification set out in Appendix 5 and 5B will be considered suitable to be licensed as a Private Hire Vehicle subject to it complying with the conditions listed in Appendix 5C and passing the Council's vehicle inspection test.

4.13 Vehicles Powered by Liquid Petroleum Gas (LPG)

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

In exceptional circumstances the Council's basic requirements for vehicles may be waived to facilitate the licensing of Novelty Vehicles although confirmation should be sought from the Licensing Office prior to any application being made. All applications for Novelty Vehicles will be considered on their own merits.

In addition to meeting the relevant vehicle specifications all Private Hire Vehicles, including Novelty Vehicles, will have to comply with the private hire vehicle conditions (Appendix 5C). In the case of novelty vehicles further specific conditions may be applied to the licence.

4.14 Seating Capacity

No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

It is the proprietor's and operator's responsibility to ensure that they establish the number of passengers at the time of booking. This is particularly important for those proprietors and operators who choose to utilise smaller vehicles.

4.15 Seating dimensions

Passenger seats must be at least 400mm wide for each passenger measured along the front of each seat. This criteria also applies where there are folding arms. The front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.

4.16 Tinted windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.

5. Private Hire Operators Licence

The objective of licensing Private Hire Vehicle Operators is, again, the safety of the public, who will be using operator premises, vehicles and drivers arranged through them. The Council will grant a private hire operator licence provided the Council is satisfied that the applicant is a fit and proper person to hold such a licence.

In order for an operator to prove that they are fit and proper they must provide evidence that they:

- are of good repute;
- have adequate arrangements for monitoring drivers, vehicles and the keeping of records;
- are capable of ensuring that both themselves and their staff/drivers obey all the rules.

All applicants for initial grant of a licence should allow at least four weeks before the licence is required to enable the local authority to undertake the necessary vetting procedures as detailed in this document.

Planning consent may be required and all applicants must ensure that they obtain all the correct and necessary permissions before trading.

Any application for the renewal of a licence which is not made before the expiry of the previous licence will be treated as an application for a new licence.

Applications will only be acceptable if they include the following:

- Application form completed in its entirety and signed by the applicant along with all the information prescribed.
- Application for a Disclosure and Barring Service Basic Check, which can be obtained from DBS or Disclosure Scotland, completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed.
- The appropriate fee. The current fees are available online on our website.

5.1 Criminal Records Checks

Private Hire Vehicle operators are not exceptions to the Rehabilitation of Offenders Act 1974. However, private hire operators that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS or Scottish Disclosure, or a certificate of good conduct from the relevant embassy for overseas applicants, is however, considered appropriate in promoting the objective of public safety.

Before an application for a private hire operator's licence will be considered, the applicant must provide a current (less than one months old) Basic DBS or Scottish

Agenda Item 7c

Disclosure of Criminal Convictions (issued specifically for Sevenoaks District Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Driver's Licence with the Council will be exempt from this requirement.

Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to a Basic Disclosure Certificate. A certificate of good conduct authenticated by the relevant embassy will satisfy this requirement.

5.2 Record Keeping

It is a requirement for operators to keep comprehensive records of each booking. All bookings will be kept for a period of 6 months.

5.3 Licence Duration

The Department of Transport considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.

The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant; subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.

5.4 Operation

A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

All three licences:

- private hire operator's licence,
- private hire driver's licence and
- private hire vehicle licence

must be issued by the same Licensing Authority.

5.5 Conditions

The Council has power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary and proportionate.

The Council consider the conditions detailed in Appendix 7 to be reasonable, necessary and proportionate. All private hire operator's licences will be issued with these conditions attached.

5.6 Insurance

It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed.

The conditions applicable to Private Hire Operator's Licences, as detailed in Appendix 7 require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate as well as appropriate public liability insurance for their premises.

5.7 Address from which an Operator may operate

Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.

The Council will not grant a licence to an operator whose premises are located outside the district of Sevenoaks. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

Operators based outside the district who have been granted a licence prior to the adoption of this amendment to policy (2018/19) will retain 'grandfather rights' providing the conditions of the licence are fully met.

5.8 Gaming Machines

Operators that provide a waiting facility for members of the public and/or drivers should be aware they cannot make gaming machines available for use. This action would be a criminal offence under the Gambling Act 2005.

6. Penalty Points Scheme

Any vehicle that is approached by an Authorised Officer of Sevenoaks District Council in order to carry out a vehicle inspection/driver check must remain until the inspection has been carried out. An exemption to this is if a fare arrives, which the driver is obliged to take or the driver informs the officer of a pre-booked fare prior to the inspection taking place.

Alternatively an Authorised Officer of Sevenoaks District Council may request that you attend the Council offices with the licensed vehicle in order to carry out an inspection.

Sevenoaks District Council has implemented a Penalty points system in order to regulate enforcement and any action required.

This scheme is used to enforce current legislation and any future bye laws in respect of Hackney Carriage Drivers and will be operated as follows:

- The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- Where it is decided that the use of the penalty points system is appropriate, the points are issued in accordance with the appendix. If the appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
- Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place, the matter will be referred in the first instance to the Licensing Manager for consideration regarding further action. The Licensee may be required to appear before the Licensing Committee.
- The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to their employer or operator. However the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- When issued, the penalty points will remain "live" for a period of one year from the date they are imposed so that only points accumulated in a rolling twelve month period will be taken into account.

- There is no financial penalty associated with the system and the licensee may continue to work. However, the licensee may be asked to attend either a meeting with the Licensing Manager or attend a hearing of the Licensing Committee if 12 penalty points are imposed on an individual licence in any one 12 month period, where appropriate action will be taken in accordance with this policy.
- Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing Committee will include suspension or revocation of the driver's licence, where appropriate.
- If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the points are to remain "live" may be extended or a written warning may be issued to the driver as to his future conduct.
- Periods of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
- A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances they deem necessary.
- Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- The penalty points system outlined in Appendix 10 identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.

7. Taxi ranks

7.1. Appointed Stands

Comments are welcomed from either the trade or the public on the need for additional bays in specific locations, the potential for re-locating or extending existing bays or indeed arguments for the removal of bays which no longer fulfil a useful purpose.

7.2 Waiting on Stands

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any rank or stand for hackney carriages. Drivers of hackney carriages may only wait on a rank or stand whilst plying for hire or waiting for a fare; drivers who park on a rank or stand and leave their vehicle unattended are committing an offence.

8. Plying for Hire

For the avoidance of doubt, the Council does not have a byelaw requiring hackney carriages to return to a taxi rank between fares. Hackney carriages can, therefore, park and be available for hire in any position where an ordinary member of the public can lawfully park. Hackney carriages are, however, subject to road traffic regulations and should not park in any position that obstructs the highway, the highway being both the road and the footway.

9. Taxi/Private Hire Meetings

The Council wishes to encourage discussions between the trade and the Licensing Authority, in order to promote a successful working relationship taxi/private hire liaison meetings will take place.

10. Departure from the Policy

There may be instances whereby the Council may need to consider applications outside the policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons for doing so will be given. Any such decision may be referred to the Licensing Committee.

11. Amendments to the Policy

All changes to the Policy are agreed by the Licensing Committee and then considered by Full Council.

Appendix 1 - Statement of policy about relevant convictions

When submitting an application for a licence to drive a hackney carriage or private hire vehicle you are required to declare any motoring offences and any non-motoring convictions or cautions you may have in addition to completing a Disclosure & Barring Service check. The information received will be treated in confidence.

The disclosure of a criminal record or other information will not debar you from gaining a licence unless the Authority considers that the conviction(s) renders you unsuitable. In making this decision the authority will consider the nature of the offence, how long ago and what age you were when it was committed, and any other factors which may be relevant. To facilitate a consistent approach the licensing authority has devised guidelines relating to the relevance of convictions and cautions. Any applicant refused a driver's licence on the ground that they are not a fit and proper person to hold such a licence has a right of appeal to Magistrates Court.

If you would like to discuss what effect a conviction might have on your application you may telephone the Licensing Department, in confidence, on 01732 227004 for advice.

General

Notwithstanding the existence of this Policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so. The purpose of this appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for hackney carriage and private vehicle, driver and operator licences.

If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purpose of this Policy, the acceptance of a fixed penalty notice will be treated as a conviction depending on the individual merits and mitigating circumstances of each case.

“Fit and proper” person

The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a “fit and proper” person.

The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.

Agenda Item 7c

In the absence of a judicially approved definition of “fit and proper”, the Council use the test of:

“Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?”

The wording of this test originates from Mr J Button BA, Solicitor, MIL, MClarb, a well-known and respected solicitor widely acknowledged as an authority in licensing legislation, particularly that of hackney carriages and private hire.

In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving record, are mentally and physically fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

It should be borne in mind that drivers may carry vulnerable members of the public such as elderly persons, unaccompanied children, disabled persons, persons who are incapacitated from alcohol, lone women and foreign visitors. Some examples of areas of concern that the Council will consider include, but are not limited to:

Honesty and trustworthiness

Drivers often have knowledge that a customer is leaving a property empty; they have opportunities to defraud drunken, vulnerable or foreign person; or they have opportunities to abuse their position of trust. For example, all passengers would expect to be charged the correct fare of the journey and be given the correct change; they would expect any lost property to be handed in to the Licensing Authority; and they would expect confidentiality to be maintained between themselves and the driver.

Professionalism

Drivers are often subject to unpleasant, abusive or dishonest behaviour, albeit from a small minority of passengers. Although this is clearly unacceptable behaviour by passengers, it does not excuse in any way aggressive or abusive conduct by drivers. Confrontation should be avoided and all disputes should be resolved through the formal legal channels. Under no circumstances must drivers take the law into their own hands.

Good and safe driving ability

Passengers are paying for a service whereby they expect to reach their chosen destination promptly and safely. Drivers must be fully conversant with all road traffic legislation and this Policy and drive in a professional, lawful and safe manner at all times.

Protecting the Public

The overriding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within this policy, in particular the protection of public safety.

History

The Council may take into account an applicant's history as a licence holder with this, or any other Council. In considering whether or not a person is "fit and proper the Council may consider such matters as the applicant's complaint history, their compliance with this Policy, their cooperation with Licensing Officer's requests and any other reasonable matters.

Driving Offences

Hackney carriage and private hire drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

Convictions or cautions for traffic offences will not automatically preclude any applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.

In cases of six penalty points or less on an applicant's DVLA driving licence, an application will be granted.

A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.

In cases of seven penalty points or more on an applicant's DVLA driving licence, an application may be referred to the Licensing Committee for decision.

Major traffic offences

For the purposes of this section, major traffic offences includes, but is not limited to, dangerous driving, driving whilst disqualified, failure to stop after an accident, driving with no/invalid insurance, careless driving, and driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc..).

The driving offences of causing death by dangerous or careless driving, due to their nature, will be considered by the Council to be violent offences and should be considered in conjunction with the section of this appendix relating to violent offences.

If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least five years free from conviction. Where the combination of offences are considered to be

of increased risk to the public, a period longer than five years may be substituted by the Council dependent on the extent of the risk to the public.

“Totting Up” under section 35 of the Road Traffic Offenders Act 1988

Where an applicant has been disqualified from driving by the courts under the “totting up” procedure, the Council will normally refuse an application until there has been a period of three years free of relevant convictions.

If the applicant has demonstrated to the court “exceptional hardship” and avoided a driving disqualification, applications will still normally be refused until there has been a period of three years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

Motor Insurance Offences

An isolated motor insurance offence will not automatically preclude an application form being granted, however the Council deem such offences to be serious given the risk to the public.

More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant’s suitability to hold a hackney carriage/private hire driver’s licence. Ordinarily in these circumstances, an application will be refused until such time as a period of three years has elapsed since the restoration of the applicant’s DVLA driving licence.

Failure to Declare Motoring Offences

Where an applicant fails to disclose motoring offences on their application form, even if they have been declared on previous applications or are spent, the Council will normally deal with this by way of issuing penalty points.

If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Policy.

Drunkenness

Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle, due to the differing risk to the public.

In Charge of a Motor Vehicle

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public.

A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

If there is a suggestion that the applicant is an alcoholic, a special medical examination is likely to be required before the application is considered and a referral may be made to the Council's Safeguarding Group. If the applicant is confirmed as an alcoholic, a period of three years must elapse after treatment is complete before an application can be considered.

More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

Not in Charge of a Motor Vehicle

An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a written warning as to future driving standards detailing the likely effect of further offences.

More than two convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three years free of convictions has elapsed.

Drug Offences

The Council considers all offences related to controlled substances as a serious risk to the public.

An applicant with a conviction of any Class A or Class B drug related offence, including supplying or trafficking, will be required to show a period of five to ten years free of convictions before an application is considered. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

An applicant with a conviction of any Class C drug related offence will be required to show a period of at least three years free of conviction

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

Sexual or Indecency Offences

As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence will normally be refused a licence until they have been free of convictions for a period of at least ten years. The length of period over and above the minimum ten years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Existing licence holders should be aware that if the Council receives notification from the police that the driver is being investigated for a sexual or indecency offence, their licence will normally be revoked with immediate effect pending the outcome of the investigation.

Major Sexual or Indecency Offences

For the purpose of the Policy, the following offences will be considered as major sexual or indecency offences with the highest of risk to the public.

- rape;
- indecent assault;
- gross indecency;
- possession of child pornography;
- buggery; or
- indecent assault of a child

Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused, save for exceptional circumstances.

Violent Offences

The Council considers all violence related offences as a serious risk to the public.

An application will normally be refused where the applicant has been convicted of murder, manslaughter or causing death by careless or dangerous driving.

An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed above, unless there has been a period of five to ten years free of convictions. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

Whilst an isolated conviction for a violent offence, other than those listed above will not necessarily permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

Multiple Offences

In all cases where an applicant has more than two convictions for violent offences, as application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

Possession of a Weapon

If an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

Dishonesty

Hackney carriage and private hire drivers are expected to be persons of trust. It is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver. Equally, any customers can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle.

As members of the public entrust themselves to the care of licensed drivers, the Council consider offences involving dishonesty as a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five to ten years. The length of period over and above the minimum five years will be dependent of factors such as the nature and severity of the offence, and the length of any custodial sentence.

Other Offences

If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, the application may be referred to the Licensing Committee for determination in line with the Policy Objectives.

Receipt of any of the following may result in the licence holder being required to provide annual DBS disclosures until a period of five years has expired.

- criminal conviction;
- final warning letter from the Council;
- period of suspension of an existing licence.

Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration may be made at committee.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

Agenda Item 7c

A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

Non-conviction information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests they could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.

In assessing the action to take, the safety of the travelling public must be the paramount concern.

Cautions

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

Summary

Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a hackney carriage/private hire driver's licence.

The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.

The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's over-riding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.

By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within Sevenoaks.

Existing Licence Holders

Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.

Principles of the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the convictions can never be spent.

Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire driver’s licences. This is because the driving of these vehicles is listed as a “regulated occupation” in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a “fit and proper” person to hold a licence.

Appendix 2 - Vehicle Test Standards

Sevenoaks District Council will not licence any vehicle that is classed as a Category S insurance write off.

Licence Plates - currently licensed vehicles

Where vehicles are presented with licence plates affixed such licence plates in the case of both Hackney Carriages and Private Hire vehicles shall be securely affixed as follows;

External Plate

External Plates should be fixed under the rear number plate. Elsewhere on the rear exterior bodywork is acceptable (i.e. bumper, boot) subject to the agreement of the Council, provided always that the plate is fixed in the vertical plane; the external plate should never be displayed inside the rear window of the vehicle.

Internal Plate

Internal Plates should be inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

Fare Chart

The Fare Chart should be securely affixed inside the vehicle in such a position that it is clearly visible to passengers and shall contain a copy of the current maximum Hackney Carriage Fare Tariff as currently adopted by the Council (or, if vehicle is Private Hire, the Operator's fares if they are displayed). The vehicle plate number will be shown on the fare chart together with details of how the passenger(s) can make a complaint regarding the vehicle or driver.

Insurance

A valid copy of the insurance certificate shall be available inside the vehicle.

The Standard of the Test

Any vehicle tested must reach the standards specified within this appendix and be certified roadworthy to MOT standards.

Vehicles of a class that are not subject to EU Type approval, and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the safety of the passenger. Costs of such additional testing must be paid by the person wishing to licence the vehicle. In addition the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

Exterior Bodywork and Wheel Trims

The bodywork of the vehicle shall be in good condition and shall be as originally fitted by the manufacturer. Minor paint chipping, scuffmarks or very small dents may be accepted, provided that their extent does not impinge materially on the overall appearance of the vehicle. Wheel trims must be fitted to all road wheels where part of a manufacturer's original

Upholstery

All upholstery shall be clean and in a well maintained condition. No tear, crack, hole or burn will be acceptable if greater than 25 mm in any dimension. Upholstery includes seats, headrests, armrests, carpets and other trim.

Fittings

All fittings shall be properly maintained and in good working order. Fittings include clocks, interior lights, sun blinds, door surrounds, grab handles, other equipment provided for passenger comfort and any equipment in, on or forming part of the vehicle including wheelchair ramps and securing fittings where the vehicle is to be licensed to carry wheelchair bound passengers.

'No Smoking' signs

In accordance with legislative requirements a 'No Smoking' sign(s) will be exhibited within the vehicle and such sign(s) will be of the approved type.

Roof and Floor Coverings

Shall be clean and in good condition. No tear or other damage shall exceed 25 mm in length.

Number of Passengers allowed (the term "passenger" or "person" includes a child or young person)

At the time of testing a vehicle, the number of passengers which may be carried, (up to a maximum of 8 persons), will be calculated as follows subject to there being one seat belt provided per passenger:

- a. where separate seats for each person are provided, one person for each seat;
- b. where continuous seats are fitted, one person for each complete length of 400mm measured along the front of each seat, and this criterion also applies where there are folding arms;
- c. where there is no separate seat for the driver, i.e. there is a continuous seat, for a right hand drive vehicle, the driver's seat shall comprise so much of the seat as extends from the right hand edge of the seat to a point 450 mm left of the point on the seat directly in front of the centre of the steering column.

Taximeters (and Fare Tables for Private Hire Vehicles)

All Hackney Carriage vehicles licensed or to be licensed shall have a taximeter fitted.

Where a Private Hire Vehicle is fitted with a taximeter a table showing the current fares of the operator shall be displayed inside the vehicle in such a position that it is clearly visible to passengers. In all cases taximeters shall be fitted in such way that they are visible to passengers.

Taximeters fitted to Hackney Carriages (and Private Hire vehicles, if provided with one), must be EU approved or specifically approved by the Council.

Disabled Person's Facilities

Where a vehicle is fitted with any facilities to assist disabled persons in entering or exiting the vehicle (i.e. swivel seats or similar or wheelchair facilities) such facilities shall be checked for proper operation. Wheelchair lifting equipment must comply with the Lifting Operations Lifting Equipment Regulations 1998.

Roof Signs

A Hackney Carriage must have a roof "TAXI" sign. Such wording shall be displayed conspicuously in either the front or the rear of the roof mounted display facing either the front or the rear. The sign may be in any position on the roof. The sign shall be illuminated and capable of being turned on and off (preferably via the meter but manual off/on is acceptable). No "TAXI" sign is allowed inside a vehicle. In addition to the word "TAXI" the sign may also contain the words "for Hire" and a taxi firm's telephone number and name. If the vehicle is available for hire the roof light must be illuminated.

A Private Hire vehicle shall not have any roof-mounted sign, or any similar sign inside the vehicle, or any other "thing" which may be mistaken/construed as a Hackney Carriage sign.

Doors

A vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included;

or

A vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior)

Windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

Company Advertising

For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).

For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.

Subject to the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.

No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

In the case of Private Hire vehicles company advertising is subject to the specific exclusion of the words "taxi" or "cab" the use of which is not permitted.

Advertising, not relating to a hackney carriage vehicle's proprietor or company, is allowed under certain circumstances and will have been approved by the Council in writing. The written approval must be carried in the vehicle. No such advertising is permitted on a private hire vehicle

Luggage Space - Vehicle Boots (and spare wheel in LPG powered vehicles)

The space provided in the vehicle for luggage stowing whether or not the vehicle has a separate luggage boot shall be clean and tidy with space available for luggage to be stowed.

If the vehicle is powered by Liquid Petroleum Gas and the LPG fuel tank has been installed in the boot space there shall remain free an amount of space for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result of the tank installation must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

Any vehicle adapted or constructed for the use of liquid petroleum gas must be examined to ensure such adaptation or construction complies with the guide lines as laid down by the L P Gas Association and the appropriate certificate(s) and window display is shown.

Driving Position

The vehicle must be right hand drive unless the vehicle is a 'stretched limousine'.

Mechanical Person Lift

If a mechanical person lift is fitted to the vehicle a current test certificate showing compliance with the Lifting Operations Lifting Equipment Regulations 1998 must be produced at the time of the vehicle compliance test.

Taximeters for Private hire vehicles

A Private Hire vehicle may be fitted with a taximeter. If a taximeter is fitted it shall be of a type which is EU approved or specifically authorised by the Council.

Roof Signs

The Authority requires that no Private Hire vehicle be fitted with a roof-mounted sign of any kind.

Appendix 3 - Assessing applicants and existing drivers for a Hackney Carriage/Private Hire Driver

Assessing applicants and existing drivers for a Hackney Carriage Private Hire Vehicle driver licence in accordance with group 2 standards.

The following arrangements mean that those with good diabetic control and who have no significant complications can be treated as “exceptional cases” and are not therefore precluded from being licensed as HC/PHV drivers.

The criteria are:

- To have been taking insulin for at least 4 weeks
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person whilst driving in the last 12 months;
- To attend an examination by a hospital consultant specialising in the treatment of diabetes at intervals of not more than 12 months and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia;
- To provide evidence of at least twice daily blood glucose monitoring at times when driving either a hackney carriage or PHV vehicle;
- To have no other condition which would render the driver a danger when driving a hackney carriage or PHV; and to sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to the Licensing Authority any significant change in condition.

Appendix 4 - Drivers voluntary dress code.

In order to raise and maintain the profile of the licensed trade Sevenoaks District Council is committed to encouraging the professional image of the trade and it considers that drivers should conform to a minimum standard of dress, as set out below. Whilst the Authority does not wish to impose such standards by way of conditions to any licence it expects, however, that such standards will be maintained at all times.

Acceptable Standards of Dress

- Shirts, blouses, T-shirts or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- Shirts or blouses may be worn with a tie or open necked.
- Shorts of knee length or trousers / jeans may be worn.
- Footwear for all drivers shall fit around the heel of the foot.

Unacceptable Standard of Dress

The following are deemed unacceptable:

- Clothing not kept in a clean condition, must be free from holes, rips or odours.
- Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- Sportswear (e.g. football/rugby kits, track suits) or beach wear etc.)
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- Drivers not having either the top or bottom half of their bodies suitably clothed (see above).

Appendix 5 - Specifications relating to Hackney Carriage Vehicles

No vehicle shall be licensed as a hackney carriage unless it is fit for public service and complies with the specifications set out below.

Licences: All Vehicle Licences shall be valid for a standard term of one year (unless for administrative reasons a shorter period is appropriate).

Age

Subject to the exceptions below;

- The Authority will not license a vehicle, for the first time, if it is more than 6 years old and/or has travelled greater than 100,000 miles.
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles).

Exceptions

Subject to a vehicle being considered mechanically fit for a further year of service the following types of vehicle are exempt:

- Purpose built taxis
- Wheelchair accessible vehicles (these vehicles will be licensed until they are 15 years old but not older than 15 years old)
- Limousines, which must have a minimum engine capacity over 3,000 cc/Specialist Vehicles

Type Limitations

The Authority will not license a vehicle unless it meets the following criteria:-

- a) The vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included; or a vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior). Any vehicle's suitability for licensing will also be determined by the positioning of its seating, fittings and fixtures for the ingress and egress of passengers and their safety.
- b) The vehicle is right-hand drive unless the vehicle is one known as a 'stretched limousine' licensed for private hire use and paragraphs (a), (c) and (d) of this part of the policy will be construed accordingly.

Agenda Item 7c

- c) The vehicle must have E.U Type Approval
- d) if (c) cannot be satisfied then a Department of Transport Certificate of Single Vehicle Approval must be produced.

The Authority will allow advertisements to be placed upon a vehicle subject to the following conditions:

- For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.
- Subject to the above, a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.
- In the case of Private Hire Vehicles advertising is subject to the specific exclusion of the words "taxi", "cab" or "hire" the use of which is not permitted.
- Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances, be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and, if approved, the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.

Licence Plate Content

The external and internal licence plate issued by the Authority will include the following information;

- Licence No.
- Registration No.
- Vehicle make/Type.

- Licence expiry date.
- No. of passengers.

Minimum Number of Passengers to be carried

No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

Vehicle Test Standards

The Authority will not license a vehicle unless the person examining it (for the Authority) has confirmed that it meets the standards specified in Appendix 1 and, at the same time, the vehicle has been certified roadworthy to MOT standard.

Vehicles of a class that are not subject to 'EU Type approval' and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the passenger. Costs of such testing must be paid by the person wishing to licence the vehicle. In addition, the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to above.

Vehicles Powered by Liquid Petroleum Gas (LPG)

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

TINTED WINDOWS (Without prejudice to the Road Vehicles (Construction & Use) Regulations 1986)

Agenda Item 7c

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.

Matters relating to Hackney Carriage vehicles only

Accessibility

This section of the policy also takes into account the 2007 report published by the European Conference of Ministers of Transport and the International Road Transport Union which recognised that it is impossible to provide for 100% of wheelchair users without reducing the operational viability of the vehicle for the taxi operator and other passengers. There will be a small proportion of people who, because of the size of their wheelchair or the nature of their disability, are unable to access taxis or indeed other forms of mainstream public transport. They will continue to need specialist door-to-door services.

Sevenoaks District Council is committed to promoting inclusive and accessible environments and ensuring a wide range of opportunities are available to residents with disabilities to enjoy a high quality of life. Without the ability to travel, people with disabilities are denied access to life opportunities. Their access to education, shopping, employment, healthcare as well as social and family life is significantly improved when journeys become accessible. For this reason, Sevenoaks District Council considers it important that people with disabilities have access to all forms of public transportation. Accessibility is an important consideration in respect of vehicles licensed as hackney carriages. This Authority will therefore keep this section of the policy constantly under review.

Sevenoaks District Council is aware of the Government's proposals to implement the provisions of the Equality Act 2010 in relation to hackney carriages. The Government announced its proposals for taxis in 2003 and since that time has been consulting and gathering further information.

The Government is now considering how best to bring forward requirements for accessible taxis, and this includes evaluation of all options, both regulatory and non-regulatory approaches are being considered.

The ECMT-IRU recommendations for taxi vehicle accessibility are based on two design levels:

- Type One: Wheelchair Accessible Taxis: accessible vehicles capable of carrying the majority, but not all, passengers who travel in their wheelchair as well as people with other disabilities;
- Type Two: Standard Accessible Taxis: vehicles with features designed to make use by disabled people easier, but which would only be able to carry a wheelchair user who can transfer to a taxi seat.

Restriction on Numbers of Licensed Vehicles

Although at the moment there is no restriction on how many hackney carriage vehicles can be licensed, Sevenoaks District Council will seek to address this matter when the need arises and may carry out a demand survey to seek clarification whether there is unmet demand for Hackney carriage vehicles within the whole district.

Re-allocation of Expired Hackney Carriage Vehicle Plates

If, when a hackney carriage licence expires, the vehicle is not re-licensed within twenty-eight days and the owner does not take steps to inform the Council of his/her intentions, then the plate will be re-allocated. A letter will be sent to the owner of the vehicle advising them that the licence has expired.

Taximeters

The Authority requires every vehicle licensed as a Hackney Carriage to be fitted with a taximeter. The taximeter shall be of a type which is EU approved or specifically authorised by the Council.

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

Appendix 5A - Hackney carriage vehicle conditions

Meanings

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“proprietor” means a person who is the holder of a licence issued by the Council under section 37 of the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976

“vehicle” means the vehicle that is specified on that licence.

Fixing of vehicle plates

The proprietor must ensure that the identification plate and fare chart, which have been supplied by the Council, are fixed and maintained in the positions specified and are kept in a clean and legible condition.

External Plate

Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.

Internal Plate

Inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

Fare Chart

In a conspicuous position inside the passenger compartment of the vehicle so that it can be read by passengers.

Roof signs

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. The proprietor must fix a sign on the roof of the vehicle of a design acceptable to the Council. The sign must have the word TAXI printed on it. It may also have printed upon it the words FOR HIRE and the name and/or telephone number of the proprietor's taxi firm. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

Advertising and other signs

The proprietor must not permit any advertising on or in the vehicle which is not advertising their taxi firm unless authorised to do so by the Council in writing.

The proprietor must not permit any sign or mark other than those required or allowed in paragraphs 1 and 2 except with the express consent of the Council.

Advertisement of the proprietor's taxi firm must be in accordance with the following criteria:

- For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.
- Subject to (1) and (2) the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail address or Web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

No smoking

In accordance with legislative requirements a 'No Smoking' sign(s) will be exhibited within the vehicle and such sign(s) will be of the approved type.

Spoilage of the interior of the vehicle by passengers

Where a passenger has spoiled the interior of the vehicle any dispute in this respect including any claim for damages shall be a matter between the proprietor and the passenger.

The above wording shall be reproduced in plainly visible lettering on the fare chart.

Wheelchair signs

Subject to the provisions of paragraph 2 above the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

Carriage of animals other than guide/hearing/assistance dogs

Agenda Item 7c

The proprietor has discretion as to whether the vehicle is used to convey an animal other than a guide or hearing dog within the meaning of Section 173 of the Equality Act 2010. When a guide/hearing/assistance dog etc. is conveyed, no extra charge shall be made. Conveyance of a guide or hearing dog etc. may only be declined if the driver of the vehicle has been granted a statutory exemption on medical grounds.

Production of certain documents

The proprietor must at any time by demand of an officer of the Council produce for inspection any or all of the following documents;

- A current, valid, certificate of motor insurance, or cover note valid for at least 28 days for the vehicle that provides insurance cover for it as a Hackney Carriage;
- A current, valid, MOT test certificate for the vehicle as required by S47 of the Road Traffic Act 1988;
- The current proprietor's Hackney Carriage Vehicle licence for the vehicle; and
- The vehicle's V5 Registration Document.

Motor insurance certificate

The proprietor must at all times ensure that the vehicle is properly insured for use as a Hackney Carriage and a copy of the insurance certificate should be available inside the vehicle whilst it is licensed as a Hackney Carriage.

Damage to the vehicle

The proprietor must, in the event of any damage to the vehicle materially affecting its safety, performance, appearance or comfort or convenience of passengers, report the occurrence to the Council with 72 hours in accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976 and the vehicle must not be used for hire again without the approval of the Council.

Taximeter

The proprietor must ensure that the vehicle is fitted with an EU or Council approved taximeter and the taximeter:

- Is calibrated at all times with a tariff not higher than the current Hackney Carriage Fare Tariff approved by the Council.
- Is not tampered with in any way so as to effect the production of a fare that exceeds the maximum fare laid down by the current Hackney Carriage Fare Tariff approved by the Council.

- When its machinery is in action, records on its face, in figures clearly legible and free from ambiguity, the fare which the driver is entitled to demand and take for the hiring of the carriage.
- Has the word ' fare' printed on its face in plain letters so that the word clearly applies to the fare recorded thereon.
- Is positioned so that all letters and figures on its face are plainly visible to any passengers and for that purpose the letters and figures are suitably illuminated during any period of hiring.

Maximum fare

When the vehicle is hired the proprietor must not in any circumstances require or cause to be charged a fare which is greater than that authorised by the Council's current Hackney Carriage Fare Tariff.

Drivers

The proprietor must ensure that each person who drives the vehicle;

- holds a current and valid Hackney Carriage Drivers Licence issued by the Council.
- is acquainted with and understands their licence conditions and related statutory provisions.
- observes Council Byelaws and related statutory provisions.

Breakdowns etc.

If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination, the proprietor must; secure, without delay, suitable alternative transport to carry the hirer to their destination, (unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey) and report the occurrence to the Council within 24 hours.

Lost property

In relation to property which has been left, or may have been left, in the vehicle by passengers the proprietor must;

- search the vehicle daily to establish whether or not there is any such property;
- if any such property is found, notify the Council within 72 hours and provide a description of the property;
- take reasonable steps to secure the return of the property to its owner.

Presentation of the vehicle for inspection

Agenda Item 7c

The proprietor must present the vehicle for inspection at any time and at any place required by the Council. If the vehicle is not presented at the place and time required by the Council then it may not be used as a Hackney Carriage without the Council's approval.

Disclosure of convictions/cautions

The proprietor must notify the Council in writing of any convictions or cautions imposed on him/her whilst the licence is in force. Such notification must occur within 21 days of the imposition of a conviction/caution.

Transfer of hackney carriage interest in the vehicle.

If the proprietor, or part proprietor, transfers their Hackney Carriage interest in the vehicle to another person or persons the proprietor, or part proprietor, must notify the Council within 14 days of the date of the transfer and specify the name and address of each person to whom the interest has been transferred. (The Council may, with reasonable cause, revoke, suspend or review the licence if it considers any transferee is not a suitable person to hold a Hackney Carriage Vehicle Licence).

A fee and change of ownership form must also be submitted to the Council with a valid insurance document, V5 registration document and a current MOT test certificate whenever a vehicle is sold to another licensed driver.

Complaints by hirers

The proprietor of the vehicle must ensure that, should any complaint be made regarding the vehicle or its driver, then sufficient information must be given to the complainant for that person to be able to identify the driver and/or the vehicle and the means of pursuing such complaint with the Council if necessary by giving the details of the Officer Licensing 'Taxis' their office address, name and telephone number.

Use of trailers

The vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall;

- comply with the towing weights specified by the vehicles' manufacturer;
- provide secure and weatherproof stowage for the luggage; and
- have displayed, upon its rear, the vehicle's licence plate.

The vehicle is not permitted to have a trailer in tow whilst it is standing on a taxi rank.

Other matters

The proprietor must ensure that;

- the vehicle is provided with sufficient means by which passengers may communicate with the driver and such means of communication are maintained.
- the vehicle is maintained in a clean, comfortable, safe, watertight, mechanically sound and roadworthy condition.
- at all times windows that are designed to open shall do so in accordance with manufacturer's specifications.
- at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

Tinted windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.

Appendix 5B - Specifications relating to Private Hire Vehicles

Licences

All Vehicle Licences shall be valid for a standard term of one year (unless for administrative reasons a shorter period is appropriate).

Age

Subject to the exceptions below;

- The Authority will not license a vehicle, for the first time, if it is more than 6 years old and/or has travelled greater than 100,000 miles.
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles).

Exceptions

Subject to a vehicle being considered mechanically fit for a further year of service the following types of vehicle are exempt:

- Purpose built taxis
- Wheelchair accessible vehicles (these vehicles will be licensed until they are 15 years old but not older than 15 years old)
- Limousines, which must have a minimum engine capacity over 3,000 cc/Specialist Vehicles.

Type Limitations

The Authority will not license a vehicle unless it meets the following criteria:-

- a) The vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included; or a vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior). Any vehicle's suitability for licensing will also be determined by the positioning of its seating, fittings and fixtures for the ingress and egress of passengers and their safety.
- b) The vehicle is right-hand drive unless the vehicle is one known as a 'stretched limousine' licensed for private hire use and paragraphs (a), (c) and (d) of this part of the policy will be construed accordingly.

- c) The vehicle must have E.U Type Approval
- d) If (c) cannot be satisfied then a Department of Transport Certificate of Single Vehicle Approval must be produced.

Environmental Considerations

The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.

It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the District by, in particular, reducing the levels of CO₂ emitted from petrol vehicles and the equivalent from diesel. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent on supplies of such fuel being made readily available. It may also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.

Clearly, emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion.

In view of the above detail, unless more urgent measures are introduced by central government in the meantime, this Council will monitor any research published and Government guidelines with a view to specifying vehicle emissions standards and promoting cleaner vehicles.

Advertising

The Authority will allow advertisements to be placed upon a vehicle subject to the following conditions:

- a) For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- b) For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of

Agenda Item 7c

such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.

- c) Subject to the above, a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail address or Web site, but lettering height must be a minimum of 75mm and maximum of 150mm.
- d) No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.
- e) In the case of Private Hire Vehicles advertising is subject to the specific exclusion of the words "taxi", "cab" or "hire" the use of which is not permitted.
- f) Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances, be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and, if approved, the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.

Licence Plate Content

The external and internal licence plate issued by the Authority will include the following information;

- Licence No.
- Registration No.
- Vehicle make/Type.
- Licence expiry date.
- No. of passengers.

Minimum Number of Passengers to be carried

No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

Vehicle Test Standards

The Authority will not license a vehicle unless the person examining it (for the Authority) has confirmed that it meets the standards specified in Appendix 1 and, at the same time, the vehicle has been certified roadworthy to MOT standard.

Vehicles of a class that are not subject to 'EU Type approval' and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the passenger. Costs of such testing must be paid by the person wishing to licence the vehicle. In addition, the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to in (a) above.

Vehicles Powered by Liquid Petroleum Gas (LPG)

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

Tinted windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

Appendix 5C: Private Hire Vehicle Conditions

MEANINGS

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“proprietor” means a person who is the holder of a licence issued by the Council under section 48 of the Local Government (Miscellaneous Provisions) Act 1976

“vehicle “ means the vehicle that is specified on that licence

Fixing of licence plates etc.

The proprietor must ensure that the following plates etc. have been supplied by the Council and is responsible for their fixing and maintenance in the positions specified and keeping them in a clean and legible condition.

External Plate

Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.

Internal Plate

Inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

Fare Chart

In a conspicuous position inside the passenger compartment of the vehicle so that it can be read by passengers.

Advertising and other signs

- a) the proprietor must not permit any advertising on or in the vehicle which is not advertising his/her taxi firm;
- b) the proprietor must not permit any sign or mark other than those required or allowed in paragraph 1 except with the express consent of the Council;
- c) advertisement of the proprietors taxi firm must be in accordance with the following criteria
 - For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it

must be contained within the area between the centres of the wheels (wheel base).

- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of front the wheels and the rear light cluster.
- Subject to (i) and (ii) the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

No smoking

'No Smoking' signs will be fixed inside the vehicle in accordance with current legislative requirements.

Spoilage of the interior of the vehicle by passengers

- a) Where a passenger has spoiled the interior of the vehicle any dispute in this respect including any claim for damages shall be a matter between the proprietor and the passenger.
- b) The wording in (a) above shall be reproduced in plainly visible lettering within the vehicle (on or next to the fare chart if fitted).

Wheelchair signs

Subject to the provisions of paragraph 2 the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

Carriage of animals

The proprietor has discretion as to whether the vehicle is used to convey an animal **but has a legal duty under the Equalities Act 2010 to carry, free of charge, any assistance dog, as failure to do so is a criminal offence.**

Any complaints for non-compliance of the above, shall be investigated in a timely manner with a view to pursuing a conviction. Conveyance of a guide/hearing or assistance dog etc. may only be declined if the driver of the vehicle has been granted a statutory exemption **by the Licensing Authority.**

Agenda Item 7c

A medical exemption will only be attainable on medical grounds. The licensee or applicant will need to provide medical evidence that the carriage of such animals would have a detrimental impact on their own health.

Production of certain documents

The proprietor must at any time by demand of an officer of the Council produce for inspection any or all of the following documents;

- a) a current, valid, certificate of motor insurance or cover note valid for at least 28 days for the vehicle that provides insurance cover for it as a Private Hire Vehicle;
- b) a current, valid, MOT test certificate for the vehicle as required by S47 of the Road Traffic Act 1988;
- c) the current proprietor's Private Hire Vehicle licence for the vehicle; and
- d) the vehicle's V5 Registration Document.

Insurance certificate

The proprietor must at all times ensure that the vehicle is properly insured for use as a Private Hire Vehicle and a copy of the insurance certificate should be available inside the vehicle whilst it is licensed as a Private Hire Vehicle.

Damage to vehicle

The proprietor must, in the event of any damage to the vehicle materially affecting its safety, performance, appearance or comfort or convenience of passengers, report the occurrence to the Council with 72 hours in accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976 and the vehicle must not be used for hire again without the approval of the Council.

Taximeter

If a taximeter is fitted to the vehicle;

The proprietor must ensure that the taximeter is EU type approved or specifically authorised by the Council and the taximeter;

- is calibrated at all times to include the current fare tariff of the Operator;
- is not tampered with in any way so as to effect the production of a fare that exceeds the maximum fare laid down by the current fare tariff of the Operator;
- when its machinery is in action, records on its face, in figures clearly legible and free from ambiguity, the fare which the driver is entitled to demand and take for the hiring of the carriage;

- has the word 'fare' printed on its face in plain letters so that the word clearly applies to the fare recorded thereon;
- is positioned so that all letters and figures on its face are plainly visible to any passengers and for that purpose the letters and figures are suitably illuminated during any period of hiring.

Drivers

The proprietor must ensure that each person who drives the vehicle;

- a) holds a current and valid Private Hire Driver's Licence issued by the Council;
- b) is acquainted with and understands their licence conditions and related statutory provisions;
- c) observes their licence conditions and related statutory provisions.

Breakdowns etc.

If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;

- secure, without delay, suitable alternative transport to carry the hirer to their destination unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey.
- report the occurrence to the Council within 24 hours.

Lost property

In relation to property which has been left, or may have been left, in the vehicle by passengers the proprietor must;

- search the vehicle daily to establish whether or not there is any such property.
- if any such property is found, notify the Council within 72 hours and provide a description of the property.
- take reasonable steps to secure the return of the property to its owner.

Presentation of vehicle for inspection

The proprietor must present the vehicle for inspection at any time and at any place required by the Council. If the vehicle is not presented at the place and time required by the Council then it may not be used as a Private Hire Vehicle without the Council's approval.

Disclosure of convictions or cautions

Agenda Item 7c

The proprietor must notify the Council in writing of any convictions or cautions imposed on them whilst the licence is in force. Such notification must occur within 21 days of the imposition of a conviction/caution.

Transfer of private hire interest in the vehicle

If the proprietor, or part proprietor, transfers his/her Private Hire interest in the vehicle to another person or persons the proprietor, or part proprietor, must notify the Council within 14 days of the date of the transfer and specify the name and address of each person to whom the interest has been transferred. (The Council may, with reasonable cause, revoke, suspend or review the licence if it considers any transferee is not a suitable person to hold a Private Hire Vehicle Licence).

Complaints by hirers

The proprietor of the vehicle must ensure that, should any complaint be made regarding the vehicle or its driver, then sufficient information must be given to the complainant for that person to be able to identify the driver and/or the vehicle and the means of pursuing such complaint with the Council, if necessary, by giving also the details of the Officer licensing private hire vehicles, their office address, name and telephone number.

Use of trailers

The vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall;

- comply with the towing weights specified by the vehicle's manufacturer;
- provide secure and weatherproof stowage for the luggage; and
- have displayed, upon its rear, the vehicle's licence plate.

Other matters

The proprietor must ensure that;

- the vehicle is provided with sufficient means by which passengers may communicate with the driver and such means of communication are maintained;
- the vehicle is maintained in a clean, comfortable, safe, watertight, mechanically sound and roadworthy condition;
- at all times windows that are designed to open shall do so in accordance with manufacturers specifications;
- at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

Tinted windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

Appendix 6

Private Hire Driver Conditions

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“driver of a private hire vehicle “ means a person who has been granted a licence by the Council under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

A driver of a private hire vehicle shall: -

- not wilfully or negligently cause or suffer the licence plate of the vehicle to be concealed from public view while the vehicle is licensed; and
- not cause or permit the vehicle to be used, whilst licensed, with any such plate so defaced that any figure or material particular is illegible.

The driver of a private hire vehicle provided with a taximeter shall: -

- when not hired, keep the machinery of the taximeter inactive so that no fare is recorded on the face of the taximeter;
- before beginning a journey for which a fare is charged bring the machinery of the taximeter into action and keep the machinery of the taximeter in action until the termination of the hiring; and
- cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.

A driver of a private hire vehicle shall not tamper with or permit any person to tamper with any taximeter with which the vehicle is provided, with the fittings thereof, or with the seals affixed thereto.

Where a vehicle is equipped with a taximeter and where such taximeter is to be used to record the fare for a hiring, the driver shall -

- ensure, during the continuance of such hiring, that the dial of the taximeter is not concealed in any manner or by any means and that such dial is distinctly and plainly visible and legible to any person hiring or being conveyed in the vehicle;
- cause the dial of the taximeter to be kept properly illuminated throughout the hiring;

- report immediately to the Council and to the Operator any failure of the taximeter;
- not wilfully or negligently cause or suffer the table of the Operator's fares to be inverted or detached or altered or the letters or figures on such table to be in any manner or by any means concealed at any time.

The driver of a private hire vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

A driver of a private hire vehicle who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

A driver of a private hire vehicle shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of persons specified on the licence plate affixed to the vehicle.

If a badge has been provided by the Council and delivered to the driver of a private hire vehicle he shall, when working as such and when hired, wear that badge in such position and manner as to be plainly visible.

The driver of a private hire vehicle so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the vehicle: -

- convey a reasonable quantity of luggage;
- afford reasonable assistance in loading and unloading; and
- afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

The driver of a private hire vehicle shall be entitled to demand and take for the hire of the vehicle only;

- such fare as may be shown on the face of any taximeter provided in the vehicle (where the fare for the hiring is charged by reference to the Operator's table of fares) save for any extra charges authorised by the Operator which it may not be possible to record on the face of the taximeter; or
- such other fare as may have been agreed with the hirer prior to the commencement of the hiring

Agenda Item 7c

The driver of a private hire vehicle bearing a table of the Operator's fares shall not wilfully or negligently cause or suffer the letters or figures in that table to be concealed or rendered illegible at any time while the vehicle is licensed.

The driver of a private hire vehicle shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.

The driver of a private hire vehicle shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him: -

- carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
- be entitled to receive from any person to whom the property shall be re-delivered an amount equal to ten pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than twenty five pounds.

Private Hire Driver must comply at all times with the current legislation relating to no smoking in the vehicle whether it is used for the conveyance of the public or not.

Informative

If you accept bookings for the private hire vehicle, which you are driving, direct from a hirer you must ensure that you have a Private Hire Operator's Licence, as it is unlawful for you to accept bookings without such licence.

Appendix 7

Private Hire operator Conditions

In these conditions, unless otherwise indicated

"the Council" means the "Sevenoaks District Council",

"the Operator" means the holder of a licence and

"Licence" means a licence granted by the Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976 to operate private hire vehicles.

Record keeping

The operator shall keep (in a non-erasable form) comprehensive records as follows;

A. Drivers

The Operator must keep up to date records of the names and addresses of all licensed drivers who are used and shall notify the Council;

- when any new driver begins service,
- when any driver's service ceases; and
- of any change of address of any driver in service,
- if they become aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to safely carry out their duties.

B. Vehicles

- of all vehicles operated and the dates and times during which they are operated;
- the maintenance history of each vehicle, including details of all repairs carried out;

C. Bookings

All bookings made for private hire vehicles shall be recorded the same calendar day and kept for 6 months. The record of each booking must include;

- the source from which the booking came and the time it was received
- pick-up point and the time the journey commenced;
- destination point and the time the journey ended;

Agenda Item 7c

- the vehicle used;
- the driver employed;
- by whom the entry was made in the record
- the fare quoted (if quoted) at the time of booking
- the fare actually charged
- the reason(s) why the fare actually charged was different if it was different
- any other relevant information.

Disclosure of convictions

The operator shall immediately disclose to the Council in writing details of any convictions imposed on them during the currency of this licence.

Taximeters

Where a taximeter is used to record the fare for hiring, the Operator shall ensure that a table showing his/her current fare scale is displayed inside the vehicle in a position so that it is plainly and easily visible to any person being conveyed in the vehicle and that the table is kept in clean and legible condition.

Advertisement of business

The operator must not use in any advertisement of his/her business the words “Hackney Carriage”, “Taxi” or “Cab” if licensed Hackney Carriages cannot be supplied.

Surrender of licence

If at any time during the period of the licence the operator for any reason does not wish to retain the licence (which is not transferable) or if at any time during the period of the licence it is suspended or revoked he must immediately surrender and return the licence to the Council.

Notification of accidents

If any vehicle (licensed by the Council) which is used by the Operator is involved in an accident the Operator must notify the Council within 72 hours.

Running of a business

The Operator shall;

- provide a prompt, reliable and efficient service to the public at all reasonable times and in particular ensure that the premises to which the public have access for the purpose of making bookings or waiting for cars etc. are kept clean and provided with adequate seating facilities;

- ensure that the use of the premises which is used for the running of his/her business has no detrimental effect on the neighbourhood.
- notify the Council within 21 days of any change of business address or change of company or trading name.

Public liability insurance

If the Operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

Driver – Medical fitness

The Operator must not knowingly permit a driver to drive a licensed vehicle if they are aware that the person is suffering from any illness, disability or condition which may affect their ability to safely carry out their duties.

Vehicle with tinted windows

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

Informative

The Operator shall be aware that a booking accepted by telephone, or otherwise verbally, is a lawful agreement and he/she may be liable for breach of contract if a booking is not honoured. The accurate recording of booking details is a means of protecting yourself if such circumstances arise.

Appendix 8

Hackney Carriage Byelaws

Made under section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the District Council of Sevenoaks with respect to hackney carriages in the District of Sevenoaks.

INTERPRETATION

1. Throughout these byelaws “the Council” means the District Council of Sevenoaks and “the district” means the District of Sevenoaks.

PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE, CORRESPONDING WITH THE NUMBER OF ITS LICENCE, SHALL BE DISPLAYED.

2. The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

A proprietor or driver of a hackney carriage shall: -

- not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
- not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

PROVISIONS REGULATING HOW HACKNEY CARRIAGES ARE TO BE FURNISHED OR PROVIDED.

3. The proprietor of a hackney carriage shall: -

- provide sufficient means by which any person in the carriage may communicate with the driver;
- cause the roof or covering to be kept water-tight;
- provide any necessary windows and means of opening and closing not less than one window on each side;
- cause the seats to be properly cushioned or covered;
- cause the floor to be provided with a proper carpet, mat or other suitable covering;
- cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;

- provide means for securing luggage if the hackney carriage is so constructed as to carry luggage;
 - provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say: -
- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word “HIRED” to appear on the face of the taximeter;
 - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the tariff fixed by the Council;
 - (d) the word “FARE” shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

PROVISIONS REGULATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR SEVERAL EMPLOYMENTS, AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES.

5. The driver of a hackney carriage provided with a taximeter shall: -
- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

Agenda Item 7c

- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise, and also at any other time at the request of the hirer.
6. A proprietor or driver of a carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
 7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired: -
 - (a) proceed with reasonable speed to one of the stands appointed by the Council;
 - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) from time to time, when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
 8. At no time is smoking permitted in any Hackney Carriage or Private Hire Vehicle.
 9. A proprietor or driver of a hackney carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
 10. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 11. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage: -
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

PROVISIONS FIXING THE RATES OR FARES TO BE PAID FOR HACKNEY CARRIAGES WITHIN THE DISTRICT, AND SECURING THE DUE PUBLICATION OF SUCH FARES.

15. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Provided always that, where a hackney carriage furnished with a taximeter shall be hired by distance and time, the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

16.(a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

PROVISIONS SECURING THE SAFE CUSTODY AND REDELIVERY OF ANY PROPERTY ACCIDENTALLY LEFT IN HACKNEY CARRIAGES, AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF.

Agenda Item 7c

17. The proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.

18. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:

(a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge on his giving a receipt for it; and

(b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to ten pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever is the greater) but not more than twenty five pounds.

PENALTIES

19. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

REPEAL OF BYELAWS

The byelaws relating to hackney carriages referred to in the following schedule are hereby repealed.

Appendix 9**PENALTY POINTS SYSTEM
LIST OF OFFENCES/BREACH OF LICENCE CONDITIONS****Town Police Clauses Act 1847**

Section	Offence	Penalty Points
40	Giving false information on application for HC proprietor's licence.	12
44	Failure to notify change of address of HC proprietor.	2
45	Plying for hire without HC proprietor's licence.	8-12
47	Driving a HC without HC driver's licence.	8-12
47	Lending or parting with HC driver's licence.	4
47	HC proprietor employing unlicensed driver.	12
48	Failure by HC proprietor to hold HC driver's licence for person driving the vehicle.	6
48	Failure by HC proprietor to produce HC driver's licence.	3
52	Failure to display HC plate.	4
53	Refusal to take a fare without reasonable excuse	6-12
54	Charging more than the agreed fare.	6-12
55	Obtaining more than the legal fare. (Failure to refund)	6-12
56	Travelling less than the lawful distance for an agreed fare.	6-12
57	Failure to wait after a deposit to wait has been paid.	6-12
58	Charging more than the legal fare.	12
59	Carrying other person than the hirer without consent of hirer	8
60	Driving HC without proprietor's consent.	6-12
60	Allowing another to drive HC without proprietor's consent.	6-12
62	Driver leaving HC unattended.	2
64	HC driver obstructing other HC's.	3

Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Points
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire drivers" licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	8-12

Agenda Item 7c

Section	Offence	Points
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	8-12
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire operator.	8-12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a HC proprietor's licence.	3
50 (1)	Failure to present a HC for inspection, as required.	6-12
50 (2)	Failure to inform the Authority where the HC is stored.	3
50 (3)	Failure to report an accident to the Authority within 72hours.	6
50 (4)	Failure to produce the HC proprietor's licence and insurance cert	4
53 (3)	Failure to produce HC driver's licence.	3-4
54(2)	Failure to wear a private hire driver's badge	3-4
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a HC driver's licence.	12
58 (2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	6
61 (2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	6
64	Permitting any vehicle other than a HC to wait on a HC stand.	6
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	6-12
67	Charging more than the meter fare when HC used as PH vehicle.	6-12

Section	Offence	Points
69	Unnecessarily prolonging a journey.	6-12
71	Interfering with a taximeter with intent to mislead.	12
73(1)(a)	Obstruction of an authorised Officer or Constable.	12
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	6-12
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	6-12

Equality Act 2010

Section	Offence	Points
165	Failure of a driver of a designated hackney carriage to comply with duties relating to passengers in wheelchairs, or another person who wishes to be accompanied by a disabled person who is in a wheelchair	12
165	Failure of a driver of a designated private hire vehicle to comply with duties relating to passengers in wheelchairs, or another person who wishes to be accompanied by a disabled person who is in a wheelchair	12
168	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	12
168	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	12
170	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	12
170	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	12

Transport Act 1980

Section	Offence	Points
64(2)(a)	Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word	10

Agenda Item 7c

Section	Offence	Points
64(2)(b)	Causes or permits a vehicle to have a sign above its roof which consists of or includes the word "taxi" or "cab" whether alone or part of another word	10

Policy: Private Hire Driver's Licence Conditions

Offence	Points
Not being respectably dressed and clean & tidy in appearance	2
Failure to wear a badge.	4-6
Failure to behave in a civil, polite and orderly manner.	3
Failure to ensure the safety of passengers.	4
Concealing or defacing a licence plate.	4
Failure to attend on time for pre-arranged booking without sufficient cause.	3
Conveying a greater number of passengers than permitted.	6
Failure to give assistance with passenger's luggage.	3
Soliciting for hire or accepting a fare that is not pre-booked.	6 -12
Operating a vehicle that is not clean and tidy	2-6
Driving without the consent of the proprietor.	5- 6
Drinking or eating in the vehicle without permission of passenger.	2-3
Causing excessive noise from any radio or sound-reproducing instrument, which annoys anyone in or outside the vehicle.	2
Operating the horn as a means of signalling that the vehicle has arrived.	3
Allowing the vehicle to stand in such a position as to suggest that it is plying for hire, or using a hackney carriage stand.	6
Using a non-hands free mobile phone whilst driving	8
Failure to provide medical certificate or not notifying a medical condition	6-12
Failure to provide a receipt when requested.	2
Failure to operate the meter from commencement of the journey and charging more than the fixed charge for hire of Hackney Carriages.	4-12
Failing to notify changes within 14 days.	3
Failure to produce a copy of the licence.	4

Offence	Points
Failure to notify within 7 days of starting or terminating employment, the name and address of the proprietor and the date when the employment either started or ended.	3
Failure to show the private hire driver's licence to the proprietor at the beginning of an employment.	2
Failure to surrender a driver's licence, badge or plate on cessation of employment.	6
Failing to notify of change of address of any amendment to the details of a licence within 14 days	3
Failing to disclose convictions within 7 days.	8 -12
Failure to search vehicle daily or failure to take found property to the Council Offices within 72 hours of finding it.	3
Failure to report an accident within 72 hours	3
Carrying an animal other than one with passenger.	2
Carrying an animal not safely restrained.	3
Failure to carry assistance dog without an exemption certificate.	5-6
Failure to comply with wheelchair carriage requirements.	5-6

Policy: Vehicle Specifications & Conditions of Licence

Offence	Points
Operating a vehicle which does not comply with the Councils Vehicle Specification where such offence is not otherwise specified below	2 - 6
Operating a vehicle, which is not maintained in a sound and roadworthy condition.	6
Operating a vehicle, which is not maintained in a clean and safe condition inside and out.	3
Modifying a vehicle without the consent of the Council	4
Failure to display or maintain external licence plates which indicate the maximum number of passengers who may be conveyed.	4
Hackney vehicle signage not in accordance with council requirements.	4
Affixing or displaying on a private hire vehicle any roof sign.	6
Displaying on a private hire vehicle any sign or notice which consists of or includes the word TAXI or CAB or FOR HIRE	4

Agenda Item 7c

Offence	Points
Displaying a sign or advertisement that does not comply with Council requirements or is not authorised by the Council.	3
Taximeter which does not comply with the Council's Vehicle Specification.	5
Trailer which does not comply the Council's Vehicle Specification	3
Operating a vehicle which does not comply with the Council's policy requirements	6
Operating a vehicle, which does not comply the Council's Vehicle Specification in respect of window tint.	4
No insurance or inappropriate insurance for the vehicle.	12
Failing to notify vehicle change or transfer within 14 days.	3
Failing to make the vehicle licence available for inspection.	3
Allowing a vehicle to be used for hire by a person who does not hold a current private hire or hackney driver's licence	8
Failure to properly report an accident to the Authority.	3
Permitting the vehicle to be used for any illegal or immoral purposes.	12

Policy: Breach of Conditions attached to Operator's Licence

Offence	Points
Failure to provide a prompt, efficient and reliable service at all reasonable times.	3
Failure to ensure that office staff employed by operator act in a civil and orderly manner at all times.	3
Failure to ensure that a vehicle attends punctually at the appointed time and place unless prevented by some sufficient cause.	4
Failure to keep the premises clean, adequately heated, ventilated, lit, and in accordance with the requirements of licence conditions.	3
Failure to properly keep or produce records of private hire bookings, vehicles, drivers or other documents required to be kept or produced. (see LGMP s56(2) & (3) above)	6
Failure to act properly upon the receipt of a complaint or to notify immediately the Licensing Officer.	4
Failure to notify the Council of any changes, including change of address from where the business operates within 14 days.	3

Offence	Points
Failure to disclose in writing within 7 days details of any conviction or police caution imposed on him to the licensing section.	12
Failure to ensure that an appropriate certificate of motor insurance covers every vehicle operated by him under the licence.	6
Failure to obtain appropriate public liability insurance for the premises or to produce the same.	4
Failure to ensure that every driver has a private hire licence and badge.	4
Failure to keep a copy of the conditions at the premises or to make the same available for inspection by passengers.	4
Failure to make the Operator's licence available for inspection. (see LGMP s56 (4) above	6

This page is intentionally left blank

Email Response 01

Anton Bishop: Fri 18/10/2019 14:36

We definitely need to be able to buy taxis with factory fitted tinted windows. It's so restrictive otherwise because we have to buy base models of any given vehicle make.

Some vehicles aren't available with clear windows!

Response

None

Action taken

Section on tinted windows has been amended to read "All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations."

Email Response 02

Customer Services The Disclosure and Barring Service CustomerServices@dbb.gov.uk: Fri 08/11/2019 10:10

We do not provide comment on organisations, licensing policies.

Response

None

Action taken

No action taken

Email Response 03

Lucy Gibb: Wed 13/11/2019 13:59

DBS to be quicker please and if possible for you to have a designated contact at DBS whom you can liaise with directly. The whole process of obtaining a PH licence to be much quicker and take no more than 1 month. Sevenoaks District Council licensing department to have 1 designated person within the team to solely deal with taxi operators and all taxi licensing queries like they used to. We would be quite happy to pay a little extra to get a better service from the council.

More available Knowledge Test dates with opportunity for re-test to be within 2 weeks and a reduced cost for re-test of Knowledge Test if taken within 2 weeks as an

Agenda Item 7c

incentive to re-take quickly whilst information retained by recruit. Much improved communication between Sevenoaks District Council and Private Operators.

Response

Many of the suggestions relate to operation as opposed to Policy (operation is determined by the Head of the Licensing Partnership whereas Policy is determined by the Licensing Committee) but I shall nevertheless ensure all your comments are in the January report.

Action taken

Operational points have been taken into consideration.

Telephone Conversation 04

Dunbrik Mon 25/11/2019 13:13

Request made for all Private Hire Vehicles display the SDC Table of Fares. Tinted Windows – they agree with the ‘construction and use’ but asked that we include, “No extra tinted film” and “No vehicle is permitted to have blackout windows other than limousines.” Dunbrik said they would be happy to have it on a case-by-case basis but believes the standard should be declared in Policy, and in their view a window which is 20-25% (with the standard being 30%) would be deemed as blacked out.

Response

The requirement for all PHV to have the Fare Chart could not be enforced as Private Hire Operators can set their own fares.

Action taken

The section which relates to Tinted Windows has been amended to include “No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.”

Email Response 05

Chris Theobald: Mon 09/12/2019 09:22

Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work we campaign to break down physical and legal barriers to enable people

with sight loss to get around on their own terms. There are an estimated 2,740 people living with sight loss in Sevenoaks, and 148 guide dog owners in Kent.

Taxis and private hire vehicles (PHVs) and the door to door service they provide are essential for disabled people. They are particularly important for the independence of blind and partially sighted people, who are unable to drive, and often face barriers when using public transport. However, accessing taxis and PHVs can be a major challenge for assistance dog owners: In April 2019, we surveyed 421 assistance dog owners to ask about their experiences in the preceding 12 months. The survey revealed that unfortunately many assistance dog owners are still experiencing access refusals. 76% said they had experienced a refusal at one point, 42% reported that they had at least one in the last 12 months.

Taxis and Private Hire Vehicles (PHVs) remain the business most likely to turn away an assistance dog. Of assistance dog owners who reported at least one refusal in the last year, 73% reported they had been refused by a taxi or PHV driver during the same time period. Such access refusals can have a significant impact on assistance dog owners' lives, leading to feelings of anger and embarrassment and a loss of confidence and independence.

Key recommendations:

- The policy should clearly state that all drivers are under a duty to carry, free of charge, any assistance dog. We advise highlighting within the policy that this is a legal requirement under the Equality Act 2010 and failure to do so is a criminal offence.
- All drivers should be required to undertake disability equality training, as recommended by the Government.
- The policy should specify that a medical exemption certificate for carrying assistance dogs will only be issued when authorised by a medical practitioner and accompanied by medical evidence, such as a blood test, a skin prick test or clinical history.
- The medical exemption certificates should be accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E' and a braille marker to accommodate both braille readers and non-braille readers.
- The policy should state that Sevenoaks District Council will use its best endeavours to investigate all reported violations of the Act in a timely manner with a view to pursuing a conviction.
- The policy should state that all refusals of assistance dogs by taxi or PHV drivers should result in the maximum 12 points on the licence.

Agenda Item 7c

- The policy should state that Sevenoaks District Council will work together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases to ensure that licensing requirements are being complied with.

Highlighting obligations under Equality Act 2010 in respect of Assistance Dogs

We advise that the policy should specify that all drivers are under a legal duty under the Equality Act 2010 to carry, free of charge, any assistance dog and failure to do so is a criminal offence.

The consequences of delayed travel combined with the emotional impact of facing discrimination and confrontation when trying to carry out everyday activities take a significant toll on assistance dog owners.

Apart from feelings of anger and embarrassment, refusals can undermine the independence that assistance dogs bring to their owners.

Assistance dog owners also reported that the stress of refusals has had a detrimental impact on their mental health and on whether they feel able to leave the house. This also has a negative impact on their ability to access work and other opportunities. As guide dog owners report:

- “Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must.” Guide dog owner, Stevenage
- “I was left on my own at the side of the road in the dark. I am deaf and unable to phone for help and it made me feel very vulnerable. It makes me feel afraid to go out.” Assistance dog owner
- “I was very upset, it was dark, raining and 10pm at night. I was scared. I avoid evening invites, as I worry about getting home. I lose out on the chance of socialising with friends, which is bad, as I have no family.” Guide dog owner, Rochester
- “I used to have a very tough two-hour commute to work. The taxi part of the journey was the shortest bit travel wise, but it always ended up being the bit that held me up the most because I was having to spend time facing drivers who wouldn't take me with my dog. ... It's good that my contract was flexi hours otherwise I'm sure I would have been sacked for being late all the time - it happened so often.” Guide dog owner, Daventry

It therefore is essential that the policy states this legal obligation. We welcome the statement in the policy that drivers only have discretion over whether to convey animals they are not either a guide or hearing dog. However, we recommend strengthening this section by clearly stating that all drivers are under a legal duty under the Equality Act 2010 to carry, free of charge, any assistance dog, and that failure to do so is a criminal offence.

Disability equality training

As stated above, drivers who refuse to carry an assistance dog are committing a criminal offence under the Equality Act 2010. A Guide Dogs survey found that many taxi drivers are unaware of their legal obligations and the impact refusals have on assistance dog owners. The best way to address this is through disability equality training for all taxi and PHV drivers.

Therefore, to help reduce the number of access refusals, it is important that drivers know their legal obligations and how to best offer assistance to their customers with vision impairments, including those travelling with a guide dog.

Disappointingly, the current policy only requires a knowledge test and a practical “wheelchair test” and makes no reference to requiring disability equality training. This is disappointing, as under s.2.2 of the policy, it states that the DfT’s 2010 Best Practice Guidance has been taken into consideration and this Guidance states that “licensing authorities should also encourage their drivers to undertake disability awareness training”. We recommend that this training, as well as highlighting a driver’s legal obligations and disabled people’s rights, should focus on the concept of people being disabled by society’s barriers and attitudes. It should highlight the role an organisation and individuals play in the removal of those barriers, while also including awareness elements such as customer care, etiquette and appropriate communication.

Disability equality training for all taxi and PHV drivers has also been recommended by the Transport Select Committee,¹ the Law Commission² and the House of Lords Disability and the Equality Act 2010 Committee³. In response to concerns into taxi licensing, the government also formed a Working Group, which in 2019 as part of its recommendations concluded that all taxi and PHV drivers should undertake disability equality training as a condition of their license. Further, the Department for Transport has recently committed to include disability equality training in the national minimum standards which they will be legislate to introduce “when time allows”. They also have stated that they ‘would urge the remainder [of local licensing authorities] to take action now, using their existing licensing powers, to ensure that every driver receives it’.⁴ In addition, the DfT currently monitors which licensing authorities require disability equality training as part of their taxi and minicab statistics.

Agenda Item 7c

Many of the positive experiences disabled people report when using taxis and PHVs come about following disability equality training. Councils that have introduced disability equality training report very positive results with fewer refusals and drivers feeling more confident in assisting passengers with disabilities.

Medical exemption certificates

The proposed policy does not contain information on the process of obtaining a medical exemption certificate, which is the only circumstance when a driver is legally exempt from their obligation to carry assistance dogs. The only reference in the policy is to a “statutory exemption”

1 Transport Select Committee, Access to Transport for Disabled People, 2013.

2 Law Commission, Taxi and Private Hire Services, Law Com No 347, May 2014, 4.102.

3 House of Lords, Select Committee on the Equality Act 2010 and Disability, The Equality Act 2010:

the impact on disabled people, para. 480.

4 House of Commons, Taxis: Equality, 28 March 2018, c134057 WS.

We recommend that the policy states that being issued with a medical exemption certificate by Sevenoaks District Council is the only circumstance when an assistance dog may be declined. We recommend that the policy specifies that in order to apply for a medical exemption certificate for carrying assistance dogs, this must be authorised by a medical practitioner and accompanied by medical evidence which demonstrates the driver’s genuine medical condition that is aggravated by exposure to dogs, such as a blood test, a skin prick test or clinical history.

Further, it is often difficult for vision-impaired passengers to identify the validity of exemption certificates. Currently, it is not permissible for licensing authorities to issue exemption certificates which incorporate tactile features, as this would alter the certificate’s prescribed form and render it invalid. We therefore recommend that Sevenoaks District Council issues exemption certificates that are accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised ‘E’ and a braille marker to accommodate both braille readers and non-braille readers. Guide Dogs would be happy to supply Sevenoaks District Council with tactile exemption cards.

Enforcement

While our survey shows that many assistance dog owners have been refused access over a one-year period, many of these incidents are not reported. Indeed, research in 2019 found that only 8% of owners who had been refused access had taken legal action which resulted in prosecution. In part, the underreporting is due to challenges of reporting, especially for people with sight loss. However, it is also due to disappointment at the lack of action taken following an access refusal and the low fines issued.

Considering the significant impact an access refusal can have on assistance dog owners and their communities, it is important that assistance dog owners know that all cases of access refusals are viewed very seriously and are investigated.

As mentioned, it is a criminal offence for any operator or driver to refuse to carry assistance dogs. On conviction for such an offence, drivers can be fined up to £1,000. As failure to carry an assistance dog is a criminal offence, we recommend a zero-tolerance approach to enforcement of the Equality Act. We therefore recommend that it is clearly stated that failure to carry an assistance dog without the requisite medical exemption certificate will result in immediate suspension or revocation of a driver's license. We therefore welcome the inclusion that refusing to carry an assistance dog results in 12 points under the Equality Act 2010 penalties. However, we recommend that the penalty points for "Failure to carry assistance dog without an exemption certificate" under private hire driver's licence conditions is also 12 – rather than the current 5-6 points currently specified.

Further, the current conditions do not contain any reference to prosecution of drivers who refuse a passenger. We also recommend a zero-tolerance approach to enforcement of the Equality Act in seeking prosecutions and therefore recommend stating that Sevenoaks District Council will use its best endeavours to investigate all reported violations of the Equality Act in a timely manner, with a view to pursuing a conviction.

We also recommend that Sevenoaks District Council works together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases to ensure that licensing requirements are being complied with.

Response

Agenda Item 7c

None

Action taken

Amendments made to the section 'Carriage of animals' and removed from the title 'other than guide/hearing/assistance dogs' as it reads as though the section is not about assistance dogs, which it is.

All drivers will be taking 'Disability Awareness Training' in the future and members must agree to the method this will be provided.

The Medical exemption certificate is a standard template used across England & Wales and therefore we are unable to change the design.

Email Response 06

Phillip Meyer Sat 14/12/2019 09:44

For goodness sake, why can't we use Uber rather than the terrible services provided by the awful local taxi firms like beeline!

Response

None

Action taken

No action taken

Item 7 (d) - Monitoring Officer's Annual Report.

The attached report was considered by the Standards Committee, and the relevant minute extract is below:

Standards Committee (Minute 4, 14 January 2020)

Members considered the fifteenth annual report of the Monitoring Officer, which set out the work of the Monitoring Officer and Standards Committee. The report also updated Members on the governance arrangements monitored by other committees and as such provided information on the ethical standards set by the Council. It was intended to promote Member and public confidence in the Council's governance framework and standards regime. Within the report was the breakdown of the complaints he had received from January to December 2019. Members were advised that a complaint had come in during the latter part of December and was not included in the figures.

The Monitoring Officer set out the procedure for dealing with complaints and gave examples of complaints that could be received. It was explained that Members on the Committee would only get involved with a complaint if the complaint went to a Hearing. There was no power to suspend a Member who had broken the Code of Conduct, but if a complaint was of a criminal nature this would be referred to the Police and the Monitoring Officer's role would be to facilitate their investigations. Members were advised that there were separate procedures for Officers of the Council as staff also had a code of conduct to comply with. This would be circulated to the Committee.

Action 1: For Monitoring Officer to circulate the Officer's Code of Conduct.

Members discussed the Local Government Ethical Standards review which was included within the agenda. The Committee on Standards in Public Life had reported 26 recommendations, of which 21 were the responsibility of national government. The Local Government Association was noted as responsible for two further recommendations and political groups for one. The remaining recommendation applied to local authorities and Government which was to provide legal indemnity to Independent Persons if their views or advice was disclosed. Members further discussed the recommendation for formal inductions.

In response to questions the Monitoring Officer advised that if a declaration of a Disclosable Pecuniary Interest had been made regarding a planning application then the Member should remove themselves from the room for the discussion of the item. It was the sole responsibility of the person who made the declaration to excuse themselves. The Monitoring Officer expressed his thanks to Members for keeping their Pecuniary and non-pecuniary interest forms up to date.

Agenda Item 7d

Resolved: That the report be noted and it be recommended to Council that the report be noted.

MONITORING OFFICER'S ANNUAL REPORT

Council - 25 February 2020

Report of	Monitoring Officer
Status	For consideration
Also considered by	Standards Committee - 14 January 2020
Key Decision	No

This report supports the Key Aim of effective management of Council resources.

Contact Officer Martin Goodman, Ext. 7245

Recommendation to the Standards Committee: That the Monitoring Officer's Annual Report be noted.

Recommendation to Full Council: That the Monitoring Officer's Annual Report be noted.

Reason for recommendation: This report sets out the work of the Monitoring Officer and Standards Committee. It also reports upon the governance arrangements monitored by other committees and as such provides information on the ethical standards set by the Council. It is intended to promote Member and public confidence in the Council's governance framework and standards regime.

Introduction and Background

- 1 The fifteenth Annual Report of the Monitoring Officer is attached as an Appendix to this report.
- 2 The purpose of the Monitoring Officer's Report is to provide an annual overview of the work of the Monitoring Officer, the work of the Standards Committee and the general governance arrangements of the Council.
- 3 Reporting provides an opportunity to review and learn from experience. The Report also gives Members of the Standards Committee background information to facilitate the carrying out of their functions.
- 4 The Monitoring Officer's Report sets out the Monitoring Officer's statutory responsibilities and summarises how these duties have been discharged during 2019 in accordance with legislation and the Council's Constitution. Where necessary the Report can draw attention to those issues requiring attention in the coming year.

Agenda Item 7d

Key Implications

Financial

The Monitoring Officer's Report has not identified any financial implications for this Council over and above normal requirements.

Legal Implications and Risk Assessment Statement.

The Monitoring Officer's Report has not uncovered any illegality.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

The Monitoring Officer's report sets out the elements of good governance and demonstrates that robust procedures are in place to raise ethical standards, identify problems and ensure that Members, Officers and the Public are aware of appropriate channels to raise concerns.

Appendices Appendix A - Monitoring Officer's Report

Appendix B - Letter from Local Government and Social Care

Ombudsman [ON WEBSITE ONLY](#)

<https://cds.sevenoaks.gov.uk/documents/s40506/04%20Appendix%20B%20LGO%20Annual%20Review%20Letter.pdf?J=3>

Appendix C - Local Government Ethical Standards Review by the

Committee on Standards in Public Life [ON WEBSITE ONLY](#)

<https://cds.sevenoaks.gov.uk/documents/s40507/04%20Appendix%20C%20Local%20Government%20Ethical%20Standards>

[%20Review%20by%20the%20Committee%20on%20Standards%20in%20Public%20Life.pdf?J=3](https://cds.sevenoaks.gov.uk/documents/s40507/04%20Appendix%20C%20Local%20Government%20Ethical%20Standards%20Review%20by%20the%20Committee%20on%20Standards%20in%20Public%20Life.pdf?J=3)

Background None
Papers

Martin Goodman
Monitoring Officer

**REPORT OF THE
MONITORING OFFICER
2019**

Introduction

This is the fifteenth Annual Report of the Monitoring Officer, for the period January 2019 to December 2019. The purpose of the Monitoring Officer's Report is to provide an annual overview of the work of the Monitoring Officer, the work of the Standards Committee and the general governance arrangements of the Council. Reporting provides an opportunity to review and learn from experience.

The Report also gives Members of the Standards Committee background information to facilitate the carrying out of their functions. The Monitoring Officer's Report sets out the Monitoring Officer's statutory responsibilities and summarises how those duties were discharged during 2019 in accordance with legislation and the Council's Constitution. Where necessary the Report can draw attention to those issues requiring attention in the coming year.

1. Recommendations

That the Standards Committee notes the Monitoring Officer's Annual Report.

That Full Council notes the Monitoring Officer's Annual Report.

2. The Role of the Monitoring Officer

The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer.

The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols and promoting good governance and high ethical standards.

A Summary of the Monitoring Officer's Functions is as follows:

<u>Description</u>	<u>Source</u>
Report on contraventions or likely contraventions of any enactment or rule of law	Local Government and Housing Act 1989
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Local Government and Housing Act 1989
Appoint a Deputy	Local Government and Housing Act 1989

<u>Description</u>	<u>Source</u>
Establish and maintain the Register of Members' interests.	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 The Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Report on sufficiency of resources.	Local Government and Housing Act 1989
Maintain the Constitution	The Constitution
Promote and maintain high standards of conduct.	The Localism Act 2011
Grant Dispensations	The Localism Act 2011 and delegation from Council
Consulting with, supporting and advising the Head of Paid Service and s.151 Officer on issues of lawfulness and probity.	The Constitution
Appointing an Investigating Officer in relation to Member Complaints	The Localism Act 2011 and the Constitution
Advising the Standards Hearings Sub Committee in relation to allegations of breaches of the Code of Conduct and advising when matters are determined following an investigation	The Localism Act 2011 and the Constitution
Advise on whether executive decisions are within the Budget & Policy Framework.	The Constitution
Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.	The Constitution and s.5 of Local Government and Housing Act 1989
Legal Advice and Support to the authority	The Constitution
Considering whether certain Information is exempt from disclosure under the Freedom of Information Act.	Freedom of Information Act 2000

3. The Constitution

The Constitution sets out how the Council operates and how decisions are made. It sets out the procedures which are followed to ensure that these decisions are efficient, transparent and that those who make the decisions are accountable to local people. The Monitoring Officer is responsible for ensuring that the Constitution operates efficiently, is properly maintained and followed.

3.1 Constitutional Review and Revision

This Council continues to update its Constitution as and when necessary and reports to the Governance Committee of the Council in this respect. During the year there were revisions to the Council's constitution following the restructure of the Strategic Management Team, although these did not have a substantial impact upon the general operation of the Constitution.

3.2 Fitness for Purpose

The Constitution sets out in clear terms how the Council operates and how decisions are made. Some of these processes are required by law, while others are a matter for the Council to choose. The purpose of the Constitution is to:

- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- support the active involvement of local people in local authority decision making;
- help Members represent local people more effectively;
- enable decisions to be taken efficiently and effectively; and
- hold decision makers to public account.

3.3 Managing the Constitution

Any significant changes to the Council's decision making arrangements and Committee structure need to be approved by full Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Governance Committee ensures that this takes place.

4. Lawfulness and Maladministration

The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and in consultation with the Head of Paid Service and the Chief Finance Officer (s.151 Officer) advises on compliance with the Budget and Policy Framework. Part of this role involves monitoring Committee reports, agendas and decisions to ensure compliance with legislation and the Constitution.

The Monitoring Officer ensures that agendas, reports and minutes of all Council meetings are made publicly available unless there is a reason for exemption under

the Local Government Act 1972. In addition, Portfolio Holder decisions are also made publicly available subject to the same caveat as are all planning and licensing decisions made by Officers including other Officer delegated decisions as required by the Openness of Local Government Bodies Regulations 2014. It is of course the Council's position that where required by law all such decisions should easily be accessible by members of the public through the Council's website:

www.sevenoaks.gov.uk.

If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration he must report to the full Council or where appropriate the Cabinet after first consulting with the Head of Paid Service and the Chief Finance Officer (s.151 Officer). Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered.

The sound governance arrangements operated by the Council ensure that the power to report potentially unlawful decision making is rarely used and the Monitoring Officer has not had to issue such a report throughout 2019.

4.1 Reports from the Local Government Ombudsman

On 24 July 2019 the Local Government and Social Care Ombudsman wrote to the Council with its Annual Review Letter, which is attached. This letter relates to the year ending March 2019.

The letter reports that the Ombudsman received ten complaints about the Council during the year. One related to Planning and Development, one to Environment Services, three to Benefits and Tax, two to Housing and one to Highways and Transport. Last year the Ombudsman also received ten complaints.

During the year, of the ten decisions made by the Ombudsman, two were referred back for local resolution, one was incomplete or invalid and three were closed after initial enquiries.

The Ombudsman indicates in his letter that detailed investigations were undertaken in the remaining four cases and the complaint was upheld in three of those matters. However, this reflects a change in methodology and now includes cases where the Council intervened and provided a satisfactory remedy before the Ombudsman became involved.

5. Good Governance

The Monitoring Officer has a pro-active role in promoting good practice, good procedures and good governance. This involves networking, collaboration, joined-up working practices and decision making as well as ensuring standing orders, codes of practice, procedures are kept under review and up to date. The Monitoring Officer regularly meets with the Head of Paid Service (the Chief Executive) and sits on Strategic Management Team with the Chief Officers including the s.151 officer (Chief Finance Officer). The Monitoring Officer also works in partnership with officers of the Council to develop and disseminate policies and procedures.

6. Quercus 7 Ltd and Quercus Housing Ltd

As Members will recall, on the last day of 2015 the Council stepped up its efforts to bring further economic growth to the District by establishing a Trading Company (Quercus 7 Ltd) wholly owned by the Council so as to exercise the powers to trade contained in the Local Government Act 2003 and the Localism Act 2011.

On 13 April 2018 the Council established a housing company (Quercus Housing Ltd) to deliver affordable housing in the district on a not-for-profit basis spending available s.106 funds.

In case of conflict of interest the officers of the Legal Department and the Chief Officer Corporate Services are available to procure independent advice to the Council on issues arising from this arrangement.

It should be remembered that the companies are separate entities from each other and are not part of the Council. No member is in control of either company. The role of the Monitoring Officer therefore does not apply to the operations of Quercus 7 Ltd or Quercus Housing Ltd.

Both companies were active during 2019 and made investments.

7. The Ethical Framework and Work of the Standards Committee

The Standards Committee (introduced on the 24 July 2012) comprises seven Members. Legislation allows for the appointment of Independent Persons, who have a statutory role under the Localism Act 2011 to assist any Member who has been accused of breaching the Code of Conduct. Sevenoaks District Council has appointed two Independent Persons. They are not co-opted Members of the Standards Committee although they are given details of the Committee's meeting date in order that they may attend.

The Independent Persons also assist the Monitoring Officer in considering complaints and are consulted by the Monitoring Officer following investigations to help decide what action to take.

The Standards Committee has a key role in facilitating and promoting the Ethical Framework and in promoting and maintaining high standards of conduct within the Authority. The terms of reference of the committee are set out within Part 3 of the Constitution entitled "Standards Committee".

Examples of the Standards Committee's work during 2019 are as follows:

- Receiving the Annual Monitoring Officer's Report
- Being on Standby to grant Dispensations
- Being on Standby to carry out hearings

At the last meeting of the Standards Committee in January 2019 it was noted that the Committee on Standards in Public Life had reported on Local Government Ethical Standards. That Committee's report is attached and Members will note the

list of best practice while acknowledging that the District Council is not required to take action to implement any formal recommendation.

Of the Committee's 26 recommendations, 21 were the sole responsibility of national government. The Local Government Association was noted as responsible for two further recommendations and political groups for a further one.

Of the remaining two recommendations, one was for Parish Councils (in respect of Parish clerks holding an appropriate qualification). The remaining recommendation was jointly to government and local authorities, that local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. No further action is required in respect of this matter as it is already implemented in full by the Council's insurance policy.

8. Disclosable Pecuniary Interests and Non-Pecuniary Interests

The codes of conduct of relevant authorities must include provision for the registration and disclosure of Disclosable Pecuniary Interests (DPIs) as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Localism Act 2011 introduced criminal offences for failure to register DPIs.

Members are aware that they commit a criminal offence if they participate or vote when they have a DPI 'in' a matter. A Member has a DPI 'in' a matter where it is, or includes, his interest - where there is a close alignment between the interest and the matter under consideration. Ultimately the responsibility for complying with this provision lies upon Members although the Monitoring Officer will provide advice as necessary. External training was provided to Members on these issues in July 2019, which was well attended.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members are aware that even if a Member's interest does not amount to a disclosable pecuniary interest, if their interest in a matter would lead them to predetermine a decision, or look like they are biased, it would not be appropriate for that member to participate in the decision. If they did so the decision could be vulnerable to challenge. The Sevenoaks District Council Code of Conduct also requires the registration of certain non-pecuniary interests, although no criminal liability attaches to a failure to register.

The prohibitions on councillors participating in any discussion or vote on an item of Council business in which they have a DPI ensures that Councillors cannot put their private financial interests before the public interest. However, where a Councillor has a disclosable pecuniary interest but stand to make no personal financial gain by participating in a discussion or vote on Council business related to that interest, they can apply for a dispensation, under section 33 of the Localism Act 2011. The grounds for granting a dispensation will depend on the circumstances.

Dispensations are mostly considered by the Standards Sub-Committee for Granting Dispensations, although the Monitoring Officer has power to grant dispensations in circumstances where a meeting may not be quorate. In respect of parish and town councils, the Clerk has the power to consider and grant dispensations.

Members convicted of offences under the Act are liable to a fine of £5,000 and may also be disqualified from being a councillor for up to five years. This should not be confused with the offence of Misconduct in Public Office, instances of which are rare and which carries a maximum penalty of life imprisonment.

9. Code of Conduct for Employees

The Code is based on an original draft published by the IDeA and has been updated since being implemented in 2006. The Code forms part of the employers' terms and conditions of employment. The Code is available on the Council's intranet and is introduced to employees during the induction process along with relevant policies.

Under the Code employees must declare any non-financial or financial interests that they or members of their family have which they consider could conflict with the Council's interests. Chief Officers and the Chief Executive declarations of non-financial or financial interests are declared to the Monitoring Officer.

All relationships of a business or private nature with external contractors, or potential contractors should be made known to the employees' Managers and Chief Officers. All hospitality received and given should be appropriate, necessary and must, wherever possible, have the prior sanction of the relevant Chief Officer and must be recorded in the Hospitality Book kept by the Chief Executive's Secretary. There is a Protocol on Corruption, Gifts and Hospitality contained within the Staff Code of Conduct. The Hospitality Book is regularly reviewed by the Monitoring Officer, Head of Paid Service and s. 151 Officer.

10. Standards Committee and the Code of Conduct

Sevenoaks District Council's Members' Code of Conduct is based on text published by the Department for Communities and Local Government (DCLG). Town and Parish Councils have adopted their own Codes based on the seven Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The District Council encouraged Town and Parishes to adopt the Sevenoaks District Council Code, although it is known that some have adopted the National Association of Local Council's model.

The Standards Committee is an ordinary committee of the Council which means that it is subject to the usual requirements relating to access to information and political balance. If so minded, it is within the Standards Committee's terms of reference to advise the Council on the adoption of revisions so as to implement best practice. However, the Members' Code of Conduct is fully compliant with the seven Nolan principles and accordingly is lawful.

11. Complaints against Members

The current Standards Regime, set up under the Localism Act 2011, was implemented by this Council in July 2012. This provides a mechanism for receiving and processing complaints against Members.

Under the Localism Act 2011 authorities are not obliged to include provisions in their arrangements for Members to be able to appeal against findings that they have breached the Code of Conduct. In line with this, Sevenoaks District Council decided not to include appeal provisions in its arrangements (although for procedural irregularity a complaint can always be made to the Ombudsman).

The Localism Act 2011 makes no provision for sanctions against Members found to have breached the Code of Conduct. However, authorities are able to censure Members, to publicise breaches of the Code of Conduct, to arrange for a report to Full Council and to recommend that Members be removed from positions on committees and outside bodies. This Council decided to include in its arrangements provisions for the Monitoring Officer to be instructed to arrange training for the Member and/or conciliation, if appropriate, which is a useful practical measure for improving Member conduct.

Eight formal complaints were logged as received between January and December 2019. For comparison, there were nine complaints between January and December 2018. It appears that although the Code of Conduct is well observed there is no apparent hindrance to those who wish to make a formal complaint about Member conduct.

Under the existing system, the Monitoring Officer first carries out an ‘initial intake test’ to determine whether the complaint can be processed.

If it passes that test, it will thereafter be assessed and the Monitoring Officer will take no further action, attempt informal resolution or recommend formal investigation. In the latter case, if the investigation concludes that there is evidence of failure to comply with the Code of Conduct, the Monitoring Officer (having consulted the Independent Person) will either seek informal resolution or refer the matter to the Standards Hearing Sub Committee.

Please see the below table for a breakdown of complaints received during 2019. It is not appropriate to discuss these matters at Committee and this analysis is provided only to illustrate the nature of the complaints and their resolution:

Date made	Subject Member	Complainant public or Member?	Date received	Assessed	Result
10/03/19	Parish Councillor	Public	10/03/19	No	No further action, ceased to be a Member
21/06/19	Parish Councillor	Public	21/06/19	No	Failed Initial Intake Test

07/10/19	Parish Member	Public	9/10/19	No	Failed Initial Intake Test
07/10/19	Parish Member	Public	9/10/19	No	Failed Initial Intake Test
07/10/19	District Member	Public	9/10/19	No	Failed Initial Intake Test
07/10/19	Not a Member	Public	9/10/19	No	Failed Initial Intake Test
07/10/19	Parish Member	Public	9/10/19	No	Failed Initial Intake Test
23/10/19	Town and District Member	Public	23/10/19	Yes	No further action

12. Support to Councillors, Cabinet, Scrutiny and Committee Meetings

The distribution and publication of committee reports, agendas and decisions is central to meeting the requirements of a key deliverable. It is the Monitoring Officer's responsibility to oversee the process and ensure that these documents comply with statutory and constitutional requirements. He also oversees the annual reporting to the Audit Committee of the proper working of the Members' Allowance Scheme.

Ensuring compliance with the committee process includes:

- Distributing and publishing all agendas within five clear working days of the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is marked up accordingly.
- Advertising public meetings five clear days before the meeting date.
- Ensuring that papers are made available to the public.
- Drafting minutes for publication within nine working days.

- Publishing a record of all decisions including key decisions taken by Cabinet within 48 hours (2 working days) of the meeting.
- Ensuring that petitions are handled in accordance with the Council’s Constitution including e-petitioning.
- Ensuring that meetings are accessible.
- Complying with the requirements of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- The Openness of Local Government Bodies Regulations 2014
- Attendance at Cabinet and Council.

One of the explicit aims of the Council has been to try and streamline the decision making process to allow Council to focus on service delivery. The following is the statutory meetings analysis, covering meetings which were serviced between 1 January 2019 and 31 December 2019. During the year, the structure changed in line with the new composition of Cabinet. Committees which ceased to exist during 2019 are marked with an asterisk (*):

Annual Council	1
Appointments Committee	2
Audit Committee	5
Cabinet	10
Cleaner and Greener Advisory Committee	2
Community Infrastructure Levy (CIL) Spending Board	1
Council	5
Development and Conservation Advisory Committee	3
Direct and Trading Advisory Committee * (did not sit, included for completeness)	0
Development Control Committee	13
Economic and Community Development Advisory Committee *	1
Finance and Investment Advisory Committee	3

Finance Advisory Committee *	2
Governance Committee	3
Health Liaison Board	4
Housing and Health Advisory Committee	4
Improvement and Innovation Advisory Committee	3
Legal and Democratic Services Advisory Committee *	2
Licensing Committee	5
Licensing Hearing	4
People and Places Advisory Committee	3
Planning Advisory Committee *	1
Policy and Performance Advisory Committee *	1
Scrutiny Committee	4
Sevenoaks Joint Transportation Board	4
Standards Committee	1

The volume of meetings represents a substantial commitment of both Councillors' and Officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives of the Constitution and the Community Plan and Corporate Plan.

The requirements for notice of Key Decisions set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 are being followed to the satisfaction of the Monitoring Officer.

The Council is required by Law to discharge certain scrutiny functions and this function is fulfilled to the satisfaction of the Monitoring Officer by the Scrutiny Committee.

13. The Transparency Code

The Council has been under a duty to publish a range of data under the Local Government Transparency Code and associated Regulations since 2014.

It is the Government's stated desire to place more power into citizens' hands to increase democratic accountability and make it easier for local people to

contribute to the local decision making process and help shape public services. The Code has been issued to meet this desire. The Government has set out that:

“Transparency is the foundation of local accountability and the key that gives people the tools and information they need to enable them to play a bigger role in society. The availability of data can also open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.”

The Government published a revised and updated Code in 2015 and the Council remains committed to carrying forward the enhanced requirements of the new Transparency Code. The development of a new Council website, which will shortly go live, is aimed to provide improved access to Council information, including data sets required to be published by Government.

14. Member Training and Development

As 2019 was an election year, Members received training on a number of matters during the year, including vital training on licensing and development control, an introduction to each Advisory Committee, general Member induction and of course the Standards and Code of Conduct training mentioned above. It should be noted that certain compulsory Licensing training is provided to Members on an annual basis and upon election all Members are always provided with induction training.

15. GDPR

On 25 May 2018 the General Data Protection Regulation came into force. The Data Protection Act 1998 was been replaced by the Data Protection Act 2018, giving individuals greater rights, protections and freedoms. During 2019 these rights were well protected and there was not an influx of work due to the relatively new provisions.

It is, however, essential to remember that the Council must be ready to honour the various rights enshrined in GDPR, in particular the ‘right to be forgotten’ and the right of subject access. Robust systems are in place to ensure that the public can exercise these rights as they should.

Furthermore, policies and procedures are in place to ensure compliance and the Monitoring Officer is satisfied that the necessary changes and developments have occurred. The Council is fully compliant with GDPR and this is a testament to the hard work of Officers and Members in implementing the new regulation.

16. Whistle Blowing

Sevenoaks Council is committed to having effective whistleblowing arrangements in order to safeguard individuals who have genuine cause for raising concerns in the work place and to promote good governance and safeguard the public interest.

The Council’s Whistle Blowing Policy sets out how to raise concerns within the organisation and is designed to give statutory protection to employees who “blow the whistle” on their employer’s malpractice. In addition, the Council aims to

mitigate the risk of inappropriate behaviour by those undertaking work on behalf of the Council and the Council refers to this Policy in contracts with suppliers and service providers, in the Procurement Guide and in its partnership arrangements.

The Council takes seriously and will investigate all reports of improper activities. The Policy aims to ensure that when concerns are raised, the Council will address the concerns and protect the person raising the concern.

The Council is committed to the highest possible standards of openness, probity and accountability and in line with this commitment the Council reviewed and updated its Whistleblowing Policy two years ago to incorporate the requirements of the new Statutory Code of Practice recommended by the Whistleblowing Commission. The Whistleblowing Policy is subject to annual review by the Audit Committee with the review taking into consideration the views of users of the Policy and any relevant professional or regulatory changes.

The new Code of Practice makes whistleblowing more effective within organisations and provides practical guidance to employers, workers and their representatives and sets out recommendations for raising, handling, training and reviewing whistleblowing in the work place.

In the past calendar year no concerns were raised under the Council's whistleblowing policy. This is however no reason for complacency and it is essential that fit-for-purpose policy remains in place.

17. Regulation of Investigatory Powers Act

The Regulation of Investigatory Powers Act 2000 (RIPA) introduced a statutory framework for those carrying out surveillance as part of an investigation. The Protection of Freedoms Act 2012 (2012 Act) amended RIPA to provide additional controls. The internal authorisation process is now followed by external authorisation from a Justice of the Peace.

In practice the District Council seeks to carry out surveillance activity by overt means whereby it is not necessary to engage the provisions of RIPA. There were no applications to carry out surveillance of the sort which requires RIPA authorisation during the year.

18. Code of Corporate Governance

The Monitoring Officer is happy to report no difficulties in implementing the Code of Corporate Governance during the year. Code compliance is overseen by the Audit Committee and Members may recall that during 2017 the Monitoring Officer updated the Code in line with legislative changes. This was refreshed for the new electoral cycle in July 2019 and it is not necessary to report on the Code again until 2023, unless there is a change to the background legislation or guidance.

19. Conclusion

As reported last year, the key legal provisions and challenges facing the Council remain the same. There is a need for the Monitoring Officer to carry out both a

proactive and reactive role in conjunction with the Standards Committee. This involves raising standards, encouraging ethical behaviour, adopting good governance and promoting robust procedures.

The elections in May 2019 went very smoothly and several new Members began their public lives at the Council. The Monitoring Officer has every confidence that as ever the new intake will act with the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership in mind. A general election in December posed its challenges but none of significant concern to the Monitoring Officer.

The Local Plan examination continues to feature in the Council's outlook. Although this issue is beyond the scope of this report it is noteworthy that the Monitoring Officer has kept a close eye on any issues surrounding the examination, including the delay, which have arisen.

As a Statutory Officer with specific duties and powers set out in the Constitution, the Monitoring Officer has a reactive enforcement role. Together with the Standards Committee it is his job to enforce the Code of Conduct and relevant sections of the Localism Act 2011. As can be seen from the above, there are few reports of misconduct amongst Members and even fewer of any substance. Nevertheless, the Council cannot take this for granted and at all times it is necessary to be vigilant and active in safeguarding the reputation and legality of the Council.

Members are asked to note this report which sets out the elements of good governance and demonstrates that robust procedures are in place to maintain ethical standards, identify problems and ensure that all are aware of appropriate channels to raise concerns.

Martin Goodman
Monitoring Officer

Attached:

Local Government and Social Care Ombudsman Annual Review Letter

Local Government Ethical Standards Review by the Committee on Standards in Public Life

This page is intentionally left blank

PAY POLICY STATEMENT

Council - 25 February 2020

Report of Chief Executive

Status: For Decision

Key Decision: No

This report supports the Council promise to provide value for money

Portfolio Holder Cllr. Peter Fleming

Contact Officer Lee Banks (Ext. 7161)

Recommendation to Council:

The Pay Policy Statement is adopted and published on the Council's website.

Reason for recommendation: To fulfil the Council's statutory requirements under the Localism Act 2011 to agree a Pay Policy Statement for the forthcoming year and to ensure it is accessible to the public.

Introduction and Background

- 1 Gaining its Royal Assent in November 2011 the Localism Act introduced, amongst a range of other duties, a requirement for local authorities to publish a Pay Policy Statement by 31 March each year. The Council's first Pay Policy Statement was approved by Council in February 2012.
- 2 Pay Policy Statements were introduced with the stated aim of making local authorities more accountable and transparent about their policies on senior officer pay.
- 3 Nothing in the pay accountability provisions supersede existing responsibilities and duties placed on local authorities in their role as employers. It is recognised that local authorities are individual employers in their own right and have the autonomy to make decisions on pay that are appropriate to their local circumstances and which deliver value for money for local taxpayers.

Pay Policy Statement

- 4 The draft Pay Policy Statement is attached at Appendix A to this report for Members consideration. Its content is defined by the regulations set out within sections 38 to 43 of the Localism Act 2011 and associated guidance issued by the Secretary of State for Communities and Local Government.

Agenda Item 8a

- 5 The Pay Policy Statement is required to set out the authority's policies relating to the remuneration of each of its chief officers, the remuneration of its lowest paid employees and the relationship between the two. The Statement must be approved by full Council by 31 March 2020 and will take effect from 1 April 2020. The Policy Statement is forward looking and any recruitment decisions taken between 1 April 2020 and 31 March 2021 regarding chief officers must take account of the commitments made in the Pay Policy Statement.
- 6 It is a requirement of the Localism Act that the Pay Policy Statement is approved annually by full Council, and this is a function that cannot be delegated. As a minimum, once the Statement is approved, it must be published on the Council website.

Other Options Considered and/or Rejected

- 7 None. It is a statutory requirement to produce and publish a Pay Policy Statement.

Key Implications

Financial

- 8 The Pay Policy Statement sets out the policies by which senior officers will be remunerated by the Council. Any such decisions on recruitment would be made within the wider context of the Council's budget and savings plan and create no new burdens on financial resources.

Legal Implications and Risk Assessment Statement.

- 9 Failure to publish a Pay Policy Statement, approved by full Council, by 31 March 2019 will be a breach of the Localism Act 2011.

Equality Assessment

- 10 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

- 11 The Pay Policy Statement sets out the elements of senior officer pay that enable the Council to attract high quality officers whilst protecting value for money to the community. Its approval by Council and publication on the Council website improve transparency and accountability whilst ensuring adherence to the Localism Act 2011.

Appendices

Appendix A - Pay Policy Statement

**Background
Papers:**

Localism Act, Chapter 8, Pay Policy Statements

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/8/enacted>

Openness and accountability in local pay: Guidance under section 40 of the Localism Act (Communities and Local Government)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5956/2091042.pdf

Openness and accountability in local pay: supplementary guidance

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85886/Final_Supplementary_Pay_Accountability_Guidance_20_Feb.pdf

**Dr Pav Ramewal
Chief Executive**

This page is intentionally left blank

Sevenoaks District Council Pay Policy Statement 2020/21

1. Introduction

- 1.1 The Council's Pay Policy Statement sets out its policies for 2020/21 relating to:
- The remuneration of its chief officers,
 - The remuneration of its lowest-paid officers, and
 - The relationship between the remuneration of its chief officers and the remuneration of its employees who are not chief officers.
- 1.2 The Pay Policy Statement is prepared in accordance with the requirements of the Localism Act 2011 and associated guidance published by the Secretary of State for Communities and Local Government.
- 1.3 The Statement has been approved by resolution of the full Council and the commitments made in the Pay Policy Statement will be applied to remuneration of chief officers during 2020/21.

2. Definitions

- 2.1 The following definitions have been applied in preparing the Pay Policy Statement:
- (a) Remuneration – the officers salary¹, any bonuses payable, any charges, fees or allowances payable, any benefits in kind, any increase or enhancement to pension entitlement and any amounts payable to the officer on them leaving the authority²
 - (b) Chief Officers – the Head of Paid Service (the 'Chief Executive'), Statutory Chief Officers (Section 151 Officer & the Monitoring Officer), Non Statutory Chief Officers (Chief Officers).
 - (c) Lowest-paid officers – this corresponds to the lowest pay point on which a full time, permanent officer can be appointed to when joining the Council. It does not relate to an individual job role. This definition has been adopted as a true and fair representation of the lowest paid salary point offered by the Council, although it does not necessarily mean that any officer working for the Council currently receives this level of pay. This definition provides a fair and accurate description for an entry level position into the authority, roles that require full supervision that have little, if any responsibility.

¹ In the case where an officer is engaged under a contract for services, the salary is equal to the payments made by the Council to the officer for those services.

² Other than amounts that may be payable by virtue of any enactment

3. Terms and Conditions

- 3.1 The general terms and conditions of employment are in accordance with those agreed by the National Joint Council for Local Government Services.
- 3.2 As Head of Paid Service, the Chief Executive shall have responsibility for the management of all officers, including the number and grade of officers and their organisation and structures.
- 3.3 The Council shall appoint such officers as it thinks necessary for the proper discharge of its functions or of another local authority's functions as fall to be discharged by the Council. All appointments shall be made on merit and in accordance with the Council's agreed policies and procedures.
- 3.4 Only under exceptional circumstances, where there is a proven benefit that will deliver clear value for money to residents, will the Council re-employ officers who have left with a severance or redundancy payment or are in receipt of a pension under the Local Government Pension Scheme. This may include re-engagement on a self-employed basis with a contract for services. This Policy applies to both ex-employees of Sevenoaks District Council and of other local government organisations.
- 3.5 All officers appointed by the Council are paid as individuals with the correct personal national insurance and income tax contributions applied. The Council does not make permanent appointments through any other arrangements.

4. Remuneration of Chief Officers

4.1 Head of Paid Service

- 4.1.1 The Head of Paid Service holds the title of Chief Executive or any equivalent as determined by Council.
- 4.1.2 The Head of Paid Service is one of three statutorily required posts at the Council, alongside the Section 151 Officer and the Monitoring Officer. The Head of Paid Service holds overall responsibility for corporate management and operational functions. This includes:
 - Overall management responsibility for all Officers;
 - Provision of professional advice to all parties in the decision-making process;
 - Advising whether decisions of the Cabinet are in accordance with the budget and policy framework (in consultation with the Section 151 Officer (where they are not the same person) and the Monitoring Officer);

- Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members (in consultation with the Section 151 Officer (where they are not the same person) and the Monitoring Officer);
- To be the Returning Officer and Electoral Registration Officer for the Council; and
- To represent the Council on partnership and external bodies as required by statute or the Council.

4.1.3 The remuneration for the Head of Paid Service will include:

- Salary in line with the Sevenoaks District Council Chief Executive pay scale, inclusive of the outer fringe allowance;
- Car Allowance of £6,000 per annum;
- Payment for acting as the Returning Officer at elections. Payments for each election are determined by the size of the electorate in the district, with the payment for national elections being set nationally and the payment for local elections set at county level; and
- An employer contribution to their pension of the amount required under the nationally determined terms of the Local Government Pension Scheme.

4.1.4 At the point of recruitment the salary of the Head of Paid Service will be determined by the level of skill and experience that they are evaluated as bringing to the role. In any case the salary will not exceed the top pay point of the Sevenoaks District Council Chief Executive pay scale.

4.1.5 The Head of Paid Service will, like all other officers, be able to increase their salary on an annual basis by demonstrating excellent performance when assessed through full participation in the Council's appraisal scheme, until the top point of the pay band is reached. The Head of Paid Service will also be entitled to receive any national pay award determined by the National Joint Council.

4.1.6 The Council does not adopt a performance related pay system for any officers outside of the appraisal scheme, including the Head of Paid Service.

4.1.7 The Council does not pay bonuses for any officers, including the Head of Paid Service, other than those determined by the appraisal scheme upon achieving outstanding performance.

4.1.8 The Council will not make payment to the Head of Paid Service if they are summarily dismissed.

4.1.9 If the Council makes the Head of Paid Service redundant a payment will be made to them based on their length of service (up to a maximum of 20 years) based on their actual weeks' pay.

4.1.10 If the Head of Paid Service resigns their post they will not be entitled to any compensatory payment from the Council.

4.1.11 The following terms and conditions will also apply to the Head of Paid Service:

- The Head of Paid Service may be the Section 151 Officer, but may not be the Council's Monitoring Officer; and
- The post of Head of Paid Service is politically restricted.

4.2 Non Statutory Chief Officers

4.2.1 Non statutory chief officers are defined in the Local Government and Housing Act 1989 as a person for whom the Head of Paid Service is directly responsible.

4.2.2 The remuneration for non-statutory chief officers designated as Chief Officer will include:

- Salary in line with the Sevenoaks District Council Chief Officer pay scale, inclusive of the outer fringe allowance;
- Car Allowance of £4,500 per annum;
- Consideration of additional responsibility allowances; and
- An employer contribution to their pension of the amount required by the Local Government Pension Scheme.

4.2.3 At the point of recruitment an officer holding the post of a non-statutory chief officer will be determined by the level of skill and experience that they are evaluated as bringing to the role.

4.2.4 An officer holding the post of a non-statutory chief officer will, like all other officers, be able to increase their salary on an annual basis by demonstrating excellent performance when assessed through full participation in the Council's appraisal scheme, until the top point of the pay band is reached. An officer holding the post of a non-statutory chief officer will also be entitled to receive any national pay award determined by the National Joint Council.

4.2.5 The Council does not adopt a performance related pay system for any officers outside of the appraisal scheme, including officers holding the post of a non-statutory chief officer.

4.2.6 The Council does not pay bonuses for any officers, including officers holding the post of a non-statutory chief officer, other than those

determined by the appraisal scheme upon achieving outstanding performance.

- 4.2.7 The Council will not make payment to officers holding the post of a non-statutory chief officer if they are summarily dismissed.
- 4.2.8 If the Council makes a non-statutory chief officer redundant a payment will be made to them based on their length of service (up to a maximum of 20 years) based on their actual weeks' pay.
- 4.2.9 If an officer holding the post of a non-statutory chief officer resigns their post they will not be entitled to any compensatory payment from the Council.
- 4.2.10 The following terms and conditions will also apply to an officer holding the post of a non-statutory chief officer:
- The posts held by non-statutory chief officers are politically restricted.

4.3 Statutory Chief Officer – Monitoring Officer

- 4.3.1 The role of the Monitoring Officer is designated to the post of Head of Legal & Democratic Services, or an equivalent officer as determined by the Head of Paid Service.
- 4.3.2 The Monitoring Officer is one of three statutorily required posts at the Council, alongside the Head of Paid Service and the Section 151 Officer. The Monitoring Officer is responsible for:
- Maintaining the constitution;
 - Ensuring lawfulness and fairness of decision making;
 - Supporting the Standards Committee;
 - Advising whether decisions of the Cabinet are in accordance with the budget and policy framework (in consultation with the Head of Paid Service and the Section 151 Officer); and
 - Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members (in consultation with the Head of Paid Service and the Section 151 Officer).
- 4.3.3 The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.
- 4.3.4 The remuneration of the Monitoring Officer will include:
- Salary in line with the Sevenoaks District Council Head of Service pay scale, inclusive of the outer fringe allowance;
 - Car Allowance of £3,700 per annum;

- Consideration of additional responsibility allowances; and
- An employer contribution to their pension of the amount required by the Local Government Pension Scheme.
- Terms as set out at 4.2.3 to 4.2.10 above.

4.4 Statutory Chief Officer – Section 151 Officer

4.4.1 The Section 151 Officer is one of three statutorily required posts at the Council, alongside the Head of Paid Service and the Monitoring Officer. The role of Section 151 Officer is designated to the Chief Officer Finance & Trading, or any suitably qualified officer as determined by the Head of Paid Service.

4.4.2 The Section 151 Officer is responsible for:

- Ensuring lawfulness and financial prudence of decision-making;
- Administration of financial affairs;
- Contributing to corporate management;
- Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles; and
- Providing financial information to the media, members of the public and the community.

4.4.3 The pay policies applicable to this post are detailed at section 4.2.2 to 4.2.10 above.

4.4.4 The following terms and conditions will also apply to the Section 151 Officer post:

- The post of the Section 151 Officer is politically restricted; and
- The Section 151 Officer cannot be the Monitoring Officer but may hold the post of Head of Paid Service.

5. Transparency and Publication of Chief Officer Salaries

5.1 Further information about responsibilities and appointment of Chief Officers is published in the Council’s Constitution. The provisions within this Pay Policy Statement do not alter the requirements and powers, which the Constitution sets out.

5.2 Further information about the salaries of Chief Officers is available on the Council’s website. The Council’s Statement of Accounts is published annually and includes a full breakdown of payments made to Chief Officers for the past year.

- 5.3 The transparency section of the Council's website includes the publication of the pay scales of all officers at the council who receive a full time equivalent salary in excess of £50,000 per annum.

6. Remuneration of lowest-paid officers

- 6.1 The salary of the lowest-paid role at the Council will be equivalent to the lowest pay point within Band A of the Council's salary scales inclusive of the outer fringe allowance.
- 6.2 All Council officers are able to increase their salary on an annual basis, until the top point of the pay band is reached by demonstrating excellent performance when assessed through full participation in the Council's appraisal scheme. All officers are also entitled to receive any national pay award determined by the National Joint Council. There is no other performance related or bonus payment payable to officers.
- 6.3 All Council officers are eligible to join the Local Government Pension Scheme. As their employer the Council will contribute to each officers pension the amount required by the Local Government Pension Scheme.

7. The Pay Relationship

- 7.1 The National Joint Council salary scales offer a fair and non-discriminatory approach to pay and grading reflected through a job evaluation scheme. Each role is individually assessed and evaluated to ensure an accurate level of pay. The result of evaluations reflects the level of responsibility associated with each respective post.
- 7.2 In 2019/20 the median average salary at Sevenoaks District Council was £25,408, which lies at pay point C4.
- 7.3 The pay multiple between the Chief Executive's salary and the median salary point is 6.0.
- 7.4 The Council is clear that pay at all levels is properly assessed and evaluated to ensure it accurately and fairly reflects the level of skill and responsibility associated with each respective post. Maintaining this approach will ensure that the Council is committed to a fair pay relationship and maintaining a proportionate pay ratio between the average pay level and that of the Chief Executive.

This page is intentionally left blank

Agenda Item 9 - To consider any questions by Members under paragraph 19.3 of Part 2 of the Constitution, notice of which has been duly given

Question 1 Cllr Dr Canet

‘Decision number 13 (2018/19) committed to expend £12,840 (+VAT) from the Section 106 affordable housing planning gains to commission a housing stock and needs analysis for older people.

This was approved on the grounds that ‘With a growing older population, it is proposed to undertake an additional and more detailed study to map older people’s accommodation across the District by size/type/tenure and to assess accommodation needs at ward level going forward in to the future...to better plan for older people’s accommodation needs into the future.’

Portfolio Holder decision signed by Cllrs Lowe and Piper on 28 December 2018.

Could the Council advise

- a) Whether this analysis has yet taken place
- b) If it was not proceeded with why, and was this decision reported back to the Councillors?
- c) Was the earmarked money expended on another project?
- d) How do the Council intend to accurately assess and provide the older population’s housing accommodation needs?

This page is intentionally left blank

Cllr Fleming - Leader's Report

Date: 4 November 2019 - 7 February 2020

November 2019	Event
4 November	<ul style="list-style-type: none"> • LGA Digital Showcase Event - London
5 November	<ul style="list-style-type: none"> • Sevenoaks School Masterplan Meeting - Sevenoaks School
	<ul style="list-style-type: none"> • Meeting re Parking Review - SDC
	<ul style="list-style-type: none"> • Meeting with HR Manager re Strategic role - SDC
6 November	<ul style="list-style-type: none"> • Head of Direct Services Assessment Day - SDC
	<ul style="list-style-type: none"> • Presentations Skills Training for staff - SDC
	<ul style="list-style-type: none"> • DCN Governance Review teleconference - SDC
	<ul style="list-style-type: none"> • Climate Change Meeting - SDC
7 November	<ul style="list-style-type: none"> • Appointments Panel - SDC
	<ul style="list-style-type: none"> • Cabinet - SDC
8 November	<ul style="list-style-type: none"> • Improvement & Innovation Portfolio Holder Meeting - SDC
10 November	<ul style="list-style-type: none"> • Remembrance Day Parade & Service - Sevenoaks
11 November	<ul style="list-style-type: none"> • Meeting with Cllr Chowney, Hastings Borough Council - Hastings
12 November	<ul style="list-style-type: none"> • Meeting with Link - SDC
14 November	<ul style="list-style-type: none"> • LGA Member Peer Conference - Milton Keynes
15 November	<ul style="list-style-type: none"> • White Oak Leisure Centre Moderation Meeting - SDC
19 November	<ul style="list-style-type: none"> • White Oak Leisure Centre Presentations Meeting - SDC
	<ul style="list-style-type: none"> • Telephone call with Planning Magazine journalist
	<ul style="list-style-type: none"> • Council - SDC
	<ul style="list-style-type: none"> • Quercus 7 & Quercus Housing AGMs - SDC
20 November	<ul style="list-style-type: none"> • Meeting with GoodGym - London
21 November	<ul style="list-style-type: none"> • Kent & Medway Business Fund Investment Advisory Board - Maidstone
24 November	<ul style="list-style-type: none"> • Boys Dance Workshop - The Stag - Sevenoaks
25 November	<ul style="list-style-type: none"> • Strategic Programme Board - SDC
	<ul style="list-style-type: none"> • Staff Briefing - SDC
26 November	<ul style="list-style-type: none"> • Meeting with KCC re 20s Plenty Town Forum - Sevenoaks
	<ul style="list-style-type: none"> • Staff Briefing - SDC
	<ul style="list-style-type: none"> • Pre meeting for Public Practice Meeting - SDC
	<ul style="list-style-type: none"> • Kent & Medway Economic Partnership - Maidstone
27 November	<ul style="list-style-type: none"> • LGA IDeA Board - teleconference
	<ul style="list-style-type: none"> • Staff Briefing - SDC
	<ul style="list-style-type: none"> • White Oak Leisure Centre Shortlisting - SDC
	<ul style="list-style-type: none"> • Swanley Town Council Development Control Meeting - Swanley
28 November	<ul style="list-style-type: none"> • Speaker at Gov Events Conference - London
	<ul style="list-style-type: none"> • Kent Leaders' Meeting - Detling
	<ul style="list-style-type: none"> • Site Visit to Burlington Mews - Sevenoaks
	<ul style="list-style-type: none"> • Improvement & Innovation Advisory Committee - SDC
29 November	<ul style="list-style-type: none"> • Corporate Induction - SDC

Agenda Item 11

	<ul style="list-style-type: none"> • Telephone appointment - LGA re Digital Initiatives
December 2019	
2 December	<ul style="list-style-type: none"> • DCN Governance Review teleconference
	<ul style="list-style-type: none"> • Staff Briefing - Dunbrik
	<ul style="list-style-type: none"> • Sevenoaks Community Carol Service - Sevenoaks
4 December	<ul style="list-style-type: none"> • Meeting with Swanley Town Councillors re Meeting Point - Swanley
5 December	<ul style="list-style-type: none"> • Special Interest Group on BIM in Local Authorities - London
	<ul style="list-style-type: none"> • Meeting re Cabinet Working Group - SDC
	<ul style="list-style-type: none"> • Quercus 7 Trading Board & Quercus Housing Guarantor Board - SDC
	<ul style="list-style-type: none"> • Cabinet - SDC
6 December	<ul style="list-style-type: none"> • Kent LEP Meeting - Purfleet
	<ul style="list-style-type: none"> • SELEP Meeting - Purfleet
	<ul style="list-style-type: none"> • Meet Strategic Head of Commercial & Property candidates - SDC
10 December	<ul style="list-style-type: none"> • SDC Staff Carol Service - St Luke's Church, Sevenoaks
	<ul style="list-style-type: none"> • Appraisal meeting with Chief Executive - SDC
13 December	<ul style="list-style-type: none"> • Welcome at Public Practice Event - SDC
	<ul style="list-style-type: none"> • Meeting with Economic Development re local business - SDC
	<ul style="list-style-type: none"> • Event with Handelsbanken - Sevenoaks
16 December	<ul style="list-style-type: none"> • Kent & Medway Business Fund Investment Advisory Board - Maidstone
18 December	<ul style="list-style-type: none"> • LGA Meeting re Sector Led Improvement - London
	<ul style="list-style-type: none"> • LGA Improvement & Innovation Lead Members' Meeting - London
	<ul style="list-style-type: none"> • Council Digital Futures Meeting - London
	<ul style="list-style-type: none"> • Pre meeting re Commercialisation Meeting at Merton Council - London
19 December	<ul style="list-style-type: none"> • Visit to Shoreham Woods
	<ul style="list-style-type: none"> • Meeting with Cllr Hotson - SDC
20 December	<ul style="list-style-type: none"> • LGA Media - London
23 December	<ul style="list-style-type: none"> • Tender Opening for White Oak Leisure Centre - SDC
31 December	<ul style="list-style-type: none"> • Meeting with new HR Business Partner - SDC
January 2020	
7 January	<ul style="list-style-type: none"> • Meeting with David Covill of SEEC - SDC
8 January	<ul style="list-style-type: none"> • Meeting with KCC re Kent Commissioning Plan - SDC
	<ul style="list-style-type: none"> • Meeting with Peter Hall re Edenbridge Leisure Centre - SDC
	<ul style="list-style-type: none"> • Meeting with Helen French re Flood Management - SDC
9 January	<ul style="list-style-type: none"> • White Oak Leisure Centre Final Stage Moderation Meeting - SDC
	<ul style="list-style-type: none"> • Cabinet - SDC
10 January	<ul style="list-style-type: none"> • Meeting with Edenbridge Leisure Centre users - Edenbridge
	<ul style="list-style-type: none"> • Meeting with Graeme Taylor re Strategic Head role - SDC
	<ul style="list-style-type: none"> • Visit Burlington Mews site - SDC
	<ul style="list-style-type: none"> • LGA Media - London
13 January	<ul style="list-style-type: none"> • LGA Peer Mentoring Session - Exeter
14 January	<ul style="list-style-type: none"> • Social Media Session with Customer Solutions Team - SDC

	<ul style="list-style-type: none"> • Sevenoaks Town Forum - Sevenoaks
15 January	<ul style="list-style-type: none"> • Social Media Training Session at Essex Council - Chelmsford • LGA Innovation Zone Member Working Group - London
16 January	<ul style="list-style-type: none"> • Burlington Mews Preview Launch Event - Sevenoaks
17 January	<ul style="list-style-type: none"> • West Kent Partnership - SDC
20 January	<ul style="list-style-type: none"> • LGA Improvement & Innovation Board Induction - London • Meeting with Phil Swann re LGA Evaluation of SLI - London
21 January	<ul style="list-style-type: none"> • Meeting with Roger Gough, KCC Leader - SDC • Strategic Programme Board - SDC
22 January	<ul style="list-style-type: none"> • Speaker at DCN Staff Development Programme - London • LGA Parliamentary Reception - London
23 January	<ul style="list-style-type: none"> • LGA Group Meeting - London • LGA Councillors' Forum - London • LGA Executive - London • IDeA Company Board - London • Commercialisation Session with Merton Council - Merton
24 January	<ul style="list-style-type: none"> • Improvement & Innovation Portfolio Holder Meeting - SDC
27 January	<ul style="list-style-type: none"> • Corporate Induction - SDC • Meeting with Interns - SDC • Meeting with Sevenoaks Hockey Club - SDC
28 January	<ul style="list-style-type: none"> • Affordable Housing Meeting - SDC • Social Media Session with Customer Solutions Team - SDC • Kent Council Leaders' Meeting - Maidstone • Kent & Medway Economic Partnership Meeting - Maidstone
29 January	<ul style="list-style-type: none"> • LGA Peer Challenge Stocktake - London • SEEC All Members Meeting - London
30 January	<ul style="list-style-type: none"> • LGA Group Meeting - London • LGA Improvement & Innovation Board - London • LGA Formal/Informal PSP - London
31 January	<ul style="list-style-type: none"> • Kent LEP Meeting - Purfleet • SELEP Strategic Board - Purfleet
February 2020	
3 February	<ul style="list-style-type: none"> • Radio Kent Interview - Tunbridge Wells • Net Zero Meeting with Richard Morris - SDC
4 February	<ul style="list-style-type: none"> • Meet the Audit Manager Candidates - SDC • Cabinet - SDC
5 February	<ul style="list-style-type: none"> • Meeting with 'Save WOLC' - Swanley
6 February	<ul style="list-style-type: none"> • DCN Conference - Warwick
7 February	<ul style="list-style-type: none"> • DCN Conference - Warwick

This page is intentionally left blank