

Council Offices
Argyle Road
Sevenoaks
Kent
TN13 1HG



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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 23 February 2021 to transact the under-mentioned business.

Chief Executive

AGENDA

Apologies for absence

1. To approve as a correct record the minutes of the meeting of the Council held on 17 November 2020. (Pages 1 - 12)
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.
6. Matters considered by the Cabinet:
 - a) Calculation of Council Tax Base and other tax setting issues (Pages 13 - 26)
 - b) Council Tax Setting 2021/22 (Pages 27 - 74)
 - c) Treasury Management Strategy 2021/22 (Pages 75 - 128)
 - d) Property Investment Strategy Update Report (Pages 129 - 158)

- e) Private Sector Housing Enforcement Policy (Pages 159 - 202)
- 7. Matters considered by other standing committees:
 - a) Monitoring Officer's Annual Report (Pages 203 - 364)
- 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 365 - 376)
- 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.
- 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 377 - 380)
- 12. Quarterly report on Special Urgency decisions. (Pages 381 - 382)

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 17 November 2020 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, Firth, Fleming, Foster, Fothergill, Griffiths, Grint, Harrison, Hogarth, Hudson, Hunter, Kitchener, Layland, London, Maskell, McArthur, McGarvey, McGregor, Morris, Nelson, Parkin, Pender, Pett, Piper, Purves, Raikes, Reay, Roy, Thornton, Waterton and Williamson

Apologies for absence were received from Cllrs. Brown and Osborne-Jackson

71. Urgent item

In accordance with Section 100B(4) of the Local Government Act 1972, the Chairman had agreed to accept an urgent matter which had missed the statutory publication deadline.

The matter was urgent as it was reasonable to believe that a delay in bringing the report to Members could dramatically increase the prospect of long-term financial impacts upon residents and businesses in light of the special circumstances surrounding the impact on residents of COVID-19.

The urgent matter had been considered at a Special meeting of the Cabinet on 16 November 2020 and was taken as Agenda Item 14 (Minute 77 (c)).

CHANGE IN AGENDA ITEM ORDER

With Members approval, the Chairman brought forward consideration of agenda item 14 (Minute 77 (c)) to follow agenda item 6 (b) (Minute 77 (b)).

72. To approve as a correct record the minutes of the meeting of the Council held on 21 July 2020.

Resolved: That the Minutes of the meeting of the Council held on 21 July 2020 be approved, and signed as a correct record.

73. 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, not already registered, were received.

74. Chairman's Announcements.

The Chairman reported that it had now been eight months since the country entered the first lockdown in response to the growing threat of coronavirus, and in those eight months there had been some extraordinary efforts to support the most vulnerable and keep running the council services that residents relied on.

The current lockdown had again shown that across the district individuals and groups were willing to step up to support their neighbours and those in their communities that required help and support in the coming weeks. More than 1,200 volunteers had stepped up as part of the wonderful 'Care for our Community' to support those in need of assistance in the district, alongside the very active voluntary and community sector.

The Council had launched its Community Connectors scheme in October, working along trusted and recognised community leaders to help communicate the key Public Health England safety messages to help people get clear information on how to stay safe, reduce the risk of getting and spreading the infection, and what additional support there might be to help do this.

Since April, the Housing team had provided accommodation for over 60 rough sleepers that would otherwise have faced Covid-19 without a place to live, and the team were now working to find 'move on' accommodation for when the urgent support the council had been able to find, came to an end.

The Council had successfully secured £468k funding from Ministry of Housing, Communities and Local Government's (MHCLG) Next Steps Accommodation Fund to support the impact of Covid-19, helping rough sleepers into 'move on' accommodation. The Council's HERO team had supported 322 people who had been referred to them with concerns about their housing or finances as a direct result of Covid-19.

The Council had been given access to an allocated fund of £107,106 from the European Regional Development Fund supporting measures to establish a safe trading environment for businesses and customers in high streets. The focus on recovery and supporting the high street had seen the development of a town centre high streets communications campaign with the town councils, which was due to launch in the Christmas lead up.

The Council had allocated Government's Small Business Rate Relief and Business Grants totalling £23.32m, supporting 1,904 local businesses. The Discretionary Grant Scheme had awarded £1.2m to businesses.

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The Chairman further advised that in the absence of any face-to-face social meetings, he and the Vice Chairman had continued to contact and virtually meet with local community and charity groups to see how they were adapting to the situation, and as ever they were quite inspiring.

Prior to the current lockdown, he and the Vice Chairman had attended some outdoor events in person marking Silver Sunday, including several Every Step Counts and the Memorial Care Garden at Sevenoaks allotments as well as Flag raising ceremonies at the council offices and the Memorial Service on the Vine. He added that whilst he was at West Kingsdown attending their 'Every Step Counts', he had taken the opportunity to re-visit the much-overworked Community Cupboard to thank them for their sterling work in supporting the wider community, which had been much appreciated.

The Chairman reported that staff and Members had been fundraising for 'Children in Need' and had raised an amazing total of £864.80.

Finally he asked Members to note that the Staff Christmas Service would be taking place via Zoom on Wednesday 9 December at 11am, and that further details would follow in due course.

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

Two questions had been received from a member of the public, Mr David Green Chairman of Sevenoaks Society, in accordance with paragraph 17 of Part 2 (The Council and District Council Members) of the Constitution.

Question 1: Mr Green

Why were no steps taken in the period 25 February to 10 August 2020 pursuant to resolution 41 a) of Council on 25 February 2020 which stated: 'That a definitive statement be sought from the owner of the former Farmers public house site, of their timelines to dispose of the site or to fully implement the planning permission'? What steps if any have been taken since 10 August 2020 pursuant to the said resolution a) and with what (if any) results, and what further steps are now proposed to be taken pursuant to it?

Response: Leader of the Council

You will understand that it is difficult for the Council to give out full details of the steps which it has taken on the issue so far as it is currently subject to enforcement action and also relates to personal information.

In 2019 a lawful development certificate was issued for the site (SE/19/01295/LDCEX). This confirmed that development had lawfully commenced on the site in accordance with planning permission Ref 13/03596 dated 27 February 2015.

We have attempted to contact the owners of the site, in writing and by phone to seek a timescale for developing the site or for its sale. We have not been able to make contact with them. As it has been difficult to seek any answers from the owners, even to statutory notices, the Council believes that clear action needs to be taken and this is what we are now doing. In light of the above it was agreed by officers that the best course of action is to pursue the CIL payments, hoping that this would encourage them to carry out the permission.

Question 2: Mr Green

Why were no steps taken in the period 25 February to 10 August 2020 pursuant to resolution 41 b) of Council on 25 February 2020 which stated:

‘That the owner be pursued for the full community infrastructure levy (CIL) payment due?’ What steps if any have been taken by SDC since 10 August 2020 pursuant to the said resolution b) and with what (if any) results, what further steps are now proposed to be taken pursuant to it; and what is the amount of CIL, including interest and surcharges, outstanding to SDC as at 17 November 2020?

Response: Leader of the Council

Since before 10 August 2020, the Planning Authority have been taking steps to recover the full CIL funds.

There are a number of steps that we need to take including gaining information, calculating the correct fees (including interest) and also ensuring that the details of the notice are correct and following the complicated CIL legislation. We also have to provide the owners with adequate timescales to respond to our demands at each stage. This is therefore taking some time.

Please be assured that we have commenced this process and that we are working with our Legal team to ensure this is carried out correctly. We are due to serve revised Demand Notices imminently, including all the surcharges and interest which we expect to be paid. Our Planning Team will be able to inform you of our progress, subject to personal information not being disclosed, as the steps for enforcement are taken.

76. 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.

77. Matters considered by the Cabinet

a) 27 to 37 High Street, Swanley Redevelopment

Councillor Fleming moved and Cllr Dickins seconded the recommendation from Cabinet, which sought approval: to redevelop 27-37 High Street, Swanley, to provide a new business hub and 17 residential units; for the project to be established within the Capital Programme; and for the project to proceed. It was

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noted that paragraph 1 of the report erroneously listed Swanley Christchurch as a deprived ward and should have read Swanley White Oak.

The Leader emphasised how important the scheme was, some external funding had been secured and it was a vital part of the Council's overall plans for the regeneration work in Swanley which would, in turn, hopefully lead to private investment in the area in the coming years.

Resolved: That

- a) the redevelopment of 27-37 High Street, Swanley, as outlined in the report, to provide a new business hub and 17 residential units at an estimated total project cost of £5,624,039 as set out in Table 1 to the report, be approved;
- b) the project be funded by
 - i. capital receipts from the sale of units in the scheme, estimated to be c. £4,134,039;
 - ii. £1,490,000 from the Getting Building Fund (GBF) administered by the South East Local Enterprise Partnership (SELEP), noting that the SELEP Accountability Board would only make a decision on the match funding on the 20 November 2020 and thus approval to proceed with the project was conditional on SELEP finally awarding the GBF grant; and
 - iii. the £375,000 vired in August 2020 be transferred back to the Property Investment Strategy from this project.
- c) authority be delegated to the Strategic Head of Property and Commercial in consultation with the Head of Legal and Democratic Services and the Chief Officer Finance and Trading, to enter into necessary contracts to facilitate the development and construction of the proposed scheme in accordance with the Council's Contracts Procedure Rules.

b) Christmas Parking

Councillor Fleming moved and Cllr McArthur seconded the recommendation from Cabinet, which sought approval to the costs in term of loss of income being met from supplementary estimates for the proposed free parking in Sevenoaks town and Westerham on the two weekends leading up to Christmas in December 2020.

Resolved: That the cost of in terms of loss of income for free parking in Sevenoaks town and Westerham on Saturday 12 December 2020, Sunday 13 December 2020, Saturday 19 December 2020 and Sunday 20 December 2020, be met from Supplementary Estimates.

c) Supporting the Local Economy - Post Lockdown Parking Scheme

Councillor Fleming moved and Cllr McArthur seconded the recommendation from Cabinet, which sought approval to the costs, in term of loss of income, being met from supplementary estimates for the proposed free parking for short stay visitors within the Council's car parks for one calendar month from the end of lockdown.

Resolved: That the cost in terms of loss of income from the post lockdown parking scheme be met from a Supplementary Estimate (up to a maximum of £60,000).

d) Budget Setting 2021/22

Councillor Fleming moved and Cllr Dickins seconded the recommendation from Cabinet, which sought approval of the 2021/22 Budget Setting process.

The Leader addressed Council and stated that innovation was not a word often used within the world of finance or those who worked within it, and for good reason as just how 'creative' did you want your account, or 'cutting edge' your pension fund manager. Local government finance followed a similar path, change, if not totally frowned upon, was usually glacial in pace with only the occasional accounting guidance updates to hasten the heart and quicken the blood. This made the journey the Council had been on for over a decade, all the more remarkable. Almost 11 years on from the original 10 year budget, any other council proposing what Members had before them would be hailed as 'visionary' if not 'revolutionary', yet it had been a quiet revolution, one that again, even during the tumultuous global events, hadn't seen the council blown off course or forced to propose the wholesale diminution of services that faced many councils across the country.

He stated that it would be easy to see the budget solely through the lens of the last half year and the impact that the pandemic had had on the authority and community, and individuals and businesses. However that would miss the greatest single achievement of the budget and the rolling ten year budget as a whole. As a Council in the last ten years, the budget had been reduced from a net revenue spend of almost £17m in 2010/11 to a little over £15.5m in the last year and factoring in inflation the council had saved almost £5m or approaching a third of its overall spend without slashing services, or reducing service quality, or outsourcing or in any way compromising the breath or depth of services provided. In fact the council had continued to invest, improve and increase services across the board to the district it was tasked to serve.

The latest innovation, of bringing the budget forward by three months would mean many of the benefits contained within the budget would be in place, up and running and banked before most councils had a handle on what their budget papers would look like in February 2021. From the moment the idea was mooted, Cabinet had been determined that all Members would have had the opportunity to fully engage in the budget process as usual, and by his reckoning the budget had now been deliberated, debated and discussed in public for over 20 hours, with Members, if they so wished, being able to join and take part in every single

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meeting. It was customary at this point to thank Members and Officers for all of the work and effort in getting to this point, and this year was no exception. However on top of his usual thanks he added his specific thanks to Members for embracing the significant change in the budget timetable and Officers for getting them to this meeting within the constrained period.

The global pandemic had, as with all councils, had a huge impact that no-one could have foreseen when meeting to agree the budget earlier that year. In total Covid-19 had cost or reduced income by almost £1.5m. However, unlike colleagues across local government, the Council was able to meet the challenge in a measured way without the need for swinging cuts or financial crisis management. Members had before them clear decisions to make on savings but also investment. The scale of the challenge faced was reduced by the decisions made in the past and the sure foundation of the budget process. The stability brought by the rolling ten-year budget, allowed the Council to continue to make positive choices about high quality services, delivered in house to the residents served, with a balanced budget in a sustainable way. The ten-year budget had no direct government support and no new homes bonus included. It was again a balanced ten-year budget; a financially self-sufficient budget giving the Council greater control over its services and massively reducing the potential for decision making being driven, not by the Members of the Council on behalf of the residents served, but instead by the whims of Her Majesty’s Government through the allocation, or not, of funding.

He commended the budget to Members stating that it was an innovative budget, a budget that would stand the Council in the best possible stead to continue to provide the high quality and breadth of services the district’s residents deserved. He believed that come the council tax setting meeting in February 2021, the Council would be in the best possible position having taken these decisions early.

In response to a question with regards to the risk assessment and prediction of normality come 2022/23, the Leader advised that the 10 year budget was based on a number of assumptions and a measured view provided the ‘best guess’ of where the Council was currently and where it would be going forward.

The vote was taken by all those present throughout the debate.

For	Against	Abstention
Cllr Abraham Cllr Andrews Cllr Ball Cllr Barnes Cllr Barnett Cllr Bayley Cllr Dr Canet Cllr Carroll Cllr Clack Cllr Clayton Cllr Penny Cole		Cllr Cheeseman

Cllr Perry Cole		
Cllr Coleman		
Cllr Collins		
Cllr G Darrington		
Cllr P Darrington		
Cllr Dickins		
Cllr Dyball		
Cllr Edwards-Winser		
Cllr Esler		
Cllr Eyre		
Cllr Firth		
Cllr Fleming		
Cllr Foster		
Cllr Fothergill		
Cllr Griffiths		
Cllr Grint		
Cllr Harrison		
Cllr Hogarth		
Cllr Hudson		
Cllr Hunter		
Cllr Kitchener		
Cllr Layland		
Cllr London		
Cllr Maskell		
Cllr McArthur		
Cllr McGarvey		
Cllr McGregor		
Cllr Morris		
Cllr Nelson		
Cllr Parkin		
Cllr Pender		
Cllr Pett		
Cllr Piper		
Cllr Purves		
Cllr Raikes		
Cllr Reay		
Cllr Roy		
Cllr Thornton		
Cllr Waterton		
Cllr Williamson		
51	0	1

It was therefore

Resolved: That

- a) the summary of the Council Expenditure for 2021/22 as set out in Appendix G to the report, be approved;

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- b) the 10 year budget 2021/22 to 2030/31 which was 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 D to the report be approved, and that where possible any variations during and between years be met from the Budget Stabilisation Reserve;
- c) the Capital Programme 2021/24 and funding method set out in Appendix H(i) and Capital Strategy 2021/22 as set out in Appendix H(iii) to the report, be approved; and
- e) the changes to reserves and provisions set out in Appendix J to the report, be approved.

78. Matters considered by other standing committees

- a) Statutory guidance issued by the Secretary of State for Transport to protect children and vulnerable individuals

Councillor Clack moved and Councillor Pett seconded the recommendation from the Licensing Committee. The report sought approval of amendments to the Statement of Hackney Carriage and Private Hire Policy 2020-2023. Councillor Clack responded to questions of clarification on DBS checks and in-vehicle visual and audio recording.

Resolved: That

- a) the amendments to the Statement of Hackney Carriage and Private Hire Policy 2020-2023, as set out in paragraphs 20, 30, 51-52, 58, 61, 65, 77 and 80-81 of the report, be approved;
- b) the sentence "Changes agreed in this way are to be reported back to the Licensing Committee at the next meeting." be added to paragraph 20 of the report;
- c) paragraph 30 of the report be amended to read as "Following a decision to refuse or revoke a licence by Sevenoaks District Council as the individual is thought to present a risk of harm to a child or vulnerable adult, the authority shall consider a referral to the DBS under the Safeguarding Vulnerable Groups Act 2006;
- d) paragraph 77 of the report be amended to read as "All applicants will be required to obtain a Group 2 Medical standards certificate signed by their own GP, or another practitioner who has accessed at least 2 years of medical records"; and
- e) delegated authority be granted to the Head of the Licensing Partnership following consultation with the Chairman of the Licensing Committee for the precise wording of the minor amendments.

- b) Appointment of a Deputy Electoral Registration Officer

Councillor Eyre moved and Councillor Nelson seconded the recommendation from the Governance Committee. The report sought approval to the appointment of the Assistant Chief Executive as the Deputy Electoral Registration Officer.

Resolved: That the Assistant Chief Executive be appointed Deputy Electoral Registration Officer for Sevenoaks District Council.

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

- a) Changes to Committee membership

Councillor Fleming moved and Councillor Dickins seconded the report which sought changes to the membership of the Health Liaison Board.

Resolved: That

- a) Councillor Piper be removed from the Health Liaison Board membership and replaced with Councillor Maskell for the remainder of the municipal year 2019/21; and
- b) Councillor Maskell be appointed Chairman of the Health Liaison Board for the remainder of the municipal year 2019/21.

- b) Draft Calendar of meetings for the municipal year 2021/22

Councillor Fleming moved and Councillor Dickins seconded the report which sought approval of the draft calendar of meetings 2021/22.

Resolved: That the calendar of meetings for 2021/22 be approved subject to the formal adoption at the Annual Meeting of Council on 11 May 2021.

80. 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.

No questions had been received.

81. 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.

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82. 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 6 July to 30 November 2020.

83. Quarterly report on Special Urgency decisions.

Members considered the quarterly report on special urgency decisions.

Resolved: That the report be noted.

84. To receive reports from the Chairmen of the Audit Committee on the work of the Committees since the last Council meeting.

Members noted the report presented by the Chairman of the Audit Committee, Councillor McGarvey.

THE MEETING WAS CONCLUDED AT 7.47 PM

CHAIRMAN

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 (14 January 2021, Minute 162)

The Portfolio Holder for Finance & Investments presented the report which set out details of the calculation of the District's tax base for council tax setting purposes. The Principal Accountant set out that these figures were used to determine tax rates for each of the council tax bands once the Council's budget requirement was known. The report also advised Members of the timetable for setting the 2021/22 council tax.

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 Deputy Chief Executive and Chief Officer - Finance & Trading for the calculation of the Council's tax base for the year 2021/22 be approved;
- b) pursuant to the report of the Deputy Chief Executive and 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 2021/22 shall be 50,876.85;
- c) pursuant to the report of the Deputy Chief Executive and 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 2021/22 for the calculation of local precepts shall be:

Parish	Tax Base
Ash-cum-Ridley	2,426.35
Badgers Mount	328.16
Brasted	775.49
Chevening	1,445.79
Chiddingstone	602.21
Cowden	442.50
Crockenhill	654.75
Dunton Green	1,329.09
Edenbridge	3,730.15
Eynsford	944.94

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Farningham	661.54
Fawkham	289.59
Halstead	767.03
Hartley	2,532.03
Hever	618.74
Hextable	1,677.33
Horton Kirby & South Darenth	1,276.35
Kemsing	1,825.81
Knockholt	633.11
Leigh	945.82
Otford	1,723.77
Penshurst	826.26
Riverhead	1,246.83
Seal	1,298.29
Sevenoaks Town	9,648.91
Sevenoaks Weald	611.46
Shoreham	686.73
Sundridge	928.01
Swanley	5,640.98
Westerham	2,037.57
West Kingsdown	2,321.26

- 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 - 23 February 2021

Report of: Deputy Chief Executive and Chief Officer - Finance & Trading

Status: For Decision

Also considered by: Cabinet - 14 January 2021

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 2021/22 council tax.

This reports support the Key Aim of: efficient management of the Council's resources.

Portfolio Holder: Cllr. Matthew Dickins

Contact Officer: Roy Parsons, Ext. 7204

Recommendation to Cabinet:

That it be recommended to Council that:

- (a) the report of the Deputy Chief Executive and Chief Officer - Finance & Trading for the calculation of the Council's tax base for the year 2021/22 be approved;
- (b) pursuant to the report of the Deputy Chief Executive and 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 2021/22 shall be 50,876.85;
- (c) pursuant to the report of the Deputy Chief Executive and 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 2021/22 for the calculation of local precepts shall be:

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<u>Parish</u>	<u>Tax Base</u>
Ash-cum-Ridley	2,426.35
Badgers Mount	328.16
Brasted	775.49
Chevening	1,445.79
Chiddingstone	602.21
Cowden	442.50
Crockenhill	654.75
Dunton Green	1,329.09
Edenbridge	3,730.15
Eynsford	944.94
Farningham	661.54
Fawkham	289.59
Halstead	767.03
Hartley	2,532.03
Hever	618.74
Hextable	1,677.33
Horton Kirby & South Darent	1,276.35
Kemsing	1,825.81
Knockholt	633.11
Leigh	945.82
Otford	1,723.77
Penshurst	826.26
Riverhead	1,246.83
Seal	1,298.29
Sevenoaks Town	9,648.91
Sevenoaks Weald	611.46
Shoreham	686.73
Sundridge	928.01
Swanley	5,640.98
Westerham	2,037.57
West Kingsdown	2,321.26

- (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 recommendation: As part of the tax setting process for 2021/22, 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. The amounts payable in the other bands are expressed as a proportion of the band D figure and these are shown in Appendix A.
- 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 14 September 2020 and occupancy information at 5 October 2020. The tax base for tax setting purposes is based on information available in December 2020. In addition, other factors may be taken into account to reflect likely changes to the tax base during 2021/22. 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 changes in the level of Council Tax Reduction Scheme payments
 - An allowance for the effect of appeals by taxpayers on the banding of their properties

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- 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. However, due to the effect of the COVID-19 pandemic, there has been a significant increase in the amount of Council Tax Reduction Scheme payments to individual taxpayers and this is expected to continue into 2021/22. It is also prudent to reconsider the level of the non-collection allowance and this is addressed in the following paragraphs.

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 Paragraphs 4 & 5. Having assessed previous years' collection rates plus the likely effect of the COVID-19 pandemic on current and forthcoming financial years' collection rates, it is considered wise to reduce the assumed collection rate to 98.4% for 2021/22.
- 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 2020 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 2020/21 appear in column 5.

<u>(1)</u> Parish	<u>(2)</u> Band D Equivalents	<u>(3)</u> Collection Rate Multipliers	<u>(4)</u> Tax base 2021/22	<u>(5)</u> Tax base 2020/21
Ash-cum-Ridley	2,465.80	0.984	2,426.35	2,459.75
Badgers Mount	333.50	0.984	328.16	334.98
Brasted	788.10	0.984	775.49	778.10
Chevening	1,469.30	0.984	1,445.79	1,456.01
Chiddingstone	612.00	0.984	602.21	604.75
Cowden	449.70	0.984	442.50	449.88
Crockenhill	665.40	0.984	654.75	659.12
Dunton Green	1,350.70	0.984	1,329.09	1,321.92
Edenbridge	3,790.80	0.984	3,730.15	3,697.28
Eynsford	960.30	0.984	944.94	948.87
Farningham	672.30	0.984	661.54	666.28
Fawkham	294.30	0.984	289.59	292.04
Halstead	779.50	0.984	767.03	778.40

Hartley	2,573.20	0.984	2,532.03	2,556.57
Hever	628.80	0.984	618.74	620.75
Hextable	1,704.60	0.984	1,677.33	1,698.15
Horton Kirby & South Darent	1,297.10	0.984	1,276.35	1,302.24
Kemsing	1,855.50	0.984	1,825.81	1,853.31
Knockholt	643.40	0.984	633.11	634.27
Leigh	961.20	0.984	945.82	961.50
Otford	1,751.80	0.984	1,723.77	1,720.71
Penshurst	839.70	0.984	826.26	837.74
Riverhead	1,267.10	0.984	1,246.83	1,247.77
Seal	1,319.40	0.984	1,298.29	1,303.53
Sevenoaks Town	9,805.80	0.984	9,648.91	9,690.61
Sevenoaks Weald	621.40	0.984	611.46	617.77
Shoreham	697.90	0.984	686.73	683.97
Sundridge	943.10	0.984	928.01	937.54
Swanley	5,732.70	0.984	5,640.98	5,663.91
Westerham	2,070.70	0.984	2,037.57	2,066.03
West Kingsdown	2,359.00	0.984	2,321.26	2,364.13
TOTALS	51,704.10		50,876.85	51,207.88

- 8 It should be noted that the overall tax base for the District will fall from 51,207.88 for 2020/21 to 50,876.85 for 2021/22. With a few exceptions, reductions are also seen in the Town & Parish tax bases. This will mean that either band D taxes will be higher than they would otherwise have been, or precepts will have to be reduced to achieve the desired band D council tax.
- 9 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

- 10 The County Council, Police & Crime Commissioner and Fire and Rescue Service have advised me of their budget meeting dates for 2021/22:
- County Council - 11 February 2021
 - Police & Crime Commissioner - 4 February 2021

Agenda Item 6a

- Fire & Rescue Service - 23 February 2021 (to be confirmed)
- 11 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 Appendix B.
 - 12 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 2021 or the first working day after this, for the year ending 31 March 2021.
 - 13 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 2021/22.
 - 14 As a result of the COVID-19 pandemic, the rules have changed regarding recovery of an estimated deficit on the collection fund in relation to the year 2020/21. In simple terms, rather than the full amount of an estimated deficit being taken into account by the billing and precepting authorities in the year ending 31 March 2022, it will be spread equally over the coming three financial years. This has been designed to reduce the effect on an authority's General Fund. The rules do not apply to an estimated surplus, the full amount of which will be taken into account by the billing and precepting authorities in the year ending 31 March 2022.
 - 15 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 2020/21. Payment is to be made during 2021/22 on the same dates as precept payments.

Key Implications

Financial

There are no financial implications.

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 the billing and 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 2021/22 council tax.

Appendices

Appendix A - Council tax valuation bands

Appendix B - Key dates in the council tax setting process

Background Papers

None

Adrian Rowbotham

Deputy Chief Executive and Chief Officer - Finance & Trading

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COUNCIL TAX VALUATION BANDS

To calculate the relative value of dwellings for council tax purposes each dwelling is placed on a valuation list in one of eight bands ranging from A to H. Within a local area, the amount of council tax payable will vary between the different bands according to proportions laid down by law. The bands are based on property values as at April 1991.

Band	Value	Proportion
A*	Up to £40,000	5/9
A	Up to £40,000	6/9
B	Over £40,000 and up to £52,000	7/9
C	Over £52,000 and up to £68,000	8/9
D	Over £68,000 and up to £88,000	9/9
E	Over £88,000 and up to £120,000	11/9
F	Over £120,000 and up to £160,000	13/9
G	Over £160,000 and up to £320,000	15/9
H	Over £320,000	18/9

Band A* is applicable to recipients of a Disabled Persons Reduction who would otherwise be in Band A.

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KEY DATES IN THE COUNCIL TAX SETTING PROCESS

- | | | |
|-------|---|---|
| i) | By 10 October 2020 | Notify tax base for grant settlement purposes to the Ministry of Housing Communities & Local Government (MHCLG) |
| ii) | During December 2020 | MHCLG notifies schedule of payment dates for Revenue Support Grant (RSG) and Non-Domestic Rates (NDR). DCLG notifies the NDR multiplier (rate in £) for 2021/22 |
| iii) | By 31 December 2020 | Issue proposed schedule of payment dates to precepting authorities |
| iv) | By 31 January 2021 | Agree actual schedule of precept payment dates |
| v) | Between 1 December 2020 and 31 January 2021 | Notify tax base for tax setting purposes to KCC, Fire & Rescue Service and Police & Crime Commissioner |
| vi) | On 15 January 2021 | 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 2021 | Notify KCC, Fire and Police of their shares of the surplus or deficit and when amounts are to be paid or transferred during 2021/22 (where applicable) |
| viii) | During January and February 2021 | Notify Town/Parish Councils of tax bases for their areas within 10 days of them making such a request |
| ix) | During February 2021 | MHCLG notifies entitlements and payment dates of Formula Spending Share (FSS), RSG and NDR |
| x) | By 1 March 2021 | KCC, Fire & Rescue Service, Police & Crime Commissioner and Town/Parish Councils issue their precepts |
| xi) | By 11 March 2021 | District sets council tax for 2021/22, taking account of its own budget requirement and those of the precepting authorities. |

Item 6(b) - Council Tax Setting 2021/22

The attached report was considered by the Cabinet on 11 February 2021, and the relevant minute extract was not available prior to the printing of these papers and will follow when available.

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COUNCIL TAX SETTING 2021/22

Council - 23 February 2021

Report of: Deputy Chief Executive and Chief Officer - Finance and Trading

Status: For Decision

Also considered by:

- Cabinet - 11 February 2021

Key Decision: No

Executive Summary:

The 2021/22 Budget Setting process has been more challenging than recent years due to the ongoing financial impact of the COVID-19 pandemic. The process has also been shortened to enable savings to be implemented prior to April 2021.

In November, Council approved the budget for 2021/22 subject to any further changes.

This report revises the budget for the forthcoming financial year and recognises the level of Council Tax in light of the Provisional Local Government Finance Settlement, Council Tax base calculation and other updated data. Based on the changes detailed in this report, **this Council will continue to have a balanced 10-year budget.**

The report proposes a net expenditure budget of £16.783m in 2021/22 (£15.581m in 2020/21). Subject to any further changes this would result in a **Council Tax increase of 2.25% in 2021/22, with the District's Council Tax being £224.91 for a Band D property for the year (£219.96 in 2020/21), an increase of £4.95.** This will also result in an additional ongoing commitment to the Net Zero Transition Fund.

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

Portfolio Holder: Cllr. Matthew Dickins

Contact Officers: Adrian Rowbotham, Ext. 7153

Alan Mitchell, Ext. 7483

Recommendation to Cabinet:

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

Recommendation to Council:

- (a) The updated Summary of Council Expenditure and Council Tax for 2021/22 set out in Appendix D be approved.
- (b) Approve the updated 10-year budget 2021/22 to 2030/31 set out in Appendix B(i).
- (c) That the Local Council Tax Reduction Scheme 2020/21, be rolled forward to 2021/22, with effect from 1 April 2021 (Appendix G).

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

Introduction and Background

- 1 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 ten 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 eleventh year this method has been used and provides the Council with a stable basis for future years.
- 2 At the Cabinet meeting on 17 September 2020, it was agreed to shorten the budget process this year so that the Council's budget was set at the November Council meeting instead of the February Council meeting. This enabled changes to be implemented earlier and the period of uncertainty for staff minimised. The budget timetable is set out in **Appendix A**.
- 3 The Budget Setting 2021/22 report was presented at the Council meeting on 17 November 2020 when the following was resolved:
 - a) the summary of the Council Expenditure for 2021/22 be approved;
 - b) the 10-year budget 2021/22 to 2030/31 which was the guiding framework for the detailed approval of future years' budgets including the growth and savings proposals be approved, and that where possible any variations during and between years be met from the Budget Stabilisation Reserve;
 - c) the Capital Programme 2021/24 and funding method, and Capital Strategy 2021/22 be approved; and
 - d) the changes to reserves and provisions be approved.

- 4 With the shorter budget process and earlier budget approval, it was not possible to include Council Tax Setting in the same report as the preceptors had not set their Council Tax amounts at that time.
- 5 This report contains the Council Tax setting part of the budget process as well as other detailed elements of the budget setting process.
- 6 Since the Council meeting on 17 November 2020, further information has been received that has resulted in changes to the **10-year budget (Appendix B(i)) and the Summary of Council Expenditure and Council Tax for 2021/22 (Appendix D)**. Council are asked to approve these revised documents.
- 7 The changes are explained in the sections below and listed in **Appendix C**.

Local Government Finance Settlement

- 8 ***The Provisional Local Government Finance Settlement*** for 2021/22 was announced on 17 December 2020. The most relevant elements for this Council were as follows:
 - 9 The settlement relates to 2021/22 only.
 - 10 ***Council Tax*** - It was announced that the referendum limit for 2021/22 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. This report assumes that Members recommend to change the Council Tax increase assumption for 2021/22 from £4.40 (2%) to £4.95 for a Band D property (2.25%) or the referendum limit, whichever is the greater, with the excess above 2% put into the 'Net Zero Transition Fund' to support the councils vital work in this field.
 - 11 This recommendation would result in Band D Council Tax increasing from £219.96 in 2020/21 to £224.91 in 2021/22 (unless the final referendum limit is higher).

2021/22 Council Tax	Original Assumption	Proposed Assumption
% increase	2.00%	2.25%
£ increase (Band D pa)	£4.40	£4.95
£ (Band D pa)	£224.36	£224.91

- 12 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.

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- 13 A new **Lower Tier Services Grant** (£98,000 in 2021/22) has been included for 2021/22. This one-year payment is to ensure that no authority has a total Core Spending Power less than in 2020/21.
- 14 Additional **New Homes Bonus (NHB)** funding of £514,000 has been included for 2021/22. The attached 10-year budget assumes no NHB. As previously agreed, any amounts received 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.
- 15 Further Covid-19 related funding detailed below.
- 16 **The Final Local Government Finance Settlement** for 2021/22 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.

Covid-19 Impact

- 17 The impact of Covid-19 on the Council's finances continues to change as the position nationally and locally fluctuates.
- 18 Details of the Covid-19 impact were included in the Budget Setting report to Council in November and are also included in the regular Financial Results reports to the Finance & Investment Advisory Committee and Cabinet.
- 19 Since the Budget Setting report to Council in November, the following additional funding for 2021/22 has been announced which has been included in the Updated 10-Year Budget.
- 20 **Local Tax Income Guarantee for 2020/21** (estimated £51,000 in each of 21/22, 22/23 and 23/24) - The Government will compensate local authorities for 75% of irrecoverable losses in Council Tax and Business Rates income in respect of 2020/21. This will be spread over 2021/22 to 2023/24. The exact details of this scheme are yet to be announced.
- 21 **Local Council Tax Support Grant** (£245,000 in 21/22) - In recognition of the increased costs of providing Local Council Tax Support following the pandemic.

Council Tax Base

- 22 A separate 'Calculation of Council Tax Base and Other Tax Setting Issues' report is being presented at Cabinet on 14 January 2021 and Council on 23 February 2021.
- 23 The Council Tax Base has reduced from 51,207.88 (2020/21) to 50,876.85 (2021/22) Band D equivalent properties. That is below the previously assumed 51,218.33.

- 24 The 10-year budget assumes that the majority of the reduced tax base is recovered between 2022/23 and 2024/25 as the country recovers from the pandemic.

Other Changes

- 25 In the Budget Setting report, SCIA13 - Property Investment Strategy: M & Co administration (£96,000) was included in the 'New Growth' line in the 10-year budget in error. It has now been moved to the 'Property Investment Strategy Income' line. This is the reason why the Net Service Expenditure in 2021/22 has changed from £16.879m to £16.783m

Collection Fund Surplus/Deficit Calculation

- 26 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.
- 27 The estimated surplus/deficit at 15 January 2020 was zero, whilst the actual surplus balance at 31 March 2020 was £566,060. The balance is relatively small in the context of the gross council tax collectible during 2019/20 of approximately £95.8m.
- 28 The purpose of the calculation at 15 January 2021 is to estimate the likely surplus or deficit balance on the collection fund at 31 March 2021. This is based on the tax bills issued for the year, current collection performance and the level of bad debt provision held.
- 29 As a result of the COVID-19 pandemic, the rules have changed regarding recovery of an estimated deficit on the collection fund in relation to the year 2020/21. In simple terms, rather than the full amount of an estimated deficit being taken into account by the billing and precepting authorities in the year ending 31 March 2022, it will be spread equally over the coming three financial years. This has been designed to reduce the effect on an authority's General Fund. The rules do not apply to an estimated surplus, the full amount of which will be taken into account by the billing and precepting authorities in the year ending 31 March 2022.
- 30 This Council's share of the surplus as at 31 March 2020 is £90,409 and our one-third share of the estimated deficit for 2020/21 is £4,146 resulting in a net surplus of £86,263 to be taken into account in the year ending 31 March 2022. A similar apportionment has been carried out for the County Council, Fire and Police, based on the relative level of their precepts.

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Current Budget Position

- 31 The 10-year budget (**Appendix Bi**) continues to show a fully funded 10-year position. By continuing to use the 10-year budget strategy, this council remains in a strong position going forward.
- 32 **Appendix C** shows the changes in the 10-year Budget since it was approved by Council on 17 November 2020.

2021/22 Budget and Council Tax

- 33 After allowing for the growth and savings agreed and the key changes made during this budget process, the resulting net expenditure for 2021/22 is £16.783m. As shown in **Appendix D** this results in Council Tax income of £11.443m, meaning that the District element of the Band D charge will be £224.91.
- 34 When the other preceptors announce their Council Tax increases, details will be included in **Appendix H**.
- 35 Further details of the budget can be found in the following appendices:
- 10-year budget - Revenue (**Appendix B(i)**)
 - 10-year budget - Balance Sheet (**Appendix B(ii)**)
 - Summary of Council Expenditure and Council Tax (**Appendix D**)
 - Summary of 2021/22 service analysis in Budget Book format (**Appendix E**)
 - Analysis of 2021/22 pay costs (**Appendix F**)

Integration with other budget reports on the Cabinet Agenda

- 36 Separate reports on the Treasury Management Strategy and Property Investment Strategy are being presented to Cabinet and Council.

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

- 37 Under the LGA 2003 the Statutory Finance Officer (Deputy Chief Executive and Chief Officer - Finance and Trading) is required to give Members an opinion on the robustness of the budget estimates and the adequacy of reserves.
- 38 At the time of writing the Budget Setting 2021/22 report to Cabinet and Council in November 2020, the Deputy Chief Executive and Chief Officer - Finance and Trading (Section 151 officer) was satisfied with the robustness of the estimates and adequacy of reserves.

- 39 The Deputy Chief Executive and Chief Officer - Finance and Trading (Section 151 officer) continues to be satisfied with the robustness of the estimates and adequacy of reserves.

Referendums relating to council tax increases

- 40 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.
- 41 The Secretary of State has published draft thresholds in relation to 2021/22 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 2.25% (£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 2021/22

- 42 The Council Tax Reduction scheme replaced Council Tax Benefit with effect from 1 April 2013.
- 43 Under the Council Tax Reduction provisions, the scheme for pensioners is determined by Central Government and the scheme for working age applicants is determined by the Council. Pensioners broadly receive the same level of support that was previously available under the Council Tax Benefit scheme.
- 44 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.
- 45 The 2020/21 Local Council Tax Reduction Scheme was approved by Council on 25 February 2020.
- 46 Further details can be found in **Appendix G** and a copy of the full scheme is available upon request.

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- 47 It is recommended that the Local Council Tax Reduction Scheme 2020/21, be rolled forward to 2021/22, with effect from 1 April 2021.

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 was included as Appendix K in the Budget Setting 2021/22 report.

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 risks are 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.

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 K** is approved, the Sevenoaks District Council element of the band D council tax will be £224.91.

Appendices

Appendix A - Budget timetable

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

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

Appendix C - Summary of changes to the 10-year Budget since Council on 17/11/20

Appendix D - Summary of Council Expenditure and Council Tax

Appendix E - Summary of service analysis in budget book format

Appendix F - Analysis of pay costs

Appendix G - Local Council Tax Reduction Scheme 2021/22

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

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

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

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

Background Papers

Budget and Council Tax Setting 2020/21 - Cabinet 4 February 2020

[Financial Prospects and Budget Strategy 2021/22 and Beyond - Cabinet 17 September 2020](#)

Budget 2021/22: Service Dashboards and Service Change Impact Assessments (SCIAs) - [Housing and Health AC 29 September 2020](#), [People and Places AC 6 October 2020](#), [Improvement and Innovation AC 8 October 2020](#), [Cleaner and Greener AC 13 October 2020](#), [Development and Conservation Advisory Committee 20 October 2020](#), [Finance and Investment Advisory Committee 21 October 2020](#)

Budget Setting 2021/22 - [Cabinet 5 November 2020](#), [Council 17 November 2020](#)

Adrian Rowbotham

Deputy Chief Executive and Chief Officer - Finance & Trading

2021/22 Budget Setting Timetable

Stage 1: Financial Prospects and Budget Strategy 2021/22 and Beyond

8 September - Finance & Investment AC

17 September - Cabinet

Stage 2a: Review of Service Dashboards and Service Change Impact Assessments

29 September - Housing and Health AC

6 October - People & Places AC

8 October - Improvement & Innovation AC

13 October - Cleaner & Greener AC

20 October - Development & Conservation AC

21 October - Finance & Investment AC

Stage 2b: Budget Update

15 October - Cabinet

Stage 3: Budget Setting Meeting (Recommendations to Council)

5 November - Cabinet

Stage 4: Budget Setting Meeting

17 November - Council

Stage 5: Council Tax Setting

11 February - Cabinet

Stage 6: Council Tax Setting

23 February - Council

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

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Ten Year Budget - Revenue

Appendix B(i)

	Budget 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	Plan 2030/31
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Expenditure											
Net Service Expenditure c/f	15,251	15,581	16,783	16,633	16,967	17,171	17,380	17,643	18,173	18,712	19,258
Inflation	666	616	496	503	509	515	522	529	539	547	556
Superannuation Fund deficit	0	0	0	100	0	0	50	0	0	0	0
Net savings (approved in previous years)	(358)	(6)	0	37	0	(1)	0	1	0	(1)	(1)
New growth	160	1,451	(338)	(206)	(206)	(205)	(209)	100	100	100	100
New savings/Income	(138)	(859)	(308)	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)
Net Service Expenditure b/f	15,581	16,783	16,633	16,967	17,171	17,380	17,643	18,173	18,712	19,258	19,813
Financing Sources											
Govt Support: Revenue Support Grant	0	0	0	0	0	0	0	0	0	0	0
: Lower Tier Services Grant		(98)									
: Local Council Tax Support (LCTS)		(245)									
New Homes Bonus	0	0	0	0	0	0	0	0	0	0	0
Council Tax	(11,264)	(11,443)	(11,836)	(12,366)	(12,786)	(13,182)	(13,589)	(13,982)	(14,384)	(14,798)	(15,222)
Business Rates Retention	(2,139)	(2,182)	(2,226)	(2,271)	(2,316)	(2,362)	(2,409)	(2,457)	(2,506)	(2,556)	(2,607)
Collection Fund Deficit/(Surplus)	0	17	17	17	0	0	0	0	0	0	0
Interest Receipts	(300)	(188)	(188)	(188)	(188)	(188)	(188)	(188)	(188)	(188)	(188)
Property Investment Strategy Income	(1,428)	(1,372)	(1,508)	(1,558)	(1,558)	(1,558)	(1,655)	(1,655)	(1,655)	(1,696)	(1,696)
Contributions to/(from) Reserves	(378)	(337)	(146)	(130)	(572)	226	241	255	271	285	185
Total Financing	(15,509)	(15,848)	(15,887)	(16,496)	(17,420)	(17,064)	(17,600)	(18,027)	(18,462)	(18,953)	(19,528)
Budget Gap (surplus)/deficit	72	935	746	471	(250)	316	43	146	250	305	285
Contribution to/(from) Stabilisation Reserve	(72)	(935)	(746)	(471)	250	(316)	(43)	(146)	(250)	(305)	(285)
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 plus 2% per year
Council Tax:	2.25% in 21/22, 2% in later years
Council Tax Base:	Increase of 730 Band D equivalent properties p.a. from 22/23, 580 p.a. from 25/26, 480 p.a. from 27/28
Interest Receipts:	£188,000 in all years
Property Investment Strategy:	£1.372m 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. Note 21/22 Car Parking inflation deferred for one year

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Ten Year Budget - Balance Sheet

Balance Sheet		31/3/20	31/3/21	31/3/22	31/3/23	31/3/24	31/3/25
		Actual	Plan	Plan	Plan	Plan	Plan
		£000	£000	£000	£000	£000	£000
Long Term Assets							
Property, Plant and Equipment	1	34,675	41,369	52,236	53,677	53,527	53,377
Investment Property		31,392	31,392	31,392	31,392	31,392	31,392
Long Term Investments		1,711	1,711	1,711	1,711	1,711	1,711
Long Term Debtors		3,290	3,204	3,118	3,114	3,110	3,106
		<u>71,068</u>	<u>77,676</u>	<u>88,457</u>	<u>89,894</u>	<u>89,740</u>	<u>89,586</u>
Current Assets							
Short-term Investments		11,087	8,638	6,634	5,343	3,985	3,288
Cash and Cash Equivalents		4,806	4,806	4,806	4,806	4,806	4,806
Inventories		64	64	64	64	64	64
Short Term Debtors		5,184	5,184	5,184	5,184	5,184	5,184
Assets held for Sale		187	187	187	187	187	187
Payments in Advance		0	0	0	0	0	0
		<u>21,328</u>	<u>18,879</u>	<u>16,875</u>	<u>15,584</u>	<u>14,226</u>	<u>13,529</u>
Current Liabilities							
Receipts in Advance		(8,261)	(8,261)	(8,261)	(8,261)	(8,261)	(8,261)
Short Term PWLB Loan		(176)	(176)	(176)	(176)	(176)	(176)
Short Term Creditors		(9,060)	(9,061)	(9,061)	(9,063)	(9,064)	(9,066)
Short Term Provisions		(3,216)	(3,216)	(3,216)	(3,216)	(3,216)	(3,216)
		<u>(20,713)</u>	<u>(20,714)</u>	<u>(20,714)</u>	<u>(20,716)</u>	<u>(20,717)</u>	<u>(20,719)</u>
NET CURRENT ASSETS		615	(1,835)	(3,840)	(5,132)	(6,491)	(7,190)
Long Term Liabilities							
Long Term Creditors		(348)	(347)	(346)	(345)	(344)	(343)
Long Term PWLB Loan		(4,892)	(4,718)	(12,187)	(11,651)	(11,112)	(10,568)
Long Term Provisions		(256)	(256)	(256)	(256)	(256)	(256)
Net Pensions Liability	2,3	(67,037)	(65,547)	(64,057)	(62,567)	(61,077)	(59,587)
Capital Grants Receipts in Advance		(50)	(50)	(50)	(50)	(50)	(50)
		<u>(72,583)</u>	<u>(70,918)</u>	<u>(76,896)</u>	<u>(74,869)</u>	<u>(72,839)</u>	<u>(70,804)</u>
TOTAL NET ASSETS		<u>(900)</u>	<u>4,923</u>	<u>7,721</u>	<u>9,893</u>	<u>10,410</u>	<u>11,593</u>
USABLE RESERVES							
Usable Capital Receipts Reserve		(4,782)	(3,749)	(9,041)	(6,902)	(3,749)	(2,193)
Earmarked Reserves		(19,011)	(17,639)	(15,523)	(14,402)	(13,214)	(12,687)
General Fund		(1,500)	(1,500)	(1,700)	(1,700)	(1,700)	(1,700)
		<u>(25,293)</u>	<u>(22,888)</u>	<u>(26,264)</u>	<u>(23,004)</u>	<u>(18,663)</u>	<u>(16,580)</u>
UNUSABLE RESERVES							
Capital Adjustment Account		(20,712)	(27,454)	(25,390)	(29,336)	(32,708)	(34,488)
Revaluation Reserve		(19,825)	(19,825)	(19,825)	(19,825)	(19,825)	(19,825)
Accumulated Absences Account		152	152	152	152	152	152
Pensions Reserve	2,3	67,037	65,547	64,057	62,567	61,077	59,587
Collection Fund Adj Account		(90)	(90)	(90)	(90)	(90)	(90)
NNDR Collection Fund Revenue Account		(221)	(221)	(221)	(221)	(221)	(221)
Deferred Capital receipts		(148)	(144)	(140)	(136)	(132)	(128)
		<u>26,193</u>	<u>17,965</u>	<u>18,543</u>	<u>13,111</u>	<u>8,253</u>	<u>4,987</u>
TOTAL RESERVES		<u>900</u>	<u>(4,923)</u>	<u>(7,721)</u>	<u>(9,893)</u>	<u>(10,410)</u>	<u>(11,593)</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		31/3/26	31/3/27	31/3/28	31/3/29	31/3/30	31/3/31
		Plan	Plan	Plan	Plan	Plan	Plan
		£000	£000	£000	£000	£000	£000
Long Term Assets	Note						
Property, Plant and Equipment	1	53,227	53,077	52,927	52,777	52,627	52,477
Investment Property		31,392	31,392	31,392	31,392	31,392	31,392
Long Term Investments		1,711	1,711	1,711	1,711	1,711	1,711
Long Term Debtors		3,102	3,098	3,094	3,090	3,086	3,082
		<u>89,432</u>	<u>89,278</u>	<u>89,124</u>	<u>88,970</u>	<u>88,816</u>	<u>88,662</u>
Current Assets							
Short-term Investments		3,210	3,176	3,051	2,834	2,365	2,001
Cash and Cash Equivalents		4,806	4,806	4,806	4,806	4,806	4,806
Inventories		64	64	64	64	64	64
Short Term Debtors		5,184	5,184	5,184	5,184	5,184	5,184
Assets held for Sale		187	187	187	187	187	187
Payments in Advance		0	0	0	0	0	0
		<u>13,451</u>	<u>13,417</u>	<u>13,292</u>	<u>13,075</u>	<u>12,606</u>	<u>12,242</u>
Current Liabilities							
Receipts in Advance		(8,261)	(8,261)	(8,261)	(8,261)	(8,261)	(8,261)
Short Term PWLB Loan		(176)	(176)	(176)	(176)	(176)	(176)
Short Term Creditors		(9,066)	(9,067)	(9,068)	(9,069)	(9,070)	(9,071)
Short Term Provisions		(3,216)	(3,216)	(3,216)	(3,216)	(3,216)	(3,216)
		<u>(20,719)</u>	<u>(20,720)</u>	<u>(20,721)</u>	<u>(20,722)</u>	<u>(20,723)</u>	<u>(20,724)</u>
NET CURRENT ASSETS		(7,268)	(7,303)	(7,429)	(7,647)	(8,117)	(8,482)
Long Term Liabilities							
Long Term Creditors		(342)	(341)	(340)	(339)	(338)	(337)
Long Term PWLB Loan		(10,019)	(9,467)	(8,910)	(8,348)	(7,782)	(7,211)
Long Term Provisions		(256)	(256)	(256)	(256)	(256)	(256)
Net Pensions Liability	2,3	(58,097)	(56,607)	(55,117)	(53,627)	(52,137)	(50,647)
Capital Grants Receipts in Advance		(50)	(50)	(50)	(50)	(50)	(50)
		<u>(68,764)</u>	<u>(66,721)</u>	<u>(64,673)</u>	<u>(62,620)</u>	<u>(60,563)</u>	<u>(58,501)</u>
TOTAL NET ASSETS		<u>13,400</u>	<u>15,254</u>	<u>17,022</u>	<u>18,703</u>	<u>20,136</u>	<u>21,679</u>
USABLE RESERVES							
Usable Capital Receipts Reserve		(2,193)	(2,193)	(2,193)	(2,193)	(2,193)	(2,193)
Earmarked Reserves		(12,779)	(12,915)	(12,960)	(12,913)	(12,614)	(12,420)
General Fund		(1,700)	(1,700)	(1,700)	(1,700)	(1,700)	(1,700)
		<u>(16,672)</u>	<u>(16,808)</u>	<u>(16,853)</u>	<u>(16,806)</u>	<u>(16,507)</u>	<u>(16,313)</u>
UNUSABLE RESERVES							
Capital Adjustment Account		(34,717)	(34,949)	(35,186)	(35,428)	(35,674)	(35,925)
Revaluation Reserve		(19,825)	(19,825)	(19,825)	(19,825)	(19,825)	(19,825)
Accumulated Absences Account		152	152	152	152	152	152
Pensions Reserve	2,3	58,097	56,607	55,117	53,627	52,137	50,647
Collection Fund Adj Account		(90)	(90)	(90)	(90)	(90)	(90)
NNDR Collection Fund Revenue Account		(221)	(221)	(221)	(221)	(221)	(221)
Deferred Capital receipts		(124)	(120)	(116)	(112)	(108)	(104)
		<u>3,272</u>	<u>1,554</u>	<u>(169)</u>	<u>(1,897)</u>	<u>(3,629)</u>	<u>(5,366)</u>
TOTAL RESERVES		<u>(13,400)</u>	<u>(15,254)</u>	<u>(17,022)</u>	<u>(18,703)</u>	<u>(20,136)</u>	<u>(21,679)</u>

Description	2021/22 Impact £000	10-year Budget Impact £000
Provisional Local Government Finance Settlement		
Council Tax 21/22: increase from 2% to 2.25%	(28)	(327)
Transfer Council Tax increase above 2% to 'Net Zero Transition Fund'	28	327
Lower Tier Services Grant 21/22	(98)	(98)
Covid-19		
Local Tax Income Guarantee Scheme 20/21	(51)	(153)
Local Council Tax Support Grant 21/22	(245)	(245)
Council Tax Base		
Council Tax Base 21/22 reduced	76	1,434
Council Tax Base 22/23, 23/24, 24/25 increased	0	(895)
Other Changes		
SCIA13: Property Investment Strategy. Move from 'New Growth' line to 'PIS Income' line in 10-year budget (App B(i))	0	0
Total 10-year Budget change gap/(surplus)	(318)	43

The small 10-year budget gap of £43,000 (i.e £4,000 per annum) can be covered by the Budget Stabilisation Reserve

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	2020/21 Budget Net Expenditure £000	2021/22 Budget Net Expenditure £000		
Summary of Council Expenditure & Council Tax				
Service expenditure before Support Services and Capital Charges including trading accounts (see Appendix E)	15,813	17,015		
Capital Charges and Support Services charged outside the General Fund	(232)	(232)		
Sub Total	15,581	16,783		
Non allocated expenditure:				
Collection Fund adjustment	0	0		
Net Service Expenditure excluding capital charges	15,581	16,783		
Govt Support: Revenue Support Grant	0	0		
Govt Support: Lower Tier Services Grant	0	(98)		
Govt Support: Local Council Tax Support (LCTS)	0	(245)		
New Homes Bonus	0	0		
Council Tax Requirement - Sevenoaks DC	(11,264)	(11,443)		
Business Rates Retention	(2,139)	(2,182)		
Collection Fund Deficit / (Surplus)	0	17		
Grant & Council Tax income	(13,403)	(13,951)		
Net Expenditure after Grant & Council Tax, before interest	2,178	2,832		
Less: Interest and Investment income	(300)	(188)		
Less: Property Investment Strategy Income	(1,428)	(1,372)		
Amount to be met from Reserves	450	1,272		
Contributions (to) / from reserves:				
Earmarked Reserves				
Capital	(148)	(148)		
Budget Stabilisation	72	935		
Pension fund valuation	59	46		
Financial Plan	501	501		
Net Zero Transition	(34)	(62)		
Planned contribution from General Fund Reserve	0	0		
	450	1,272		
	2020/21	2021/22		
Taxbase	51,208	50,877		
	£	£		
Council Tax @ Band D	219.96	224.91		
Council Tax Summary (Band D Charge)			% Change	% Share
Kent County	1,351.26	1,418.76	5.00	69.7
Kent Fire	79.29	80.82	1.93	4.0
Kent Police	203.15	218.15	7.38	10.7
	1,633.70	1,717.73		
Sevenoaks District	219.96	224.91	2.25	11.0
Average Town/Parish	90.56	93.93	3.72	4.6
	1,944.22	2,036.57	4.75	100.0

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Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Summary			
Assistant Chief Executive	1,549	1,729	1,665
Customer & Resources	3,515	3,717	3,951
Finance & Trading	5,973	5,433	6,584
People & Places	1,429	1,469	1,548
Planning & Regulatory Services	1,764	1,847	1,730
Strategic Head Commercial and Property	1,459	1,619	1,536
	<u>15,690</u>	<u>15,813</u>	<u>17,015</u>
Items outside General Fund		(232)	(232)
Total		<u><u>15,581</u></u>	<u><u>16,783</u></u>

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Net Service Expenditure analysed by Expenditure Type			
Summary	£'000	£'000	£'000
Pay Costs	12,533	17,383	17,639
Premises and Grounds	2,174	2,278	2,260
Transport	418	3,324	3,448
Supplies & Services	2,767	2,524	2,618
Supplies & Services IT	1,070	991	1,000
Agency & Contracted	5,404	3,835	3,704
Agency & Contracted - Partnerships	3,053	2,715	2,787
Agency & Contracted - Direct Services	4,227	4,344	4,484
Transfer Payments - Benefits	22,176	25,641	22,138
Transfer Payments - Other	566	236	239
Support Services	64	326	326
Funds drawn to/from Reserves	(375)	(417)	51
Capital Charges	124	439	445
Income - Other	(3,240)	(2,095)	(2,416)
Income - Gov Gnts	(23,454)	(26,201)	(22,519)
Income - Fees and Charges	(8,644)	(9,350)	(8,566)
Recharges	(837)	(6,714)	(6,968)
Recharges - Partnerships	(2,337)	(3,445)	(3,653)
Service expenditure before re-allocation of Support Services and Capital charges	<u>15,690</u>	<u>15,813</u>	<u>17,015</u>
Items outside General Fund		(232)	(232)
Total		<u><u>15,581</u></u>	<u><u>16,783</u></u>

Analysis of budget changes between 20/21 and 21/22	£'000
Base Budget 2020/21	15,581
Inflation and other adjustments	616
Net Savings agreed previous years	(6)
New Growth	1,451
New savings/income	(859)
Proposed Budget 2021/22	<u><u>16,783</u></u>

Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Assistant Chief Executive			
Action and Development	7	8	8
Consultation and Surveys	0	4	4
Corporate Management	1,015	1,107	1,146
Corporate - Other	0	42	(9)
Elections	142	145	125
External Communications	192	216	222
Performance Improvement	(2)	(0)	(0)
Register of Electors	208	237	204
Administrative Expenses - Legal and Democratic	0	0	0
Administrative Expenses - Transformation and Strategy	6	5	5
Support - General Admin (Print Shop)	(18)	(34)	(41)
Total Service Expenditure	1,549	1,729	1,665

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Assistant Chief Executive			
Pay Costs	1,251	1,372	1,367
Premises and Grounds	63	0	0
Transport	8	0	0
Supplies & Services	495	277	259
Supplies & Services IT	56	66	65
Agency & Contracted	454	250	201
Agency & Contracted - Direct Services	0	0	0
Funds drawn to/from Reserves	21	42	42
Income - Other	(452)	0	0
Income - Gov Gnts	(113)	(7)	(7)
Income - Fees and Charges	(213)	(250)	(237)
Recharges	(22)	(22)	(25)
Total Service Expenditure	1,549	1,729	1,665

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	1,729
Inflation (inc pay increments and terms and conditions)	26
Planned Savings agreed previous years	0
SCIA's 2021/22:	
21/22 SCIA - Electoral Services: Remove vacant Election Outreach Canvasser post	(33)
21/22 SCIA - Electoral Services: Reduction in costs due to canvass reform	(14)
Other Adjustments	(43)
Proposed Budget 2021/22	1,665

Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Customer & Resources			
Asset Maintenance IT	283	289	296
Benefits Admin	5	52	148
Benefits Grants	(25)	(25)	(25)
Civic Expenses	16	17	17
Corporate Projects	78	102	71
Democratic Services	152	161	168
Dartford Rev&Ben Partnership Hub (SDC costs)	0	0	0
Land Charges	(55)	(108)	(118)
Local Tax	11	(90)	(85)
Administrative Expenses - Corporate Services	21	23	23
Administrative Expenses - Legal and Democratic	68	70	72
Administrative Expenses - Human Resources	16	9	9
Administrative Expenses - Property	0	0	0
Administrative Expenses - Revenues and Benefits	0	0	0
Street Naming	(8)	2	2
Support - Rev & Ben Control	241	217	224
Support - Counter Fraud	57	56	52
Support - Contact Centre	527	716	862
Support - Central Offices - Facilities	286	276	279
Support - General Admin	1	5	5
Support - General Admin (Post/Scanning)	147	189	219
Support - Health and Safety	21	19	8
Support - IT	1,094	1,116	1,071
Support - Legal Function	199	255	259
Support - Local Offices	29	0	0
Support - Nursery	2	0	0
Support - Human Resources	351	367	398
Total Service Expenditure	3,516	3,717	3,951

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Customer & Resources			
Pay Costs	3,786	4,362	4,546
Premises and Grounds	64	67	68
Transport	10	9	10
Supplies & Services	564	549	639
Supplies & Services IT	885	906	916
Agency & Contracted	437	200	198
Agency & Contracted - Partnerships	1,835	1,419	1,446
Agency & Contracted - Direct Services	17	23	24
Transfer Payments - Benefits	22,176	25,641	22,138
Transfer Payments - Other	2	0	0
Support Services	0	0	0
Funds drawn to/from Reserves	78	(379)	(285)
Income - Other	(860)	(179)	(179)
Income - Gov Gnts	(22,848)	(26,026)	(22,512)
Income - Fees and Charges	(578)	(756)	(773)
Recharges	(195)	(202)	(202)
Recharges - Partnerships	(1,857)	(1,918)	(2,082)
Total Service Expenditure	3,515	3,717	3,951

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	3,717
Inflation (inc pay increments and terms and conditions)	141
Planned Savings agreed previous years	(20)
SCIAs 2021/22:	
21/22 SCIA14 - FIAC - Revs & Bens: Replacing reduced funding from reserves	60
21/22 SCIA21 - IIAC - Customer Solutions: extended provision (7am to 7pm)	40
21/22 SCIA23 - IIAC - IT: Consolidate eform packages	(11)
21/22 - Per Fin Plan Working from Home	5
21/22 - SMT - Management Restructure	(45)
Other Adjustments	64
	<hr/>
Proposed Budget 2021/22	<u><u>3,951</u></u>

Net Service Expenditure analysed by Chief Officer

	Actuals	Budget	Budget
	19/20	20/21	21/22
	£'000	£'000	£'000
Finance & Trading			
Asset Maintenance CCTV	17	18	19
Asset Maintenance Countryside	0	9	9
Asset Maintenance Direct Services	53	41	42
Asset Maintenance Playgrounds	6	9	16
Asset Maintenance Public Toilets	0	7	16
Car Parks	(1,651)	(1,985)	(1,198)
CCTV	272	277	269
Civil Protection	64	69	49
Corporate Management	1	0	0
Car Parking - On Street	(470)	(480)	(245)
Emergency	69	69	81
Parking Enforcement - Tandridge DC	(26)	(29)	(39)
Estates Management - Grounds	140	125	128
Housing Advances	1	1	1
Kent Resource Partnership	0	0	0
Markets	(227)	(192)	(217)
Members	424	464	473
Misc. Finance	1,803	1,485	1,580
Parks - Greensand Commons Project	0	0	0
Parks and Recreation Grounds	155	132	135
Parks - Rural	136	163	171
Public Transport Support	0	0	0
Refuse Collection	2,769	2,826	2,913
Administrative Expenses - Chief Executive	14	22	20
Administrative Expenses - Direct Services	0	0	0
Administrative Expenses - Finance	73	26	26
Administrative Expenses - Transport	9	7	7
Street Cleansing	1,450	1,495	1,540
Support - Audit Function	150	189	201
Support - Exchequer and Procurement	141	154	158
Support - Finance Function	190	235	256
Support - General Admin	154	174	178
Support - Direct Services	64	49	50
Support - Procurement	7	6	7
Direct Services Trading account	13	(109)	(231)
Public Conveniences	57	47	48
Treasury Management	114	128	124
Total Service Expenditure	5,973	5,433	6,584

	Actuals	Budget	Budget
	19/20	20/21	21/22
	£'000	£'000	£'000
Finance & Trading			
Pay Costs	2,088	5,717	5,847
Premises and Grounds	948	1,079	1,136
Transport	364	3,290	3,414
Supplies & Services	1,334	1,463	1,490
Supplies & Services IT	93	17	17
Agency & Contracted	2,870	2,393	2,507
Agency & Contracted - Partnerships	149	181	192
Agency & Contracted - Direct Services	4,176	4,283	4,421
Support Services	12	274	274
Funds drawn to/from Reserves	(112)	(82)	(63)
Capital Charges	124	439	445
Income - Other	(1,003)	(714)	(859)
Income - Gov Gnts	(65)	0	0
Income - Fees and Charges	(4,248)	(6,219)	(5,404)
Recharges	(554)	(6,390)	(6,530)
Recharges - Partnerships	(203)	(297)	(302)
Total Service Expenditure	5,973	5,433	6,584

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	5,433
Inflation (inc pay increments and terms and conditions)	244
Planned savings agreed previous years	39
SCIA's 2021/22:	
21/22 SCIA1 - CGAC - Direct Services: Vehicle fleet	50
21/22 SCIA2 - CGAC - Car Parking income inflation 21/22: deferred for one year	118
21/22 SCIA4 - CGAC - CCTV: BT transmission link updated contract	(4)
21/22 SCIA5 - CGAC - Street Markets: Additional income from new contracts	(30)
21/22 SCIA6 - CGAC - Direct Services: Commercial Trade Waste - Increased income	(110)
21/22 SCIA7 - CGAC - Direct Services: Workshop MOT's - Increased income	(5)
21/22 SCIA8 - CGAC - Direct Services: Cess Pool Service - Increased income	(12)
21/22 SCIA9 - CGAC - Direct Services: Garden Waste Service - Increased income	(50)
21/22 SCIA15 - FIAC - Various services: Reduction in office expenses	(1)
21/22 SCIA25 - CGAC - Car Parking: Tandridge DC enforcement contract	(40)
21/22 Fin Plan - Car Park Income	1,027
21/22 Fin Plan - Additional PPE	18
21/22 SMT - Management Restructure	(224)
Other Adjustments	131
Proposed Budget 2021/22	6,584

Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
People & Places			
All Weather Pitch	(5)	(5)	(5)
Business Area Improvement Fund	0	0	0
Compliance & Enforcement	0	0	0
Community Safety	212	209	160
Community Development Service Provisions	(6)	(6)	(6)
Community Housing Fund	0	0	0
The Community Plan	51	60	21
Dunton Green Projects - S106	1	0	0
Dunton Green Projects	0	0	0
Energy Efficiency	0	0	0
Grants to Organisations	188	180	185
Gypsy Sites	5	(1)	(11)
Health Improvements	47	52	48
Homeless	256	233	429
Housing Register	20	51	37
Disabled Facilities Grant Administration	(37)	(50)	(50)
Housing	139	153	186
Housing Initiatives	48	49	56
Next Steps Accommodation Programme	0	0	0
Housing Pathway Co-ordinator	0	0	0
Homelessness Prevention	0	0	0
Needs and Stock Surveys	0	0	0
Housing Energy Retraining Options (HERO)	46	48	130
Leisure Contract	160	108	112
Leisure Development	20	20	21
Partnership - Home Office	0	0	0
Private Sector Housing	221	294	284
Administrative Expenses - Communities & Business	23	22	22
Administrative Expenses - Housing	2	0	0
Sevenoaks Switch and Save	0	0	0
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	(122)
PCT Initiatives	0	0	0
Sportivate Inclusive Archery Project	0	0	0
Sport Satellite Clubs	0	0	0
Troubled Families Project	0	0	0
Youth	39	51	50
Total Service Expenditure	1,429	1,469	1,548

	Actuals	Budget	Budget
	19/20	20/21	21/22
	£'000	£'000	£'000
People & Places			
Pay Costs	1,350	1,551	1,434
Premises and Grounds	25	10	10
Transport	17	14	14
Supplies & Services	164	77	75
Supplies & Services IT	2	0	0
Agency & Contracted	721	572	360
Agency & Contracted - Direct Services	0	0	0
Transfer Payments - Other	504	236	239
Funds drawn to/from Reserves	(256)	(70)	284
Income - Other	(288)	(526)	(672)
Income - Gov Gnts	(410)	(168)	0
Income - Fees and Charges	(374)	(227)	(196)
Recharges	(25)	0	0
Total Service Expenditure	1,429	1,469	1,548

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	1,469
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	37
Planned savings agreed previous years	0
SCIA's 2021/22:	
21/22 SCIA20 - HHAC - Homelessness	100
21/22 SCIA15 - FIAC - Various services: Reduction in office expenses	(9)
21/22 SMT - Management Restructure	(43)
Other Adjustments	(6)
Proposed Budget 2021/22	1,548

Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Planning & Regulatory Services			
Building Control Partnership Members	0	0	0
Building Control Partnership Hub (SDC Costs)	0	0	0
Building Control	(145)	(127)	(130)
Conservation	71	118	131
Dangerous Structures	2	3	3
Dartford Environmental Hub (SDC Costs)	0	0	0
EH Commercial	272	281	280
EH Animal Control	18	4	22
EH Environmental Protection	352	387	400
Licensing Partnership Hub (Trading)	0	0	0
Licensing Partnership Members	0	0	0
Licensing Regime	(16)	(7)	47
Planning Policy	543	535	483
LDF Expenditure	0	0	0
Planning - Appeals	241	207	209
Planning - CIL Administration	(68)	(67)	(66)
Planning - Counter	0	(6)	(6)
Planning - Development Management	(38)	109	(33)
Planning - Enforcement	395	297	307
Planning Performance Agreement	50	0	0
Administrative Expenses - Building Control	1	12	12
Administrative Expenses - Health	2	9	5
Administrative Expenses - Licensing	2	8	7
Administrative Expenses - Planning Services	93	48	49
Taxis	(10)	35	11
Air Quality (Ext Funded)	0	0	0
Total Service Expenditure	1,764	1,847	1,730
	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Planning & Regulatory Services			
Pay Costs	3,360	3,584	3,521
Premises and Grounds	14	5	5
Transport	10	11	10
Supplies & Services	158	131	128
Supplies & Services IT	34	2	2
Agency & Contracted	807	351	368
Agency & Contracted - Partnerships	1,069	1,116	1,150
Agency & Contracted - Direct Services	34	38	39
Transfer Payments - Other	61	0	0
Support Services	11	11	11
Funds drawn to/from Reserves	(64)	72	72
Income - Other	(434)	(418)	(426)
Income - Gov Gnts	(17)	0	0
Income - Fees and Charges	(2,996)	(1,826)	(1,882)
Recharges	(6)	0	0
Recharges - Partnerships	(276)	(1,231)	(1,269)
Total Service Expenditure	1,764	1,847	1,730

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	1,847
Inflation (inc pay increments and terms and conditions SCIA 62; 63 14/15)	91
Planned Savings agreed previous years	(25)
SCIAs 2021/22:	
21/22 SCIA3 - CGAC - Env. Health: Kennel costs and fees	18
21/22 SCIA11 - DCAC - Development Mgt: Additional planning income	(36)
21/22 SCIA12 - DCAC - Planning Policy: Deletion of Monitoring Technician post	(18)
21/22 SCIA15 - FIAC - Various services: Reduction in office expenses	(10)
21/22 SMT - Management Restructure	(72)
21/22 Fin Plan - Licensing Fees	15
Other Adjustments	(80)
Proposed Budget 2021/22	<u><u>1,730</u></u>

Net Service Expenditure analysed by Chief Officer

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Strategic Head Commercial and Property			
Asset Maintenance Argyle Road	152	77	79
Asset Maintenance Other Corporate Properties	33	34	35
Asset Maintenance Hever Road	42	39	40
Asset Maintenance Leisure	183	186	190
Asset Maintenance Support & Salaries	85	236	138
Asset Maintenance Sewage Treatment Plants	0	9	9
Bus Station	20	7	8
Economic Development	37	37	38
Economic Development Property	305	415	443
Estates Management - Buildings	41	(2)	(16)
Housing Other Income	(20)	(14)	(14)
Housing Premises	0	16	16
Asset Maintenance Operatives	(8)	4	5
Administrative Expenses - Property	5	3	3
Administrative Expenses - Strategic Property	1	0	0
Support - Central Offices	490	488	483
Support - Property Function	59	53	52
Tourism	30	27	30
Leader Programme	5	5	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
Total Service Expenditure	1,459	1,619	1,536

	Actuals 19/20 £'000	Budget 20/21 £'000	Budget 21/22 £'000
Strategic Head Commercial and Property			
Pay Costs	697	795	923
Premises and Grounds	1,061	1,117	1,041
Transport	10	0	0
Supplies & Services	53	27	28
Supplies & Services IT	1	0	0
Agency & Contracted	114	69	70
Agency & Contracted - Direct Services	0	0	0
Support Services	41	41	41
Funds drawn to/from Reserves	(42)	0	0
Income - Other	(204)	(258)	(280)
Income - Fees and Charges	(235)	(71)	(75)
Recharges	(36)	(101)	(211)
Total Service Expenditure	1,459	1,619	1,536

Analysis of budget changes between 20/21 and 21/22

Base Budget 2020/21	1,619
Inflation (inc pay increments and terms and conditions)	43
Planned Savings agreed previous years	0
SCIA's 2021/22:	
21/22 SCIA24 - IIAC - Property: New fees and charges	(2)
21/22 SCIA13 - FIAC - Property Investment Strategy: M & Co administration	96
21/22 SCIA16 - FIAC - Asset Maintenance: Reduction	(100)
Other Adjustments	(120)
Proposed Budget 2021/22	1,536

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PAY COST ESTIMATES SUMMARY 2021/22

Appendix F

Services	Line No.	2020/21 BUDGET £	21/22 BUDGET £	2020/21 FTE	2021/22 FTE
People & Places	1a	774,782	389,902	13.69	5.00
People & Places - Housing	1b	348,255	770,726	7.60	15.20
Strategic Properties	1c	446,784	804,467	7.00	14.65
Corporate Services	2a	2,608,032	2,942,886	58.69	68.25
Revenues & Benefits	2b	1,617,683	1,659,553	43.14	43.33
Assistant Chief Executive	3a	608,758	891,725	14.41	20.35
Finance & Audit	3b	1,111,588	1,167,317	16.00	17.08
Operational Services	3c	4,297,602	4,382,235	127.16	125.97
Parking Services	3d	500,703	499,760	13.00	14.00
Property Services	3e	605,575	0	15.98	0.00
Planning	4a	2,263,813	1,963,941	49.50	41.47
Building Control	4b	372,577	381,398	8.00	8.00
Environmental Health	4c	696,339	711,910	12.57	12.57
Licensing	4d	463,066	483,192	10.59	10.59
Total		16,715,557	17,049,012	397.33	396.46
Other Salary Costs					
Vacancy Savings	5	(150,328)	(153,334)	0.00	0.00
SUB-TOTAL		16,565,230	16,895,678	397.33	396.46
People & Places (Ext)	6	683,413	264,058	17.35	6.08
People & Places - Housing (Ext)	7	0	149,410	0.00	4.00
Kent Resource Partnership (Ext)	8	122,818	126,069	2.00	2.00
GRAND TOTAL		17,371,460	17,435,215	416.68	408.54

NOTES 1) Externally funded posts (lines 6 to 8) have been excluded from earlier lines. The income will show elsewhere in the 2021/22 budget.

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Local Council Tax Reduction Scheme 2021/22

1. Summary

- 1.1 To recommend the rolling forward of the Local Council Tax Reduction Scheme 2020/21, effective from 1 April 2021.

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 2020/21 on 25 February 2020. It is now recommended that the scheme approved for 2020/21 be rolled forward to 2021/22, with effect from 1 April 2021.
- 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 £6.638m of which £3.681m 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.

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COUNCIL 23 FEBRUARY 2021

COUNCIL TAX SETTING 2021/22

LATEST INFORMATION ON PRECEPTING AUTHORITIES

Town and Parish Councils

- 1 A list of town and parish council precepts is attached at Appendix J and total £4,779,095. The increase in the average band D council tax for Town and Parish Councils is 3.72% and results in an average band D council tax figure of £93.93 for 2021/22.

Kent County Council

- 2 Kent County Council met on 11 February 2021 and their precept is £70,182,040. This will result in a band D council tax of £1,418.76. 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 4 February 2021 and approved the Kent Police and Crime Commissioner's proposed precept of £11,098,785. This will result in a band D council tax of £218.15.

Kent and Medway Towns Fire Authority

- 4 Kent and Medway Towns Fire Authority met on 23 February 2021 and their precept is £4,111,867. This will result in a band D council tax of £80.82.

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TOWN & PARISH COUNCIL PRECEPTS							
Town / Parish Council	2020/21			2021/22			Band D Change (%)
	Tax Base	Precept £	Council Tax Band D (£)	Tax Base	Precept £	Council Tax Band D (£)	
Ash-cum-Ridley	2,459.75	115,358	46.90	2,426.35	118,338	48.77	3.99
Badgers Mount	334.98	27,420	81.86	328.16	27,420	83.56	2.08
Brasted	778.10	37,900	48.71	775.49	37,900	48.87	0.33
Chevening	1,456.01	65,000	44.64	1,445.79	65,000	44.96	0.72
Chiddingstone	604.75	41,500	68.62	602.21	41,325	68.62	0.00
Cowden	449.88	22,700	50.46	442.50	23,000	51.98	3.01
Crockenhill	659.12	82,000	124.41	654.75	81,457	124.41	0.00
Dunton Green	1,321.92	136,000	102.88	1,329.09	138,000	103.83	0.92
Edenbridge	3,697.28	554,973	150.10	3,730.15	582,722	156.22	4.08
Eynsford	948.87	81,757	86.16	944.94	83,392	88.25	2.43
Farningham	666.28	46,754	70.17	661.54	46,422	70.17	0.00
Fawkham	292.04	13,855	47.44	289.59	25,855	89.28	88.20
Halstead	778.40	49,250	63.27	767.03	50,491	65.83	4.05
Hartley	2,556.57	137,773	53.89	2,532.03	136,451	53.89	0.00
Hever	620.75	41,521	66.89	618.74	41,300	66.75	-0.21
Hextable	1,698.15	153,088	90.15	1,677.33	156,150	93.09	3.26
Horton Kirby & S Darenth	1,302.24	106,858	82.06	1,276.35	104,735	82.06	0.00
Kemsing	1,853.31	148,000	79.86	1,825.81	149,000	81.61	2.19
Knockholt	634.27	44,366	69.95	633.11	44,677	70.57	0.89
Leigh	961.50	46,000	47.84	945.82	48,000	50.75	6.08
Otford	1,720.71	184,168	107.03	1,723.77	215,471	125.00	16.79
Penshurst	837.74	46,238	55.19	826.26	48,812	59.08	7.05
Riverhead	1,247.77	53,255	42.68	1,246.83	54,275	43.53	1.99
Seal	1,303.53	74,780	57.37	1,298.29	74,480	57.37	0.00
Sevenoaks Town	9,690.61	1,215,276	125.41	9,648.91	1,239,898	128.50	2.46
Sevenoaks Weald	617.77	46,200	74.79	611.46	46,200	75.56	1.03
Shoreham	683.97	43,200	63.16	686.73	43,200	62.91	-0.40
Sundridge	937.54	65,000	69.33	928.01	65,000	70.04	1.02
Swanley	5,663.91	614,502	108.49	5,640.98	630,366	111.75	3.00
Westerham	2,066.03	237,200	114.81	2,037.57	252,000	123.68	7.73
West Kingsdown	2,364.13	105,668	44.70	2,321.26	107,758	46.42	3.85
Totals	51,207.88	4,637,560		50,876.85	4,779,095		
Average			90.56			93.93	3.72

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COUNCIL 23 FEBRUARY 2021COUNCIL TAX SETTING 2021/22**RECOMMENDATIONS**

- (a) That it be noted that at the Council meeting on 5 November 2020, the Capital Programme and funding method for 2021/24 and Capital Strategy 2021/22 were approved;
- (b) that it be noted that at the Cabinet meeting on 14 January 2021 the Council calculated as its council tax base for the year 2021/22:
- (i) for the whole Council area as 50,876.85 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 J;
- (c) that the council tax requirement for the Council’s own purpose for 2021/22 (excluding Town and Parish precepts) be calculated as £224.91;
- (d) that the following amounts be calculated for the year 2021/22 in accordance with Sections 31 to 36 of the Act:
- (i) £54,824,070 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) £38,602,263 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
 - (iii) £16,221,807 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) £318.84 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) £4,779,095 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 J).

(vi) £224.91 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 2021/22 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	149.94	945.84	145.43	53.88
B	174.93	1,103.48	169.67	62.86
C	199.92	1,261.12	193.91	71.84
D	224.91	1,418.76	218.15	80.82
E	274.89	1,734.04	266.63	98.78
F	324.87	2,049.32	315.11	116.74

G	374.85	2,364.60	363.58	134.70
H	449.82	2,837.52	436.30	161.64

- (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 L as the amounts of council tax for the year 2021/22 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 2021/22, 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 14 January 2021.
(c)	The District's council tax requirement (band D).
(d)(i)	Estimated gross revenue expenditure for 2021/22 including reserves and parish precepts.
(d)(ii)	Estimated gross revenue income for 2021/22 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 L 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	32.51	37.93	43.35	48.77	59.61	70.45	81.28	97.54
Badgers Mount	55.71	64.99	74.28	83.56	102.13	120.70	139.27	167.12
Brasted	32.58	38.01	43.44	48.87	59.73	70.59	81.45	97.74
Chevening	29.97	34.97	39.96	44.96	54.95	64.94	74.93	89.92
Chiddingstone	45.75	53.37	61.00	68.62	83.87	99.12	114.37	137.24
Cowden	34.65	40.43	46.20	51.98	63.53	75.08	86.63	103.96
Crockenhill	82.94	96.76	110.59	124.41	152.06	179.70	207.35	248.82
Dunton Green	69.22	80.76	92.29	103.83	126.90	149.98	173.05	207.66
Edenbridge	104.15	121.50	138.86	156.22	190.94	225.65	260.37	312.44
Eynsford	58.83	68.64	78.44	88.25	107.86	127.47	147.08	176.50
Farningham	46.78	54.58	62.37	70.17	85.76	101.36	116.95	140.34
Fawkham	59.52	69.44	79.36	89.28	109.12	128.96	148.80	178.56
Halstead	43.89	51.20	58.52	65.83	80.46	95.09	109.72	131.66
Hartley	35.93	41.91	47.90	53.89	65.87	77.84	89.82	107.78
Hever	44.50	51.92	59.33	66.75	81.58	96.42	111.25	133.50
Hextable	62.06	72.40	82.75	93.09	113.78	134.46	155.15	186.18
Horton Kirby & S Darenth	54.71	63.82	72.94	82.06	100.30	118.53	136.77	164.12
Kemsing	54.41	63.47	72.54	81.61	99.75	117.88	136.02	163.22
Knockholt	47.05	54.89	62.73	70.57	86.25	101.93	117.62	141.14
Leigh	33.83	39.47	45.11	50.75	62.03	73.31	84.58	101.50
Otford	83.33	97.22	111.11	125.00	152.78	180.56	208.33	250.00
Penshurst	39.39	45.95	52.52	59.08	72.21	85.34	98.47	118.16
Riverhead	29.02	33.86	38.69	43.53	53.20	62.88	72.55	87.06
Seal	38.25	44.62	51.00	57.37	70.12	82.87	95.62	114.74
Sevenoaks Town	85.67	99.94	114.22	128.50	157.06	185.61	214.17	257.00
Sevenoaks Weald	50.37	58.77	67.16	75.56	92.35	109.14	125.93	151.12
Shoreham	41.94	48.93	55.92	62.91	76.89	90.87	104.85	125.82
Sundridge	46.69	54.48	62.26	70.04	85.60	101.17	116.73	140.08
Swanley	74.50	86.92	99.33	111.75	136.58	161.42	186.25	223.50
Westerham	82.45	96.20	109.94	123.68	151.16	178.65	206.13	247.36
West Kingsdown	30.95	36.10	41.26	46.42	56.74	67.05	77.37	92.84

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Item 6(c) - Treasury Management Strategy

The attached report was considered by the Cabinet on 11 February 2021, and the relevant minute extract was not available prior to the printing of these papers and will follow when available.

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TREASURY MANAGEMENT STRATEGY 2021/22

Council - 23 February 2021

Report of: Deputy Chief Executive and Chief Officer - Finance & Trading

Status: For Decision

Also considered by:

- Finance & Investment Advisory Committee - 21 January 2021
- Cabinet - 11 February 2021

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 2020/21 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, 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 2021/22.

Recommendation to Council:

That the Treasury Management Strategy for 2021/22 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.

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- 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 2021/22

- 14 The strategy for 2021/22 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 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 2021/22 - 2023/24

- 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	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Capital expenditure	11,197	9,690	16,344	5,777	2,121
Commercial activities/non-financial investments*	0	5,000	5,000	5,000	5,795
Total	11,197	14,690	21,344	10,777	7,916

* 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	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Capital expenditure	11,197	14,690	21,344	10,777	7,916
Financed by:					
Capital receipts	5,819	7,021	4,041	3,284	108
Capital grants	1,100	2,000	2,590	1,100	1,100

Financing of capital expenditure	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Capital Reserves	548	549	563	563	563
Mixed funding & Property Investment Strategy	3,730	5,120	6,150	5,830	6,145
Internal borrowing	0	0	0	0	0
Revenue - contribution to capital reserve	0	0	0	0	0
Net financing need for the year	0	0	8,000	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	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £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%

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.

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- 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:

	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Capital Financing Requirement					
CFR - Services	21,989	25,811	26,085	34,359	34,633
CFR - Commercial activities/non-financial investments	0	0	0	0	0
Total CFR	25,811	26,085	34,359	34,633	34,907
Movement in CFR	3,822	274	8,274	274	274
Movement in CFR represented by:					
Net financing need for the year (above)	0	0	8,000	0	0
<u>Add</u> MRP/VRP and other financing movements	3,822	274	274	274	274
Movement in CFR	3,822	274	8,274	274	274

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	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Fund balances / reserves	21,310	19,882	18,972	18,813	18,459
Capital receipts	789	10	3,053	1,010	10
Provisions	409	409	409	409	409
Other	0	0	0	0	0
Total core funds	22,508	20,301	22,434	20,232	18,878
Working capital*	9,033	9,133	9,233	9,333	9,433
Under/(over) borrowing	20,263	20,660	29,060	29,463	29,870
Expected investments	11,278	8,774	2,607	102	-1,559

*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

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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 2020 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.

	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
External debt					
Debt at 1 April	5,134	5,015	4,892	4,766	4,637
Expected change in Debt	-119	-123	-126	-129	-133
Other long-term liabilities (OLTL)	533	533	533	533	533
Expected change in OLTL	0	0	0	0	0
Actual gross debt at 31 March	5,548	5,425	5,299	5,170	5,037
The Capital Financing Requirement (CFR)	25,811	26,085	34,359	34,633	34,907

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Under / (over) borrowing	20,263	20,660	29,060	29,463	29,870
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- 44 Within the above figures, the level of debt relating to commercial activities/non-financial investments is:

	2019/20 Actual £000	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £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 2021/22 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 Deputy Chief Executive and 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	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Debt	30,000	30,000	30,000	30,000
Other long term liabilities	533	533	533	533
Commercial activities / non-financial investments				
Total	30,533	30,533	30,533	30,533

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:

Authorised limit	2020/21 Estimate £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Debt	35,000	35,000	35,000	35,000
Other long term liabilities	533	533	533	533
Commercial activities / non-financial investments				
Total	35,533	35,533	35,533	35,533

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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 Group Interest Rate View 9.11.20														
These Link forecasts have been amended for the reduction in PWLB margins by 1.0% from 26.11.20														
	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
BANK RATE	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
3 month ave earnings	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
6 month ave earnings	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
12 month ave earnings	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
5 yr PWLB	0.80	0.80	0.80	0.80	0.80	0.90	0.90	0.90	0.90	0.90	1.00	1.00	1.00	1.00
10 yr PWLB	1.10	1.10	1.10	1.10	1.10	1.20	1.20	1.20	1.20	1.20	1.30	1.30	1.30	1.30
25 yr PWLB	1.50	1.50	1.60	1.60	1.60	1.60	1.70	1.70	1.70	1.70	1.80	1.80	1.80	1.80
50 yr PWLB	1.30	1.30	1.40	1.40	1.40	1.40	1.50	1.50	1.50	1.50	1.60	1.60	1.60	1.60

- 52 Appendix A draws together a number of current City views on the prospects for short term and longer fixed interest rates. Appendix B contains Link Asset Services' latest economic background report and the risks for interest rates as at the beginning of December 2020.

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 2021/22 treasury operations. The Deputy Chief Executive and 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, 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 level of debt is low.
- 59 If rescheduling were to be carried out, it will be reported to Cabinet at the earliest meeting following its action.

New financial institutions as a source of borrowing

- 60 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
- 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:

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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.

	2019/20 Actual	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate
Services	1%	1%	1%	1%	1%
Commercial activities / non-financial investments	0%	0%	0%	0%	0%
Total	1%	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 2021/22		
	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 2021/22		

	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 2020 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:-

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- 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 or have less than a year left to run to maturity if originally they were originally classified as being non-specified investments solely due to the maturity period exceeding 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.
- 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 paragraphs 84 and 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 2020/21 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 ending on 31 March 2023.

- 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 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 Deputy Chief Executive and 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

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- 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):

	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

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Local authorities, housing associations etc	N/A	£5m (each)	2 years
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- 80 The proposed criteria for specified and non-specified investments are shown in Appendix D.

Creditworthiness issues

- 81 Although the credit rating agencies changed their outlook on many UK banks from Stable to Negative during the quarter ended 30 June 2020 due to upcoming risks to banks' earnings and asset quality during the economic downturn caused by the pandemic, the majority of ratings were affirmed due to the continuing strong credit profiles of major financial institutions, including UK banks.
- 82 All three rating agencies have reviewed banks around the world with similar results in many countries of most banks being placed on Negative Outlook, but with a small number of actual downgrades.

Other limits

- 83 Due care will be taken to consider the exposure of the Council's total investment portfolio to non-specified investments, countries, groups and sectors.
- 84 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.
- 85 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

- 86 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).
- 87 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

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.

88 Bank Rate is unlikely to rise from 0.10% for a considerable period. It is very difficult to say when it may start rising so it may be best to assume that investment earnings from money market-related instruments will be sub 0.50% for the foreseeable future.

89 The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows (the long term forecast is for periods over 10 years in the future):

- 2020/21 0.10%
- 2021/22 0.10%
- 2022/23 0.10%
- 2023/24 0.10%
- 2024/25 0.25%
- Later years 2.00%

90 The overall balance of risks to economic growth in the UK is probably now skewed to the upside, but is subject to major uncertainty due to the coronavirus and how quickly successful vaccines may become available and widely administered to the population. It may also be affected by what, if any, deal the UK agrees as part of Brexit.

91 There is relatively little UK domestic risk of increases or decreases in Bank Rate and significant changes in shorter term PWLB rates. The Bank of England has effectively ruled out the use of negative interest rates in the near term and increases in Bank Rate are likely to be some years away given the underlying economic expectations. However, it is always possible that safe haven flows, due to unexpected domestic developments and those in other major economies, or a return of investor confidence in equities, could impact gilt yields, (and so PWLB rates), in the UK.

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.

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Upper limit for principal sums invested for longer than 365 days	2021/22 £m	2022/23 £m	2023/24 £m
Limit for principal sums invested for longer than 365 days	£10m	£10m	£10m
Current investments at 1/12/20 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

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 23 February 2021. 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.

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Appendices

Appendix A - Prospects for interest rates

Appendix B - Economic background and interest rate risks

Appendix C - Investment portfolio at 1 December 2020

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

Deputy Chief Executive and Chief Officer - Finance & Trading

APPENDIX A: Prospects for interest rates

- 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. Link provided the following forecasts on 11 August 2020. However, following the conclusion of the review of PWLB margins over gilt yields on 25 November 2020, all forecasts below have been reduced by 1%. These are forecasts for certainty rates, gilt yields plus 80bps:

Link Group Interest Rate View 9.11.20														
These Link forecasts have been amended for the reduction in PWLB margins by 1.0% from 26.11.20														
	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
BANK RATE	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
3 month ave earnings	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
6 month ave earnings	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
12 month ave earnings	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
5 yr PWLB	0.80	0.80	0.80	0.80	0.80	0.90	0.90	0.90	0.90	0.90	1.00	1.00	1.00	1.00
10 yr PWLB	1.10	1.10	1.10	1.10	1.10	1.20	1.20	1.20	1.20	1.20	1.30	1.30	1.30	1.30
25 yr PWLB	1.50	1.50	1.60	1.60	1.60	1.60	1.70	1.70	1.70	1.70	1.80	1.80	1.80	1.80
50 yr PWLB	1.30	1.30	1.40	1.40	1.40	1.40	1.50	1.50	1.50	1.50	1.60	1.60	1.60	1.60

- The coronavirus outbreak has done huge economic damage to the UK and economies around the world. After the Bank of England took emergency action in March to cut Bank Rate to first 0.25%, and then to 0.10%, it left Bank Rate unchanged at its subsequent meetings to 5th November 2020, although some forecasters had suggested that a cut into negative territory could happen. However, the Governor of the Bank of England has made it clear that he currently thinks that such a move would do more damage than good and that more quantitative easing is the favoured tool if further action becomes necessary. As shown in the forecast table above, no increase in Bank Rate is expected in the forecast table above as economic recovery is expected to be only gradual and, therefore, prolonged.

Gilt yields / PWLB rates

- There was much speculation during the second half of 2019 that bond markets were in a bubble which was driving bond prices up and yields down to historically very low levels. The context for that was a heightened expectation that the US could have been heading for a recession in 2020. In addition, there were growing expectations of a downturn in world economic growth, especially due to fears around the impact of the trade war between the US and China, together with inflation generally at low levels in most countries and expected to remain subdued. Combined, these conditions were conducive to very 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. The consequence of this has been the gradual lowering of the overall level of interest rates and bond yields in financial markets over the last 30 years. Over the year prior to the coronavirus crisis, this has seen many bond yields up to 10 years turn negative in the Eurozone. In addition, there has, at times, been an inversion of bond yields in the US whereby 10 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.

- 4 Gilt yields had therefore already been on a generally falling trend up until the coronavirus crisis hit western economies during March 2020. After gilt yields spiked up during the financial crisis in March, we have seen these yields fall sharply to unprecedented lows as investors panicked during March in selling shares in anticipation of impending recessions in western economies, and moved cash into safe haven assets i.e. government bonds. However, major western central banks took rapid action to deal with excessive stress in financial markets during March, and started massive quantitative easing purchases of government bonds: this also acted to put downward pressure on government bond yields at a time when there has been a huge and quick expansion of government expenditure financed by issuing government bonds. Such unprecedented levels of issuance in “normal” times would have caused bond yields to rise sharply. Gilt yields and PWLB rates have been at remarkably low rates so far during 2020/21.
- 5 As the interest forecast table for PWLB certainty rates above shows, there is expected to be little upward movement in PWLB rates over the next two years as it will take economies, including the UK, a prolonged period to recover all the momentum they have lost in the sharp recession caused during the coronavirus shut down period. From time to time, gilt yields, and therefore PWLB rates, can be subject to exceptional levels of volatility due to geo-political, sovereign debt crisis, emerging market developments and sharp changes in investor sentiment (as shown on 9th November when the first results of a successful COVID-19 vaccine trial were announced). Such volatility could occur at any time during the forecast period.

Investment and borrowing rates

- 6 Investment returns are likely to remain exceptionally low during 2021/22 with little increase in the following two years.
- 7 Borrowing interest rates fell to historically very low rates as a result of the COVID crisis and the quantitative easing operations of the Bank of England: indeed, gilt yields up to 6 years were negative during most of the first half of 2020/21. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years. The unexpected increase of 100 bps in PWLB rates on top of the then current margin

over gilt yields of 80 bps in October 2019 required an initial major rethink of local authority treasury management strategy and risk management. However, in March 2020, the Government started a consultation process for reviewing the margins over gilt rates for PWLB borrowing for different types of local authority capital expenditure. It also introduced the following rates for borrowing for different types of capital expenditure: -

- PWLB Standard Rate is gilt plus 200 basis points (G+200bps)
- PWLB Certainty Rate is gilt plus 180 basis points (G+180bps)
- PWLB HRA Standard Rate is gilt plus 100 basis points (G+100bps)
- PWLB HRA Certainty Rate is gilt plus 80bps (G+80bps)
- Local Infrastructure Rate is gilt plus 60bps (G+60bps)

8 As a consequence of these increases in margins, many local authorities decided to refrain from PWLB borrowing unless it was for HRA or local infrastructure financing, until such time as the review of margins was concluded.

9 On 25 November 2020, the Chancellor announced the conclusion to the review of margins over gilt yields for PWLB rates; the standard and certainty margins were reduced by 1% but a prohibition was introduced to deny access to borrowing from the PWLB for any local authority which had purchase of assets for yield in its three year capital programme. The new margins over gilt yields are as follows:-

- PWLB Standard Rate is gilt plus 100 basis points (G+100bps)
- PWLB Certainty Rate is gilt plus 80 basis points (G+80bps)
- PWLB HRA Standard Rate is gilt plus 100 basis points (G+100bps)
- PWLB HRA Certainty Rate is gilt plus 80bps (G+80bps)
- Local Infrastructure Rate is gilt plus 60bps (G+60bps)

Borrowing for capital expenditure

10 As Link's long-term forecast for Bank Rate is 2.00%, and all PWLB rates are under 2.00%, there is now value in borrowing from the PWLB for all types of capital expenditure for all maturity periods, especially as current rates are at historic lows. However, greater value can be obtained in borrowing for shorter maturity periods. So an assessment of risk appetite in conjunction with budgetary pressures would be required to reduce total interest costs. Longer-term borrowing could also be undertaken for the purpose of certainty, where that is desirable, or for flattening the profile of a heavily unbalanced maturity profile.

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APPENDIX B: Economic background and interest rate risks

Economic background

- 1 **UK.** The Bank of England’s Monetary Policy Committee (MPC) kept Bank Rate unchanged on 5 November 2020. However, it revised its economic forecasts to take account of a second national lockdown from 5 November 2020 to 2 December 2020 which is obviously going to put back economic recovery and do further damage to the economy. It therefore decided to do a further tranche of quantitative easing (QE) of £150bn, to start in January when the current programme of £300bn of QE announced in March to June, runs out. It did this so that “announcing further asset purchases now should support the economy and help to ensure the unavoidable near-term slowdown in activity was not amplified by a tightening in monetary conditions that could slow the return of inflation to the target”.

- 2 Its forecasts appeared, at the time, to be rather optimistic in terms of three areas:
 - The economy would recover to reach its pre-pandemic level in Q1 2022
 - The Bank also expects there to be excess demand in the economy by Q4 2022.
 - CPI inflation is therefore projected to be a bit above its 2% target by the start of 2023 and the “inflation risks were judged to be balanced”.

- 3 Significantly, there was no mention of negative interest rates in the minutes or Monetary Policy Report, suggesting that the MPC remains some way from being persuaded of the case for such a policy, at least for the next 6 -12 months. However, rather than saying that it “stands ready to adjust monetary policy”, the MPC this time said that it will take “whatever additional action was necessary to achieve its remit”. The latter seems stronger and wider and may indicate the Bank’s willingness to embrace new tools.

- 4 One key addition to the Bank’s forward guidance in August was a new phrase in the policy statement, namely that “it does not intend to tighten monetary policy until there is clear evidence that significant progress is being made in eliminating spare capacity and achieving the 2% target sustainably”. That seems designed to say, in effect, that even if inflation rises to 2% in a couple of years’ time, do not expect any action from the MPC to raise Bank Rate - until they can clearly see that level of inflation is going to be persistently above target if it takes no action to raise Bank Rate. Our Bank Rate forecast currently shows no increase through to quarter 1 2024 but there could well be no increase during the next five years due to the slow rate of recovery of the economy and the need for the Government to see the burden of the elevated debt to GDP ratio falling significantly.

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Inflation is unlikely to pose a threat requiring increases in Bank Rate during this period as there is likely to be spare capacity in the economy for a considerable time. It is expected to briefly peak at around 2% towards the end of 2021, but this is a temporary short lived factor and so not a concern.

- 5 However, the minutes did contain several references to downside risks. The MPC reiterated that the “recovery would take time, and the risks around the GDP projection were judged to be skewed to the downside”. It also said “the risk of a more persistent period of elevated unemployment remained material”. Downside risks could well include severe restrictions remaining in place in some form during the rest of December and most of January too. That could involve some or all of the lockdown being extended beyond 2nd December 2020, a temporary relaxation of restrictions over Christmas, a resumption of the lockdown in January and lots of regions being subject to Tier 3 restrictions when the lockdown ends. Hopefully, restrictions should progressively ease during the spring. It is only to be expected that some businesses that have barely survived the first lockdown, will fail to survive the second lockdown, especially those businesses that depend on a surge of business in the run up to Christmas each year. This will mean that there will be some level of further permanent loss of economic activity, although the extension of the furlough scheme to the end of 31st March 2021 will limit the degree of damage done.
- 6 As for upside risks, we have been waiting expectantly for news that various COVID-19 vaccines would be cleared as being safe and effective for administering to the general public. The Pfizer announcement on 9 November 2020 was very encouraging as its 90% effectiveness was much higher than the 50-60% rate of effectiveness of flu vaccines which might otherwise have been expected. However, their phase three trials are still only two-thirds complete. More data needs to be collected to make sure there are no serious side effects. We don’t know exactly how long immunity will last or whether it is effective across all age groups. The Pfizer vaccine specifically also has demanding cold storage requirements of minus 70C that might make it more difficult to roll out. However, the logistics of production and deployment can surely be worked out over the next few months.
- 7 However, there has been even further encouraging news since then with another two vaccines announcing high success rates. Together, these three announcements have enormously boosted confidence that life could largely return to normal during the second half of 2021, with activity in the still-depressed sectors like restaurants, travel and hotels returning to their pre-pandemic levels, which would help to bring the unemployment rate down. With the household saving rate currently being exceptionally high, there is plenty of pent-up demand and purchasing power stored up for these services. A comprehensive roll-out of vaccines might take into late 2021 to fully complete; but if these vaccines prove to be highly effective, then there is a possibility that restrictions could begin to be eased, possibly in Q2 2021,

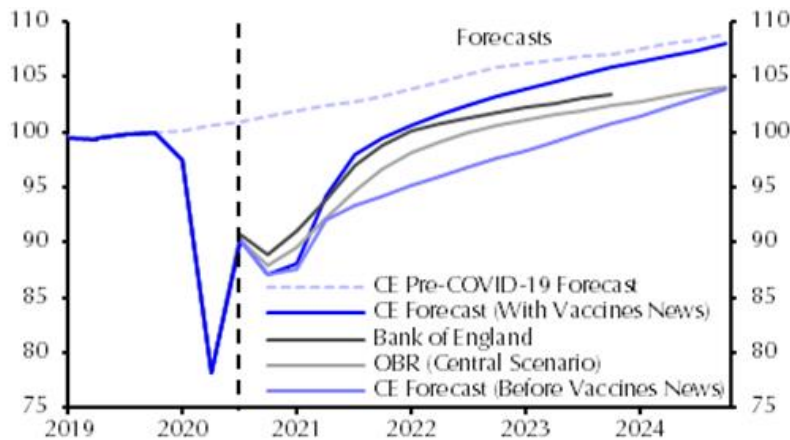
once vulnerable people and front-line workers had been vaccinated. At that point, there would be less reason to fear that hospitals could become overwhelmed any more. Effective vaccines would radically improve the economic outlook once they have been widely administered; it may allow GDP to rise to its pre-virus level a year earlier than otherwise and mean that the unemployment rate peaks at 7% next year instead of 9%. But while this would reduce the need for more QE and/or negative interest rates, increases in Bank Rate would still remain some years away. There is also a potential question as to whether the relatively optimistic outlook of the Monetary Policy Report was swayed by making positive assumptions around effective vaccines being available soon. It should also be borne in mind that as effective vaccines will take time to administer, economic news could well get worse before it starts getting better.

- 8 Public borrowing is now forecast by the Office for Budget Responsibility (OBR) to reach £394bn in the current financial year, the highest ever peace time deficit and equivalent to 19% of GDP. In normal times, such an increase in total gilt issuance would lead to a rise in gilt yields, and so PwLB rates. However, the QE done by the Bank of England has depressed gilt yields to historic low levels, (as has similarly occurred with QE and debt issued in the US, the EU and Japan). This means that new UK debt being issued, and this is being done across the whole yield curve in all maturities, is locking in those historic low levels through until maturity. In addition, the UK has one of the longest average maturities for its entire debt portfolio, of any country in the world. Overall, this means that the total interest bill paid by the Government is manageable despite the huge increase in the total amount of debt. The OBR was also forecasting that the government will still be running a budget deficit of £102bn (3.9% of GDP) by 2025/26. However, initial impressions are that they have taken a pessimistic view of the impact that vaccines could make in the speed of economic recovery.
- 9 Overall, the pace of recovery was not expected to be in the form of a rapid V shape, but a more elongated and prolonged one. The initial recovery was sharp but after a disappointing increase in GDP of only 2.1% in August, this left the economy still 9.2% smaller than in February; this suggested that the economic recovery was running out of steam after recovering 64% of its total fall during the crisis. The last three months of 2020 were originally expected to show zero growth due to the impact of widespread local lockdowns, consumers probably remaining cautious in spending, and uncertainty over the outcome of the UK/EU trade negotiations concluding at the end of the year also being a headwind. However, the second national lockdown starting on 5 November 2020 for one month is expected to depress GDP by 8% in November while the rebound in December is likely to be muted and vulnerable to the previously mentioned downside risks. It was expected that the second national lockdown would push back recovery of GDP to pre pandemic levels by six months and into sometime during 2023. However, the graph below shows what Capital Economics forecast will happen now that there is high confidence that successful vaccines will be widely

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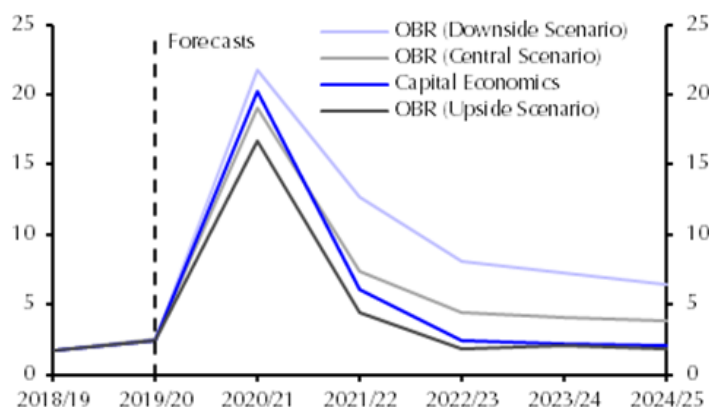
administered in the UK in the first half of 2021; this would cause a much quicker recovery than in their previous forecasts.

Chart: Level of real GDP (Q4 2019 = 100)



- 10 This recovery of growth which eliminates the effects of the pandemic by about the middle of the decade would have major repercussions for public finances as it would be consistent with the government deficit falling to 2% of GDP without any tax increases. This would be in line with the OBR's most optimistic forecast in the graph below, rather than their current central scenario which predicts a 4% deficit due to assuming much slower growth. However, Capital Economics forecasts assume that there is a reasonable Brexit deal and also that politicians do not raise taxes or embark on major austerity measures and so, (perversely!), depress economic growth and recovery.

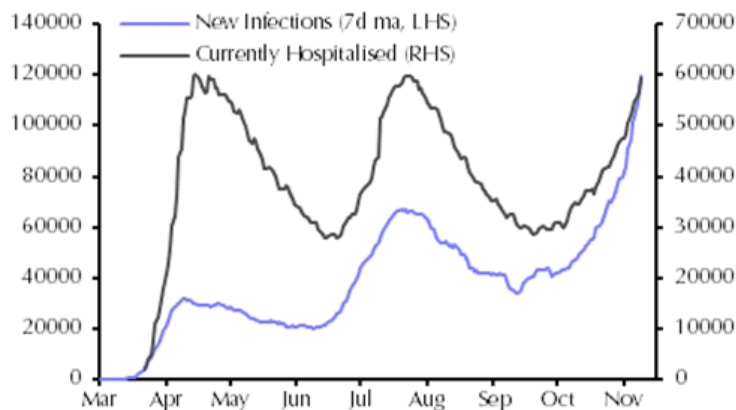
Chart: Public Sector Net Borrowing (As a % of GDP)



- 11 Capital Economics have not revised their forecasts for Bank Rate or gilt yields after this major revision of their forecasts for the speed of recovery of economic growth, as they are also forecasting that inflation is unlikely to be a significant threat and so gilt yields are unlikely to rise significantly from current levels.

- 12 There will still be some painful longer term adjustments as e.g. office space and travel by planes, trains and buses may not recover to their previous level of use for several years, or possibly ever, even if vaccines are fully successful in overcoming the current virus. There is also likely to be a reversal of globalisation as this crisis has exposed how vulnerable long-distance supply chains are. On the other hand, digital services are one area that has already seen huge growth.
- 13 The Financial Policy Committee (FPC) report on 6 August 2020 revised down their expected credit losses for the banking sector to “somewhat less than £80bn”. It stated that in its assessment “banks have buffers of capital more than sufficient to absorb the losses that are likely to arise under the MPC’s central projection”. The FPC stated that for real stress in the sector, the economic output would need to be twice as bad as the MPC’s projection, with unemployment rising to above 15%.
- 14 **US.** The result of the November elections means that while the Democrats have gained the presidency and a majority in the House of Representatives, it looks as if the Republicans will retain their slim majority in the Senate. This means that the Democrats will not be able to do a massive fiscal stimulus, as they had been hoping to do after the elections, as they will have to get agreement from the Republicans. That would have resulted in another surge of debt issuance and could have put particular upward pressure on debt yields - which could then have also put upward pressure on gilt yields. On the other hand, equity prices leapt up on 9 November 2020 on the first news of a successful vaccine and have risen further during November as more vaccines announced successful results. This could cause a big shift in investor sentiment i.e. a swing to sell out of government debt to buy into equities which would normally be expected to cause debt prices to fall and yields to rise. However, the rise in yields has been quite muted so far and it is too early to say whether the Federal Reserve (Fed) would feel it necessary to take action to suppress any further rise in debt yields. It is likely that the next two years, and possibly four years in the US, could be a political stalemate where neither party can do anything radical.
- 15 The economy had been recovering quite strongly from its contraction in 2020 of 10.2% due to the pandemic with GDP only 3.5% below its pre-pandemic level and the unemployment rate dropping below 7%. However, the rise in new cases during quarter 4, to the highest level since mid-August, suggests that the US could be in the early stages of a third wave. While the first wave in March and April was concentrated in the Northeast, and the second wave in the South and West, the latest wave has been driven by a growing outbreak in the Midwest. The latest upturn poses a threat that the recovery in the economy could stall. This is the single biggest downside risk to the shorter term outlook - a more widespread and severe wave of infections over the winter months, which is compounded by the impact of the regular flu season and, as a consequence, threatens to overwhelm health care facilities. Under those circumstances, states might feel it necessary to return to more draconian lockdowns.

COVID-19 New infections & hospitalisations



- 16 However, with the likelihood that highly effective vaccines are going to become progressively widely administered during 2021, this should mean that life will start to return to normal during quarter 2 of 2021. Consequently, there should be a sharp pick-up in growth during that quarter and a rapid return to the pre-pandemic level of growth by the end of the year.
- 17 After Chair Jerome Powell unveiled the Fed’s adoption of a flexible average inflation target in his Jackson Hole speech in late August, the mid-September meeting of the Fed agreed by a majority to a toned down version of the new inflation target in his speech - that *“it would likely be appropriate to maintain the current target range until labour market conditions were judged to be consistent with the Committee’s assessments of maximum employment and inflation had risen to 2% and was on track to moderately exceed 2% for some time.”* This change was aimed to provide more stimulus for economic growth and higher levels of employment and to avoid the danger of getting caught in a deflationary “trap” like Japan. It is to be noted that inflation has actually been under-shooting the 2% target significantly for most of the last decade, (and this year), so financial markets took note that higher levels of inflation are likely to be in the pipeline; long-term bond yields duly rose after the meeting. The Fed also called on Congress to end its political disagreement over providing more support for the unemployed as there is a limit to what monetary policy can do compared to more directed central government fiscal policy. The FOMC’s updated economic and rate projections in mid-September showed that officials expect to leave the fed funds rate at near-zero until at least end-2023 and probably for another year or two beyond that. There is now some expectation that where the Fed has led in changing its inflation target, other major central banks will follow. The increase in tension over the last year between the US and China is likely to lead to a lack of momentum in progressing the initial positive moves to agree a phase one trade deal. The Fed’s meeting on 5 November 2020 was unremarkable - but at a politically sensitive time around the elections.

- 18 **EU.** The economy was recovering well towards the end of Q2 and into Q3 after a sharp drop in GDP caused by the virus, (e.g. France 18.9%, Italy 17.6%). However, growth is likely to stagnate during Q4, and Q1 of 2021, as a second wave of the virus has affected many countries, and is likely to hit hardest those countries more dependent on tourism. The €750bn fiscal support package eventually agreed by the EU after prolonged disagreement between various countries, is unlikely to provide significant support, and quickly enough, to make an appreciable difference in the worst affected countries. With inflation expected to be unlikely to get much above 1% over the next two years, the European Central bank (ECB) has been struggling to get inflation up to its 2% target. It is currently unlikely that it will cut its central rate even further into negative territory from -0.5%, although the ECB has stated that it retains this as a possible tool to use. It is therefore expected that it will have to provide more monetary policy support through more quantitative easing purchases of bonds in the absence of sufficient fiscal support from governments. The current Pandemic Emergency Purchase Programme (PEPP) scheme of €1,350bn of QE which started in March 2020 is providing protection to the sovereign bond yields of weaker countries like Italy. There is therefore unlikely to be a euro crisis while the ECB is able to maintain this level of support. However, the PEPP scheme is regarded as being a temporary measure during this crisis so it may need to be increased once the first PEPP runs out during early 2021. It could also decide to focus on using the Asset Purchase Programme to make more monthly purchases, rather than the PEPP scheme, and it does have other monetary policy options.
- 19 However, as in the UK and the US, the advent of highly effective vaccines will be a game changer, although growth will struggle during the closing and opening quarters of this year and next year respectively before it finally breaks through into strong growth in quarters 2 and 3. The ECB will now have to review whether more monetary support will be required to help recovery in the shorter term or to help individual countries more badly impacted by the pandemic.
- 20 **China.** After a concerted effort to get on top of the virus outbreak in Q1, economic recovery was strong in Q2 and then into Q3 and Q4; this has enabled China to recover all of the contraction in Q1. Policy makers have both quashed the virus and implemented a programme of monetary and fiscal support that has been particularly effective at stimulating short-term growth. At the same time, China's economy has benefited from the shift towards online spending by consumers in developed markets. These factors help to explain its comparative outperformance compared to western economies.
- 21 However, this was achieved by major central government funding of yet more infrastructure spending. After years of growth having been focused on this same area, any further spending in this area is likely to lead to increasingly weaker economic returns in the longer term. This could, therefore, lead to a further misallocation of resources which will weigh on growth in future years.

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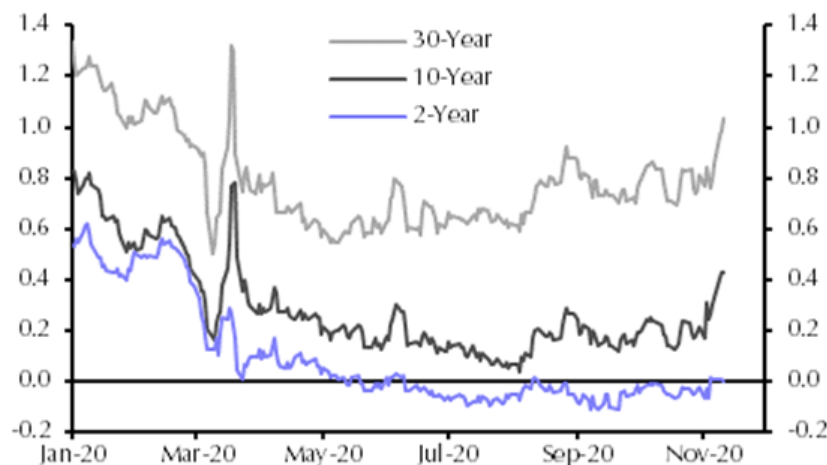
- 22 **Japan.** Japan's success in containing the virus without imposing draconian restrictions on activity should enable a faster return to pre-virus levels of output than in many major economies. While the second wave of the virus has been abating, the economy has been continuing to recover at a reasonable pace from its earlier total contraction of 8.5% in GDP. However, there now appears to be the early stages of the start of a third wave. It has also been struggling to get out of a deflation trap for many years and to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. There has also been little progress on fundamental reform of the economy. The change of Prime Minister is not expected to result in any significant change in economic policy.
- 23 **World growth.** While Latin America and India have, until recently, been hotspots for virus infections, infection rates have begun to stabilise. World growth will be in recession this year. Inflation is unlikely to be a problem for some years due to the creation of excess production capacity and depressed demand caused by the coronavirus crisis.
- 24 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.

Summary

- 25 Central banks are, therefore, likely to support growth by maintaining loose monetary policy through keeping rates very low for longer. Governments

could also help a quicker recovery by providing more fiscal support for their economies at a time when total debt is affordable due to the very low rates of interest. They will also need to avoid significant increases in taxation or austerity measures that depress demand in their economies.

- 26 If there is a huge surge in investor confidence as a result of successful vaccines which leads to a major switch out of government bonds into equities, which, in turn, causes government debt yields to rise, then there will be pressure on central banks to actively manage debt yields by further QE purchases of government debt; this would help to suppress the rise in debt yields and so keep the total interest bill on greatly expanded government debt portfolios within manageable parameters. It is also the main alternative to a programme of austerity.
- 27 The graph below as at 10 November 2020, shows how the 10 and 30 year gilt yields in the UK spiked up after the Pfizer vaccine announcement on the previous day, (though they have levelled off during late November at around the same elevated levels): -



Interest rate forecasts and risks

- 28 Brexit. The interest rate forecasts provided by Link in Appendix A are predicated on an assumption of a reasonable agreement being reached on trade negotiations between the UK and the EU by 31 December 2020. However, as the differences between a Brexit deal and a no deal are not as big as they once were, the economic costs of a no deal have diminished. The bigger risk is that relations between the UK and the EU deteriorate to such an extent that both sides start to unravel the agreements already put in place. So what really matters now is not whether there is a deal or a no deal, but what type of no deal it could be.
- 29 The differences between a deal and a no deal were much greater immediately after the EU Referendum in June 2016, and also just before the original Brexit deadline of 29 March 2019. That's partly because leaving the EU's Single Market

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and Customs Union makes this Brexit a relatively “hard” one. But it’s mostly because a lot of arrangements have already been put in place. Indeed, since the Withdrawal Agreement laid down the terms of the break-up, both the UK and the EU have made substantial progress in granting financial services equivalence and the UK has replicated the bulk of the trade deals it had with non-EU countries via the EU. In a no deal in these circumstances (a “cooperative no deal”), GDP in 2021 as a whole may be only 1.0% lower than if there were a deal. In this situation, financial services equivalence would probably be granted during 2021 and, if necessary, the UK and the EU would probably rollover any temporary arrangements in the future.

- 30 The real risk is if the UK and the EU completely fall out. The UK could override part or all of the Withdrawal Agreement while the EU could respond by starting legal proceedings and few measures could be implemented to mitigate the disruption on 1 January 2021. In such an “uncooperative no deal”, GDP could be 2.5% lower in 2021 as a whole than if there was a deal. The acrimony would probably continue beyond 2021 too, which may lead to fewer agreements in the future and the expiry of any temporary measures.
- 31 Relative to the slump in GDP endured during the COVID-19 crisis, any hit from a no deal would be small. But the pandemic does mean there is less scope for policy to respond. Even so, the Chancellor could loosen fiscal policy by about £10bn (0.5% of GDP) and target it at those sectors hit hardest. The Bank of England could also prop up demand, most likely through more gilt and corporate bond purchases rather than negative interest rates.
- 32 Brexit may reduce the economy’s potential growth rate in the long run. However, much of that drag is now likely to be offset by an acceleration of productivity growth triggered by the digital revolution brought about by the COVID-19 crisis.
- 33 So, in summary, there is not likely to be any change in Bank Rate in 2020/21 and 2021/22 due to whatever outcome there is from the trade negotiations and while there will probably be some movement in gilt yields / PWLB rates after the deadline date, there will probably be minimal enduring impact beyond the initial reaction.

The balance of risks to the UK

- The overall balance of risks to economic growth in the UK is probably now skewed to the upside, but is subject to major uncertainty due to the virus and how quickly successful vaccines may become available and widely administered to the population. It may also be affected by what, if any, deal the UK agrees as part of Brexit.
- There is relatively little UK domestic risk of increases or decreases in Bank Rate and significant changes in shorter term PWLB rates. The Bank of England has effectively ruled out the use of negative interest rates in the near term and increases in Bank Rate are likely to be some years away given the underlying economic expectations. However, it is always possible that

safe haven flows, due to unexpected domestic developments and those in other major economies, could impact gilt yields, (and so PWLB rates), in the UK.

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

- UK - further national lockdowns or severe regional restrictions in major conurbations during 2021.
- UK / EU trade negotiations - if they were to cause significant economic disruption and downturn in the rate of growth.
- UK government takes too much action too quickly to raise taxation or introduce austerity measures that depress demand in the economy.
- UK - 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. The ECB has taken monetary policy action to support the bonds of EU states, with the positive impact most likely for “weaker” countries. In addition, the EU agreed a €750bn fiscal support package. These actions will help shield weaker economic regions for the next year or so. However, in the case of Italy, the cost of the virus crisis has added to its already huge debt mountain and its slow economic growth will leave it vulnerable to markets returning to taking the view that its level of debt is unsupportable. There remains a sharp divide between northern EU countries favouring low debt to GDP and annual balanced budgets and southern countries who want to see jointly issued Eurobonds to finance economic recovery. This divide could undermine the unity of the EU in time to come.
- Weak capitalisation of some European banks, which could be undermined further depending on extent of credit losses resultant of the pandemic.
- German minority government & general election in 2021. 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 subsequent state elections but the SPD has done particularly badly. Angela Merkel has stepped down from being the CDU party leader but she intends to remain as Chancellor until the general election in 2021. This then leaves a major question mark over who will be the major guiding hand and driver of EU unity when she steps down.
- Other minority EU governments. Austria, Sweden, Spain, Portugal, Netherlands, Ireland 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. In November, Hungary and Poland threatened to veto the 7 year EU budget due to the inclusion of a rule of law requirement that poses major challenges to both countries. There has also been a rise in anti-immigration sentiment in Germany and France.

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- Geopolitical risks, for example in China, Iran or North Korea, but also in Europe and other Middle Eastern countries, which could lead to increasing safe haven flows.

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

- UK - a significant rise in inflationary pressures. These could be caused by an uncooperative Brexit deal or by a stronger than currently expected recovery in the UK economy after effective vaccines are administered quickly to the UK population which leads to a resumption of normal life and a return to full economic activity across all sectors of the economy.
- 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 rapid series of increases in Bank Rate to stifle inflation.
- Post-Brexit - if a positive agreement was reached that removed the majority of threats of economic disruption between the EU and the UK.

APPENDIX C: CURRENT PORTFOLIO POSITION

List of Investments as at:- 1-Dec-20

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.		1,443,000	01-Oct-11			0.01000%	Variable
	Svenska Handelsbanken AB (Deposit A/C)	AA	Sweden		0	23-Jul-14			0.00000%	Variable
	Svenska Handelsbanken AB (35 Day Notice A/C)	AA	Sweden		0	01-Sep-16			0.05000%	Variable
	Aberdeen Standard Liquidity Fund (Money Market Fund)	AAA	U.K.		2,300,000	11-May-12				Variable
	Insight Liquidity Fund (Money Market Fund)	AAA	U.K.		1,000,000	11-May-12				Variable
	BlackRock Liquidity Fund (Money Market Fund)	AAA	U.K.		1,900,000	13-Oct-16				Variable
	CCLA Public Sector Deposit Fund (Money Market Fund)	AAA	U.K.		5,000,000	08-Oct-18				Variable
IP1423	Close Brothers Ltd	A-	U.K.		2,000,000	08-Sep-20	0.80000%	07-Sep-21		1 Year
IP1420	Newcastle Building Society		U.K.		2,000,000	20-Jul-20	0.36000%	20-Apr-21		9 Months
IP1421	Newcastle Building Society		U.K.		1,000,000	31-Jul-20	0.32000%	29-Jan-21		6 Months
IP1425	Principality Building Society		U.K.		3,000,000	23-Nov-20	0.10000%	22-Mar-21		4 Months
IP1422	Thurrock Borough Council		U.K.		3,000,000	31-Jul-20	0.33000%	26-Feb-21		7 Months
IP1424	Thurrock Borough Council		U.K.		2,000,000	16-Sep-20	0.33000%	22-Mar-21		6 Months
IP1419	West Bromwich Building Society		U.K.		2,000,000	16-Jun-20	0.30000%	16-Dec-20		6 Months

Total Invested

26,643,000

Other Loans

	Sevenoaks Leisure Limited				529,648	02-Mar-18	6.00000%	02-Mar-28		10 Years
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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 Deputy Chief executive and 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

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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 (£)
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
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
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
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

Non Specified Investment Category	Limit (£)
above.	
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
Bond Funds. A pooled investment vehicle with a mix of corporate and government grade bonds. See note 1 below.	£5m
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 Deputy Chief Executive and Chief Officer - Finance & Trading, and if required, new counterparties which meet the criteria will be added to the list.

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APPENDIX E - Approved countries for investments as at December 2020

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 Link Asset Services credit worthiness service.

Based on lowest available rating from Fitch, Moody's and S&P

AAA

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

AA+

- Canada
- Finland
- U.S.A.

AA

- Abu Dhabi (UAE)
- France

AA-

- Belgium
- Hong Kong
- Qatar
- United Kingdom

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.

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Item 6(d) - Property Investment Strategy Update Report

The attached report was considered by the Cabinet on 11 February 2021, and the relevant minute extract was not available prior to the printing of these papers and will follow when available.

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PROPERTY INVESTMENT STRATEGY UPDATE REPORT

Council - 23 February 2021

Report of: Deputy Chief Executive and Chief Officer - Finance and Trading

Status: For Decision

Also considered by:

- Finance & Investment Advisory Committee - 21 January 2021
- Cabinet - 11 February 2021

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. This report provides an update on those acquisitions.

The Government's Spending Review in November included changes to the Public Works Loan Board (PWLB) lending terms and are intended to stop councils that invest primarily for yield from borrowing from the PWLB. These changes will be monitored and may impact on the Council's future ability to undertake property investments.

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

Detlev Munster, Ext. 7099

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: That Council agrees the 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 25 February 2020 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:
 - a. £5m Council 22 July 2014
 - b. £3m Council 17 February 2015
 - c. £10m Council 21 July 2015

- d. £7.3m (total spend) Sennocke (Premier Inn) Hotel, Council 3 November 2015
- e. £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	7.5%
Mar 2017	26-28 Pembroke Road, Sevenoaks (office)	4,673	5.9%
Aug 2018	Premier Inn Hotel, Sevenoaks	7,332	6.3%
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	4,554	Previously 3.5% Currently 0%
May 2017	Croft Road, Westerham (housing option)	50	
2018/19 onwards	Quercus 7 investments (debt 60%, equity 40%)	5,891	

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	Total	31,364	
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- 6 £18.9m 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 redeveloped with a neighbouring District Council car park which is underutilised, as part of a new gateway to Swanley. Work is continuing to establish viable redevelopment options for this site 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 been refurbished to a high standard and the rent 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. External repair and maintenance work, particularly to the roof, brickwork and lead works, has recently been undertaken in accordance with the building's planned maintenance programme.
- 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.
- 12 The ground floor retail space has been vacated by M & Co. New tenants are currently being sought. A 'meanwhile use' is in place for the first and second floors which have been let to the Second Floor Studios CIC, which has converted the space into 19 artists' studios and this agreement lasts until 2021.

- 13 **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.
- 14 **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 was 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.
- 15 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.
- 16 **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.

Property Investment Strategy Income

- 17 The 10-year budget approved by Council on 25 February 2020 included net Property Investment Strategy income of £1.428m in 2020/21 and £1.468m in 2021/22.
- 18 Net income of £1.292m is forecast in 2020/21, therefore £136,000 below the budget. This is due to M & Co surrendering the lease on the retail space at 96 High Street, Sevenoaks in September and non-payment of rent earlier in the year. The council will also become liable for business rates on this space if it remains vacant after three months.
- 19 Included in the 2021/22 budget approved by Council in November was a reduction of the Property Investment Strategy net income budget of £96,000 in 2021/22 only (SCIA13). As there is not currently a new tenant in place, it was prudent to assume that rental income would not be received on this site during 2021/22. Therefore, the Property Investment Strategy net income budget for 2021/22 has reduced to £1.372m. Later years remain unchanged.
- 20 The Property Investment Strategy net income budgets included in the 10-year budget approved by Council in November are included in the table below:

2021/22	£1.372m
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2022/23	£1.508m
2023/24 - 2025/26	£1.558m
2026/27 - 2028/29	£1.655m
2029/30 - 2030/31	£1.696m

- 21 The budgets will continue to be reviewed.
- 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 £31.4m spent to date has been funded by:
- Property Reserve and Financial Plan Reserve £11.8m. Funds put aside for the Property Investment Strategy agreed as part of the annual budget setting process including New Homes Bonus.
 - Capital receipts £9.4m. 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 2020/21.
 - Internal borrowing £5.9m. 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 if allowable. (The PWLB 30-year annuity loan interest rate at 05/01/21 is 1.6%).
- 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.

Public Works Loan Board (PWLB) - Changes to Lending Terms

- 27 Included within the Government's Spending Review announcements on 25 November 2020 was the HM Treasury document 'Public Works Loan Board: Future Lending Terms'.
- 28 There has been a number of announcements and guidance notes by Government and CIPFA (Chartered Institute of Public Finance and Accountancy) to react to how some councils have borrowed from the PWLB to fund property investments.
- 29 This document includes changes to the PWLB lending terms to stop councils that invest primarily for yield from borrowing from the PWLB. Councils will still be free to borrow for service delivery, housing, regeneration, preventative action and government priorities. The changes came in with immediate effect.
- 30 In summary, the new rules are:
 - a. As a condition of accessing the PWLB, local authorities will be asked to submit a high-level description of their capital spending and financing plans for the following three years.
 - b. Councils intending to invest for yield will not be permitted to access the PWLB.
 - c. When applying for a new loan, the council will be required to confirm that the plans they have submitted remain current and confirm that they do not intend to buy investment assets primarily for yield remains valid.
 - d. The decision over whether a project complies with the terms of the PWLB is for the section 151 officer or equivalent of the council (Chief Officer - Finance and Trading).
- 31 At the same time as introducing these reforms, HM Treasury lowered the PWLB interest rates by 100 basis points (i.e. 1%).
- 32 If a council wants to go ahead with borrowing from another source to fund commercial investments they can but they will be blocked from accessing the PWLB.
- 33 Officers will continue to liaise with the Government and other bodies to ensure that there is a clear understanding of options and implications available for future use of the Property Investment Strategy by both the Council and Quercus 7.

Future Opportunities

- 34 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.
- 35 As mentioned above, the PWLB changes may impact the available funding of and ability to make further property investments within the strategy.
- 36 Savills latest update on the UK Commercial Property Market is included in **Appendix C**.

Risks

- 37 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.
- 38 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**.
- 39 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 have previously been below inflation levels resulting in the gradual erosion of funds. A separate report on the Treasury Management Strategy 2021/22 is also being presented at this meeting.
- 40 The risks of each potential investment are considered by carrying out due diligence to include the following:
 - a. Valuation.
 - b. Market conditions.
 - c. Covenant strength of tenants.
 - d. Terms of leases.
 - e. Structural surveys.
 - f. Funding options.
 - g. Future costs.
- 41 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.

- 42 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.
- 43 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.
- 44 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.
- 45 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 objectives is being achieved. Existing arrangements are fit for purpose for the delivery of the Strategy and comply with Council procedures.”
- 46 The assurances required over the Property Investment Strategy are considered each year as part of the risk-based annual audit planning process.
- 47 The changes to the PWLB lending terms also produce additional risks that did not previously exist.

Property Investment Strategy Criteria

- 48 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**.
- 49 The asset categories currently included in the strategy are industrial, office, retail, trade counter and private residential. Due to the requirement to have a balanced portfolio and recognising the changing market it is asked that Members consider changing it to ‘all categories’ subject to appropriate due diligence and ensuring no asset class exceeds 20% in total value of the approved funding.
- 50 Members have previously had discussions about the location of potential investments. The current criteria restricts this to within a 50-mile radius of the Council’s Argyle Road offices or within Kent and Medway.
- 51 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 was previously expected that a significant proportion of future Property Investment Strategy funding would be provided by external borrowing, but it should be recognised that this may no longer be possible. 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, if allowable, will continue to ensure that the Council remains financially self-sufficient.

Appendices

Appendix A - Property Investment Strategy

Appendix B - Property Investment Strategy - Risk Analysis

Appendix C - Property Market Update from Savills

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

Deputy Chief Executive and Chief Officer - Finance & Trading

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Property Investment Strategy (agreed by Council 25/02/20)

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 mainstream 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 0.6%) when not borrowing or internally borrowing, and 3%+ above the borrowing rate (currently 1.6% 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 0.6%) when not borrowing or internally borrowing, and 3%+ above the borrowing rate (currently 1.6% 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. 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.

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Property Investment Strategy - Risk Analysis

The Property Investment Strategy risks are detailed below. The impact and likelihood of each risk are first assessed gross (without existing controls in place) and then re-assessed following the identification of key controls (net). The net ratings are shown in the following table:

Likelihood	Very Likely (5)					
	Likely (4)					6
	Possible (3)			14		
	Unlikely (2)			4,9		1,11
	Very Unlikely (1)		3		2a	2b,5,7,8,10,12,13
		Minimal (1)	Minor (2)	Moderate (3)	Major (4)	Critical (5)
		Impact				

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
1) Downturn in property market	<ul style="list-style-type: none"> Poor Return on Investment (ROI) on selling/rental 	3	5	15	<ul style="list-style-type: none"> Contracts to have rent review, break clauses etc. Investments are credit secure and can be retained through any market downturn; No requirement by SDC to liquidate investments in medium term; No requirement from SDC to minimise or contain reported mark to market variability 	2	5	10
2) a. Poor quality construction/management	<ul style="list-style-type: none"> Repairs Defects remedial work, customer dissatisfaction loss of reputation legal action 	3	5	15	<ul style="list-style-type: none"> Robust contracting process. Pre-purchase surveys High quality spec Quality assurance clauses Warranties Procurement processes 	1	4	4

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
	<ul style="list-style-type: none"> • additional costs not built into financial plan 				<ul style="list-style-type: none"> • Clauses for liquidated damages • Build relationships with contractors - understand their quality ethos • Do not work with contractors who have a record issues or no track record • Ensure contractor has sufficient covenant to stand behind their commitments 			
b. Poor quality construction/management	<ul style="list-style-type: none"> • Risks to personal health and safety - defects, gas, electricity, legionella, etc. 	2	5	10	<ul style="list-style-type: none"> • Surveys; risk assessment techniques; CDM (Construction, Design & Mgt Regs); using registered suppliers and installers 	1	5	5

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
3) Possibility of challenge re: state aid	<ul style="list-style-type: none"> Legal challenge to Quercus 7. 	2	2	4	<ul style="list-style-type: none"> Full cost recovery. Loans obtained at commercial lending rates Charging Directors and others' time to the Company. Legal due diligence pre contractual commitment 	1	2	2
4) Inability to attract and retain suitable purchasers/tenants	<ul style="list-style-type: none"> Poor ROI void periods loss of rental income 	3	4	12	<ul style="list-style-type: none"> Demand for residential property remains high. Taking up references Early engagement with potential buyers/tenants Quality product to attract purchasers/tenants Standby working capital facility to support downturn in market for tenants i.e. finance voids or rent shortfalls 	2	3	6

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
5) Failure to fully assess sites and conditions	<ul style="list-style-type: none"> Defects remedial action costs failure to attract purchasers/tenants void periods poor ROI 	3	5	15	<ul style="list-style-type: none"> Robust appraisals and surveys to be undertaken before progressing. Pre-application planning advice. Knowledge of location/market Extensive due diligence process. 	1	5	5
6) Insufficient financial resources to progress projects	<ul style="list-style-type: none"> Cannot close deals because of inability to achieve purchase price Lack of progress in the market 	4	5	20	<ul style="list-style-type: none"> Borrowing permissions in place (note new PWLB restrictions). Investment strategy in place. Sound business case/plan. Due diligence exercises, Develop alternatives to SDC funding for Quercus 7 	4	5	20

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
7) Insufficient resources, capacity, skills to plan and manage projects	<ul style="list-style-type: none"> Inability to close deals as insufficient due diligence Loss of reputation 	3	5	15	<ul style="list-style-type: none"> Procurement of specialist resources not available in-house. Appointment of staff with adequate skills for purpose. 	1	5	5
8) Inability to secure development opportunities to cover overheads and develop profits	<ul style="list-style-type: none"> Quercus 7 loss making company Business plan not executed Shareholder dissatisfaction Dissolution of company 	2	5	10	<ul style="list-style-type: none"> Continue to develop pipeline of opportunities. Links with agents. Proactive approach to identify opportunities. Procurement of sufficient resources. Divert development resources to management responsibilities during prolonged downturn? 	1	5	5
9) Increase in voids/and void turn-around time/re-let times	<ul style="list-style-type: none"> Income from rent is reduced and cash flow compromised 	3	3	9	<ul style="list-style-type: none"> Employment of experienced agents to manage lettings. 	2	3	6

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
					<ul style="list-style-type: none"> • Sale of property an option. • Reconsideration of operating model • Standby working capital facility to support downturn in market for tenants i.e. finance voids or rent shortfalls • Option of selling assets to provide working capital bridge 			
10) Purchase not supported by red book valuation	<ul style="list-style-type: none"> • Unable to secure purchase 	4	5	20	<ul style="list-style-type: none"> • Red book valuation obtained prior to offer. 	1	5	5
11) Financial risks	<ul style="list-style-type: none"> • Rents not achieved • Values reduce • Property market falls • Operational costs higher than budget 	3	5	15	<ul style="list-style-type: none"> • Due Diligence measures • Pre purchase surveys 	2	5	10

Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
Property Investment Strategy - Failure to identify opportunities to meet the Property Investment Strategy Lead Officer: Adrian Rowbotham & Detlev Munster								
	<ul style="list-style-type: none"> Defects arising that affect let ability / income 							
12) Failure to comply with taxation issues, Corporation tax and VAT	<ul style="list-style-type: none"> Legal challenges 	2	5	10	<ul style="list-style-type: none"> Internal and/or external advice sought in relation to taxation to ensure compliance. 	1	5	5
13) Poor management of property	<ul style="list-style-type: none"> Risk to tenants Health and Safety Defects, gas, electricity etc. 	2	5	10	<ul style="list-style-type: none"> Engage experienced and qualified management agents 	1	5	5
14) Impact of COVID-19 - Increase in voids/market changes/bad debts	Income from rent is reduced and cash flow compromised.	4	3	12	<ul style="list-style-type: none"> Employment of experienced agents to manage lettings. Sale of property an option. Reconsideration of operating model 	3	3	9

Strategic Risk Register Item - Agreed by Audit Committee 24 November 2020								
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 & Detlev Munster								
<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 including the effect of government legislation changes 	<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	<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 FIAC, 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

Strategic Risk Register Item - Agreed by Audit Committee 24 November 2020								
Risk Factors	Potential Effect	Gross Likelihood	Gross Impact	Gross Rating	Internal Controls	Net Likelihood	Net Impact	Net Rating
<ul style="list-style-type: none"> Covid-19 / Economic conditions - ability to find or retain tenants, collect lease or rental income, reduction in asset values 								

Market in Minutes



Vaccine news offers hope for the UK economy

The average prime yield across all sectors remained broadly stable this month. However, Industrial distribution and Retail Warehousing (restricted) were the sectors of choice in November, with both sectors moving in by 25bps to 3.75% and 6.50% respectively. Although investment volumes were subdued for much of 2020, encouragingly, £10.6bn was invested into UK commercial property in September, October, and November, which was a 69% rise on the preceding three-month period.

The alternatives/mixed sector, principally student accommodation and PRS, has taken the crown for the highest level of deal activity in 2020 with 535 deals, which was followed by the industrial sector where 477 transactions have been recorded. The number of industrial deals recorded from Sept-Nov totalled 160 which was a 37% increase from the three months prior, which was the highest increase in this time period when compared to the other asset classes.

The vaccine news has brought some Christmas cheer, with hope that the news will deliver a quick boost of confidence to the economy. The effective rollout of a Covid-19 vaccine would likely inject £41bn into London's economy and save tens of thousands of jobs. Under a 'best case scenario', a rollout would see office workers return to their desks for four days a week, generating an extra £41bn for the economy, according to a study by Arup.

Savills prime yields

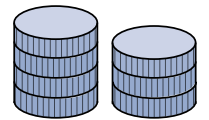
	November 2019	October 2020	November 2020
West End Offices	3.75%↓	3.50%	3.50%
City Offices	4.00%	4.00%	4.00%
Offices M25	5.00%↑	5.50%	5.50%
Provincial Offices	4.75%↑	5.00%	5.00%
High Street Retail	5.25%↑	6.50%	6.50%
Shopping centres	5.75%↑	7.00%	7.00%
Retail Warehouse (open A1)	6.25%	6.50%	6.50%
Retail Warehouse (restricted)	6.50%	6.75%	6.50%
Foodstores (OMR)	4.75%	4.50%	4.50%
Ind/ Distribution (OMR)	4.25%	4.00%↓	3.75%
Industrial Multi-lets	4.00%	3.75%↓	3.75%↓
Leisure Parks	5.75%	7.00%	7.25%
London Leased (core) Hotels	3.75%	4.00%↑	4.00%↑
Regional Pubs (RPI)	4.50%	5.00%	5.00%

Source Savills

Key stats

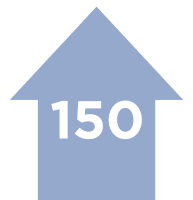


The number of sectors where yields hardened this month



£10.6bn

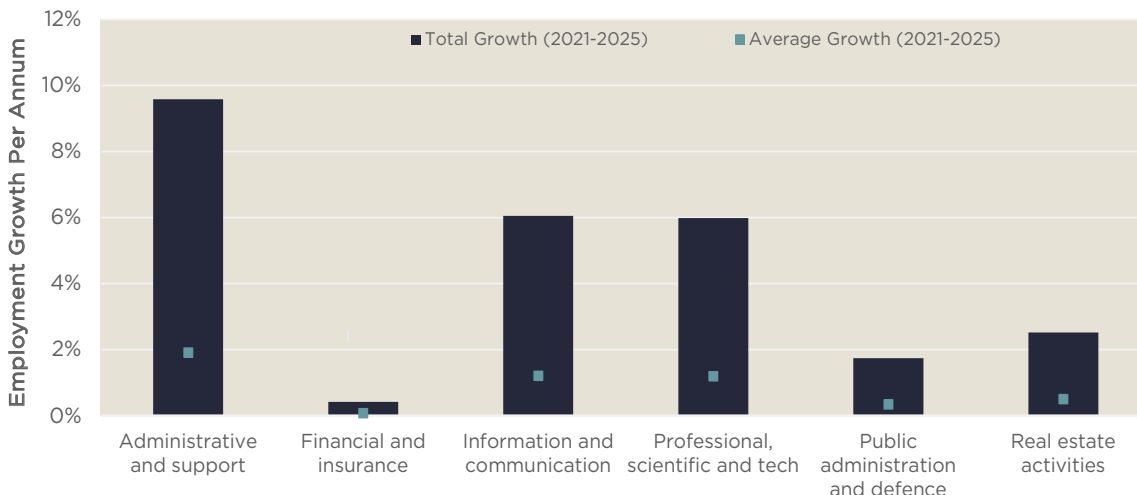
was invested into UK commercial property in September, October, and November, a 69% rise on the preceding three-month period



The number of bps Leisure moved out since the same time last year

Greater London job growth

The biggest increase will be in admin and support roles over the next five years.



The link between sustainability and growth

Even before the pandemic struck, sustainability was rising up the agendas of developers. More sustainable buildings often generate lower long-term operational costs, attract higher rents and occupancy rates, and tend to see quicker lease-up times and an increase in capital value.

Occupiers are increasingly demonstrating that they'll only pay premium rents for buildings with notable environmental certifications. Taking Manchester as an example, our research shows that more than 90% of offices with a rent within the top ten for that city achieved a BREEAM rating of at least 'Very Good' or above.

Landmark, a Grade A scheme in Manchester's premier business district, is let at the city's current top rent of £36.50 and boasts a BREEAM rating of 'Excellent' and an EPC rating of A. In addition to this, the building includes many sustainable features such as electric car charging points and solar panels, and was constructed using sustainably sourced timber.

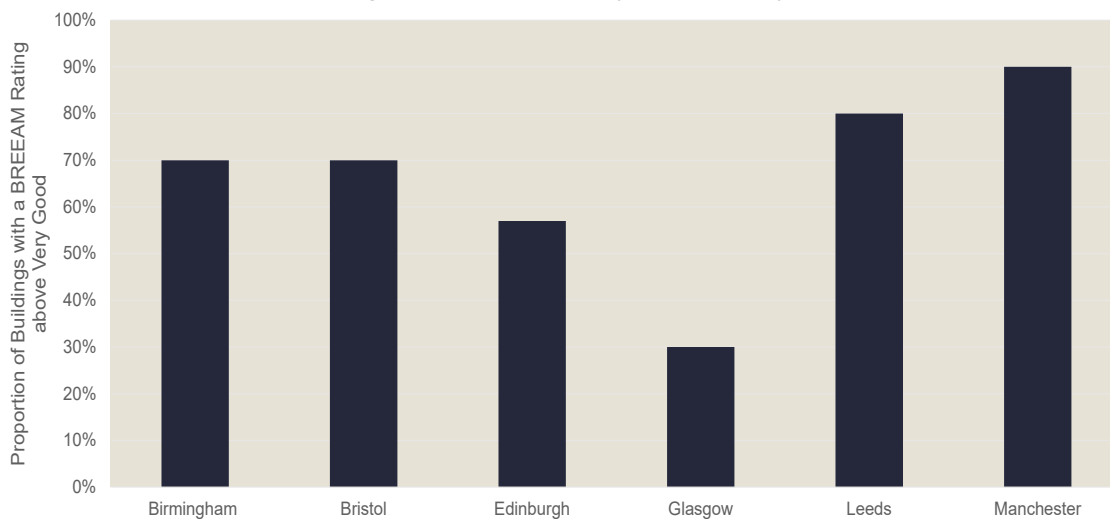
But it's not just in Manchester where we're seeing premium rents being charged for the most sustainable offices – this trend is very much reflected nationwide.

Aurora in Bristol, which quotes the city's top rent of £37.50, has achieved a BREEAM 'Outstanding' certification and its features include the likes of intelligent LED lighting that automatically respond to daylight and the movement of people in the building.

North of the border, 177 Bothwell Street in Glasgow is currently under construction with the façade predominantly being made from recyclable glass and aluminium, boosting thermal and environmental performance and enhancing natural daylight in the office. The quoting rent at the scheme is £32.50, again the top rent for the city.

Rents have increased on office buildings with a BREEAM rating

Highest achieved rents (2018-Present)



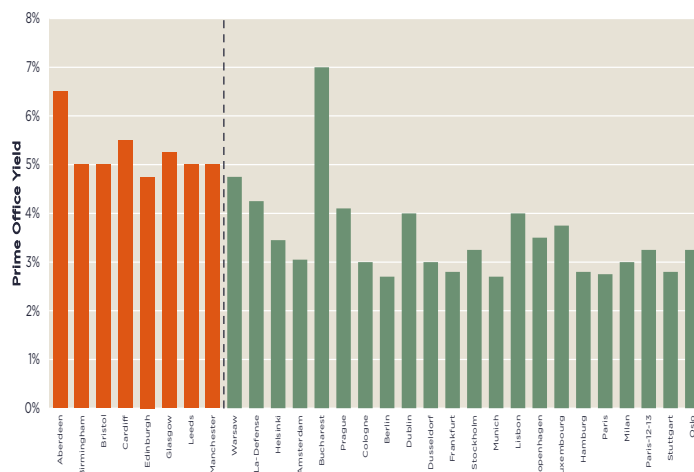
Source Savills

The prime office yields for major European office markets and key UK regional city markets are highlighted in the adjacent chart.

The UK regional city markets are discounted when compared to every other major European market apart from Bucharest. This is the only European market where the prime yield is above 5% whereas in the UK only Edinburgh is below that level. The average prime office yield across the selected European markets is 3.50% which represents a 150 basis point premium when compared to the UK regional office prime office yield. This yield gap has helped attract overseas investors to the regional office market in recent years with the purchaser type accounting for the highest proportion of capital invested into the market in three of the last four years.

UK regional city and European Prime Office Yield Comparison

The UK regional city prime yields are discounted when compared to other major European office markets



Source Savills

Savills team

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Item 6(e) - Private Sector Housing Enforcement Policy

The attached report was considered by the Cabinet on 11 February 2021, and the relevant minute extract was not available prior to the printing of these papers and will follow when available.

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PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

Council - 23 February 2021

Report of: Deputy Chief Executive and Chief Officer, People and Places

Status: For decision

Also considered by:

- Housing and Health Advisory Committee - 9 February 2021
- Cabinet - 11 February 2021

Key Decision: No

This report supports the Key Aim of: delivering the District Council's Housing Strategy and which, in turn, supports the Community Plan.

Portfolio Holder: Cllr. Kevin Maskell

Contact Officer: Daniel Shaw, Ext. 7155

Recommendation to Housing & Health Advisory Committee:

That Members support the Private Sector Housing Enforcement Policy as set out in Appendix A, and agree the recommendation to Cabinet below.

Recommendation to Cabinet:

That it be recommended to Council that the Private Sector Housing Enforcement Policy as set out in Appendix A, be adopted.

Recommendation to Council:

That the Private Sector Housing Enforcement Policy be adopted.

Reason for recommendation: To improve standards in the District's private sector housing stock whilst also seeking to maximise associated resources.

Introduction and Background

- 1 The Housing Act 2004 introduced updated housing standards and assessment methods with a view to improving standards in the private sector. As a result, local authorities must now take enforcement action to deal with properties with any Category 1 and 2 Hazards, as assessed under the Housing, Health and Safety Rating System (HHSRS).

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- 2 The Housing Act 2004 also allows local authorities to charge for any such housing enforcement action, with two key associated benefits being: 1) a means to better encourage housing improvement works through self-management/regulation and, as a result, reduced need for any direct local authority intervention; and 2) to help recover costs associated with any enforcement action and, as a result, helping to maximise limited resources.

Current situation

- 3 With a need to maximise effectiveness of the District Council's housing-related roles and services, related work programmes are being re-examined and comparisons made with systems operated elsewhere.
- 4 As a result, the option to introduce charging systems has been identified as an effective approach to the delivery of the future private sector housing strategy and to support related outcomes across a wide-range of associated health and wider community strategies.
- 5 The policy is seen as good practice and with similar policies adopted or in the process of being adopted by a number of Kent authorities, including Thanet, Folkestone & Hythe, Tonbridge and Malling, Ashford and Maidstone borough councils, as well as being supported by the National Landlords' Association. It is not the case of the District Council leading the way with this particular policy, therefore, but bringing it in line with other Kent local authorities where such policies have already proved to be an effective tool in dealing with rogue landlords and improving housing conditions for tenants.

Charging for Enforcement Action

- 6 A key change in this new draft policy is the proposed charging system. The District Council starts from the position of working with its service users to help them comply with regulatory requirements. This is a more efficient way of meeting objectives rather than having to take enforcement action. The District Council provides clear, accessible advice and guidance and contact details where further information is required. Such information can also be found on the District Council's website and is available in hard copy and other formats and languages by request.
- 7 Under Section 49 of the Housing Act 2004, the District Council can make such reasonable charges as considered appropriate to recover administrative and other expenses incurred in taking enforcement action. This is seen as another tool to help the District Council work with those in breach of related legislation informally before considering the service of a notice. It must be noted that this is not a penalty charge, but a charge for Officers' time to put a notice together.
- 8 It is proposed that charges would be made in respect of the following types of enforcement actions under the Act, as follows: 1) serving improvement notices; 2) making prohibition orders; 3) taking emergency remedial action; 4) making emergency prohibition orders; 5) carrying out reviews of notices;

6) reviews of suspended prohibition orders; and 7) serving copies of decisions on any reviews.

Introducing the new policy approaches

- 9 If approved, a communications plan would be drawn up in order to raise awareness of the new charging systems and particularly aimed at private landlords. A wide-range of communications methods would be employed to ensure maximum reach and these would include: The National Landlords' Association; West Kent Landlords' Forum; District Council website; In Shape; leaflets and other promotional materials; and direct mail-outs.
- 10 A review of the charging systems would also take place after a period of 12-months to ensure the policies were working to best effect and findings then reported back to the HHAC for information.

Key Implications

Financial

The policy would be enforced with existing officer resources and with no financial implications, therefore. The policies would, in fact, help to sustain current officer resource levels and help to work towards a self-funding enforcement system.

Records going back to 2006 indicate that the charges as outlined in the policy would have likely generated £7,500 in administration costs. It is difficult to quantify cost associated with financial penalties as this is a new enforcement tool only introduced in 2017.

Legal Implications and Risk Assessment Statement

The policy would be in accordance with related legislation and support the District Council to also meet its statutory obligations in respect of identified Category 1 and 2 hazards under the HHSRS. The decision whether to use civil penalty powers (and to what extent) or to seek prosecution would be made by the Private Sector Housing Manager or Head of Housing in conjunction with Legal Services.

Equality Assessment

The policy would have no additional negative effect on end users as the District Council has a statutory requirement to enforce Category 1 Hazards and has been doing so since the introduction of the Housing Act irrespective of this new policy and historically would have prosecuted as opposed to the less formal approach set out in the attached policy. They would, however, support improvement of housing standards in the private rented sector where often the most vulnerable client groups live. The policy would have an indirect and positive impact on end users and also support the safeguarding of children and vulnerable adults, therefore.

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Appendices

Appendix A - Private Sector Housing Enforcement Policy

Background Papers

[Housing Strategy 2017: Wellbeing Starts at Home](#)

Sarah Robson

Deputy Chief Executive and Chief Officer - People & Places



Private Sector Housing Enforcement Policy

March 2021

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1. Introduction

The Private Sector Housing Team aims to protect and promote the health of the people of the District by improving the standard of private sector housing, public health, safety and the environment through the provision of advice, support and formal action where necessary.

This policy is consistent with the District Council's policy on the use of enforcement powers. This approach ensures that firm but fair enforcement action will be taken on a case-by-case basis guided by the relevant legislation.

This policy details how the District Council will use its enforcement powers relating to legislation covering housing standards and issues regarding Public Health affecting poor housing conditions only, and does not apply to mobile/park homes. This is addressed in a separate policy.

The District Council will seek to resolve problems and achieve the right outcomes at the earliest possible stage with regard to our housing and environmental duties. When appropriate, we will look to engage with other agencies, such as Kent Fire and Rescue Service (KFRS), and other sections within the District Council (such as Planning Enforcement and Building Control), in order to rectify problems in a constructive manner. At times, enforcement action may be required to resolve issues and such action will be in accordance with this enforcement policy.

The District Council's approach will be in accordance with the principles of the national Concordat on Good Enforcement as promoted by the Government and formally adopted by the District Council. The District Council will carry out its functions in an equitable, practical and consistent manner to secure a safe and healthy environment for all residents.

Policy objectives are to ensure that the conditions in the private rented sector, including Houses in Multiple-Occupation (HMOs) comply with statutory standards, making the most effective use of District Council resources and reduce the number of long-term empty dwellings.

2. Methods of enforcement

The District Council recognises that prevention is better than cure, but where necessary enforcement action will be taken. The term "enforcement" has a wide meaning and applies to all dealings between the District Council and those on whom the law places a duty. The range of actions available to the authority include:

- no action
- informal action and advice
- Housing Act notices
- Local Government Act notices
- Public Health Act notices
- Building Act notices
- smoke and carbon monoxide alarms - remedial notices
- works in default
- charges for enforcement
- standards of HMOs
- management of HMOs
- licensing of HMOs
- simple caution

- prosecution
- compulsory purchase orders
- Financial penalties including penalty charge notices and civil penalties
- Community Protection Warnings and Notices

2.1 Principle of Enforcement

There are four main principles of enforcement, which will be followed by officers. These are as follows:

- Proportionality - action taken by enforcing authorities should proportionally reflect any risks and the seriousness of any breach.
- Consistency - a similar approach should be taken in similar circumstances to achieve similar results. It does not mean uniformity.
- Transparency - duty holders should be helped to understand what they have to do and what they should expect from officers. The differences between statutory requirements and advice or guidance about what is desirable should be made clear.
- Targeting - inspections or visits should be aimed primarily at activities that give rise to the most serious risks or where hazards are least well controlled. Action should be focused on those responsible for the risk and who are best placed to control it.

2.2 Enforcement Considerations

- The following must be considered by officers when deciding the most appropriate course of action to take:-
- The relevant legislation
- The Government circulars and Guidance made under Section 9 Housing Act 2004, and other relevant statutory guidance notes.
- Best practice notes (Building Research Establishment (BRE), Chartered Institute of Environmental Health (CIEH), Chartered Institute of Housing (CIH) etc)
- All investigations into alleged breaches of legislation will follow best professional practice and the requirements of:
 - The Human Rights Act 1998
 - The Regulation of Investigatory Powers Act 2000
 - The Police and Criminal Evidence Act 1984 - Codes of Practice
 - The Criminal Procedures and Investigations Act 1996
 - The Code for Crown Prosecution
 - Enforcement Guidance issued under section 9 of the Housing Act 2004.

2.3 Enforcement Options

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

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

2.3 Legislative powers

The principal piece of legislation used by the Private Sector Housing Team is the Housing Act 2004 (referred to as "the Act"). However, there are circumstances where other legislation may be more appropriate in dealing with the identified problem. Officers are expected to use professional judgement to determine the most appropriate piece of legislation to use. In some cases, it may be appropriate to use a range of enforcement tools.

2.4 Decision making

The decision to take action, whatever that action may be, will be based on the available evidence and professional judgement.

All prosecutions must be endorsed by the Private Sector Housing Team Leader. Prior to submitting a prosecution file to the Head of Housing, the case officer must first consult with the Private Sector Housing Team Leader to ensure that the prosecution is in accordance with this enforcement policy. The case officer must then consult with the appropriate officer from Legal Services to ensure that the case has been properly considered and is sound.

2.5 Formal enforcement

Enforcement action may only be initiated by officers who are authorised to do so.

The Private Sector Housing Team recognises and affirms the importance of achieving and maintaining consistency in its approach to making all decisions which concern enforcement action, including prosecution. The District Council follows the principles of the Enforcement Concordat. It will also ensure that all actions will be consistent with the Human Rights Act 1998.

The District Council will, other than in exceptional cases, always ensure that landlords, tenants and owners have the opportunity to discuss proposed action before a notice is served. Exceptional circumstances will normally only be such situations where this might cause an unacceptable delay in alleviating the hazard.

Enforcement decisions should always be consistent, balanced and fair and ensure the public is adequately protected. In coming to any decision, many criteria will be taken into account including the seriousness of the offence, the individual's history of compliance, confidence in the property management, the consequences of non-compliance, and the likely effectiveness of the various enforcement options.

Formal notices

Formal notices can be an effective way of securing the undertaking of necessary remedial works where an informal approach is unsuccessful or inappropriate. For most types of notice, the recipient has the right to appeal. A range of enforcement options are available to the District Council and how these powers are used will depend on the circumstances of each case. In making decisions the following will be taken into account:

- the nature of the hazard
- the nature and circumstances of the current occupier (age, vulnerability etc.)
- views of the occupiers
- local priorities for improving housing conditions
- availability of other forms of housing assistance
- action must be proportionate to the risk

Government has issued guidance both on the operation of the Housing, Health and Safety Rating System (HHSRS) and on the enforcement framework. The Council will at all times have regard to available Government guidance before taking enforcement decisions.

Formal enforcement - prosecution and Financial Penalties

The District Council will generally initiate prosecution or consider a Financial Penalty where:

- the person served with a notice fails to comply with the requirements of the notice; and
- there has been no appeal against the terms of the notice or any appeal made has not been upheld
- Where there has been a breach of the HMO licensing or management regulations.

In deciding whether to prosecute, the District Council will follow the general principles set out in the Code for Crown Prosecutors and will apply the evidential test and consider whether it is in the public interest to prosecute.

For Financial Penalties, please see Appendix 1 for further details.

Banning Orders and The Rouge Landlord Data Base

A Banning Order bans individuals from earning income from managing or renting a property. This can be an individual or as part of a limited company. If an individual has committed a banning order offence within the last 12 months, The District Council can make an application to the First Tier Property Tribunal for a banning order to be issued for a minimum of 12 months.

A list of banning order offences can be found under section 14 of the Housing and Planning Act 2016.

If a Landlord has been convicted of a banning order offence or has received 2 or more civil penalties in the last 12 months, that Landlord can then be added to the Rouge Landlord Data base for a minimum of 2 years.

2.6 Informal action

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

- the breach is not of a serious nature to warrant formal action;

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

Following an inspection, a written response may be provided, usually in the form of a letter or an email. It will include confirmation of:

- what legislation is contravened;
- what works are required and why;
- wherever possible agreed timescales;
- the nature of the enforcement action the authority may take in the future if the matter is not satisfactorily addressed.

2.7 Charges for enforcement action

The District Council reserves the right to charge and recover its costs where we have the right to do so.

Landlords have a duty of care to their tenants and should provide accommodation that is both free from significant hazards and properly maintained, thus avoiding the need for intervention from the District Council. The Housing Act 2004 enables the District Council to recover its reasonable expenses associated with serving notices and other enforcement activity. The recovery of expenses will be considered on a case-by-case basis.

2.8 Emergency action

In certain emergency situations where it is not possible to contact the relevant person and/or gain their co-operation, enforcement action will be taken that will involve carrying out work without the prior need to serve legal notice, for example:

- when there is an imminent risk of serious harm to the health or safety of occupiers or others;
- where there is an immediate need to secure a building against unauthorised entry or to prevent it becoming a danger to public health.

2.9 Simple cautions

The decision to issue a simple caution will be made by the Private Sector Housing Team Leader in consultation with the appropriate officer in Legal Services.

A simple caution is designed to provide a means of dealing with low-level, mainly first time, offending without a prosecution.

In considering whether a caution is appropriate, the District Council will consider the following questions:

- Has the offender admitted to the offence (either verbally or in writing)?
- Is the offender willing to accept the caution?
- Is there a realistic prospect of conviction if the offender were to be prosecuted?
- Is the offence one where a prosecution is required in the public interest?

2.8 Other powers - works in default

Where the requirements of a notice are not carried out, in many instances the District Council is empowered to do whatever is necessary in execution of that notice and recover the costs of doing so from the person responsible. The District Council will, if deemed necessary and appropriate, carry out works in default when:

- the person served with a notice has failed to comply with the requirements of the notice;
- there has been no appeal against the terms of the notice or any appeal made has not been upheld;

The District Council may recover the costs of the work from the person responsible as a civil debt or by placing a legal charge on the property, which is a local land charge and in which interest is payable on the amount placed on the charge.

2.9 Powers of entry

Inspection of dwellings can be undertaken by officers of the Private Sector Housing Team who are authorised under the District Council's scheme of delegation.

Authorised officers have a power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that:

- The officer has written authority from an appropriate officer within the internal scheme of delegation stating the particular purpose for which entry is authorised
- The officer has given 24 hours' notice to the owner (if known) and the occupier (if any) of the premises they intend to enter.

No prior notice is required where entry is to ascertain whether an offence has been committed under sections 72 (offences in relation to licensing of HMOs), 95 (offences in relation to licensing of houses) or Section 234(3) (offences in relation to HMO management regulations).

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

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3. Owner-occupiers

Priority will be given to addressing poor housing conditions that threaten the health, safety and wellbeing of occupiers.

Enforcement will be targeted particularly at situations where occupiers have little influence over the conditions of the accommodation they occupy. For this reason, the service of notices or enforcement action on owner/occupiers will only be used in exceptional circumstances (see informal action). Enforcement action will also be considered where the issue has an impact on Public Health, such as filthy and verminous properties.

4. What the District Council will expect of tenants

Before considering taking any action in tenanted properties, the District Council will require the tenant to have contacted their landlord regarding the issue. This applies to both private and housing association tenants. Legislation covering landlord and tenant issues requires that the tenant notify their landlord (preferably in writing) of any problems with the property. Landlords can only carry out their repairing obligations once they are made aware of any problems. Tenants are expected to allow access for improvement works to be carried out and this should be arranged in advance with the landlord. Any copies of correspondence between the tenant and the landlord should be provided to officers.

Tenants will be expected to keep officers informed of any contact they have with their landlord (or landlord's agent, builder etc.) that may have an effect on what action the District Council takes.

5. Training and qualifications of enforcement officers

No officer will carry out enforcement duties unless suitably trained and experienced and authorised by the District Council.

Prosecution will only be instigated following a review of the matter by the case officer and an appropriate officer from Legal Services, and authorisation by the Private Sector Housing Team Leader.

Training will be provided for all enforcement officers as required to meet changes in legislation and enforcement procedures.

6. How the District Council will deal with any reports of poor housing conditions

It will aim to acknowledge your report within five working days and will contact you to discuss the issue you have reported in more detail within ten working days. It will agree the appropriate course of action with you and can offer telephone advice or may wish to visit the property concerned to find out more and investigate the condition of the property. It will, wherever possible, keep you informed of the progress of the investigation, but cannot reveal any information that may be restricted under data protection. Following our investigation, the District Council will notify you in writing of the action it plans to take and the timescales involved.

7. How to report a problem:

Please contact: Private Sector Housing Team
 Sevenoaks District Council
 Council Offices
 Argyle Road

Sevenoaks
Kent
TN13 1HG

Telephone: 01732 227155

Alternatively, you can [email the Private Sector Housing Team](#) at psh@sevenoaks.gov.uk

8. How to complain about our service

If you are dissatisfied with the service you receive then please let us know. We have a three-stage complaints process, which can be accessed via the [link](#)

If you are still unhappy you can discuss your complaint with your local ward councillors, MP or can complain to the Local Government Ombudsman.

Information in other languages

If you require this policy in an alternative format please email the private sector housing team at psh@sevenoaks.gov.uk or call us on 01732 227155.

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Appendix 1 - Housing and Planning Act 2016 - Financial (Civil) Penalties

This statement sets out the principles that the District Council (the Council) will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

The Housing & Planning Act 2016 introduced changes to the Housing Act 2004 to allow the Council to issue financial penalties of up to £30,000.

The District Council will be able to impose such penalties as an alternative to prosecution for the following offences under the Housing Act 2004 and Housing and Planning Act 2016:

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004);
- Offences in relation to licensing of HMOs (section 72 of the Housing Act 2004);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004);
- Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004);
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004);
- Breach of a banning order (section 21 of the Housing and Planning Act 2016);
- Failure to comply with a Remedial Notice (Part 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

The District Council will determine, on a case-by-case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any offences listed above.

In addition to the above offences, section 23 of the Housing and Planning Act 2016 provides that a financial penalty may be imposed in respect of a breach of a Banning Order.

Banning orders prohibit landlords and agents from letting or managing residential properties. An order can prohibit a person from:

- Renting out a residential accommodation
- Engaging in letting agency work
- Engaging in property management work.

[Guidance on Banning Orders document “Banning orders for landlords and property agents can be found under the Housing and Planning Act 2016” on the government website.](#)

Where a letting/managing agent and landlord have committed the same offence the District Council can impose a financial penalty on both of them as an alternative to prosecution. The level of the financial penalty imposed on each offender may differ, depending on the circumstances of the case. The District Council cannot prosecute as well as impose a financial penalty, but must be satisfied, to the criminal standard of proof, i.e. beyond reasonable doubt, that an offence has been committed, which could justify a prosecution, before it imposes a financial penalty.

Determining whether to prosecute or issue a financial penalty

Where the legislation allows a financial penalty to be issued this will normally be the first choice rather than prosecution unless the landlord has breached housing legislation in the past and continues to be considered such a poor landlord that a banning order is

considered necessary. In this case a prosecution will be the first choice with an aim to proceed for a banning order.

When issuing a financial penalty, the procedures set out in this appendix 7 will be followed in determining the level of the fine.

When determining whether to prosecute for an offence, officers will follow the guidance in this enforcement policy.

The District Council has the power to impose a financial penalty of up to £30,000, per offence, with a level of financial penalty imposed in each case in line with its policy. The financial penalty will be based on the seriousness of the offence and taking into account the circumstances of the case. This would include the financial circumstances of the offender.

Statutory Guidance

The Government has issued statutory guidance under [Schedule 9 of the Housing & Planning Act 2016](#) Local Authorities must have regard to this guidance in the exercise of their functions in respect of financial penalties.

Paragraph 3.5 of the statutory guidance states that ‘The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord’s previous record of offending’. The same paragraph sets out several factors that should be taken into account to ensure that the financial penalty is set at an appropriate level in each case:

1. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
2. **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
3. **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
4. **Punishment of the offender.** A financial penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
5. **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
6. **Deter others from committing similar offences.** While the fact that someone has received a financial penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a financial penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying financial penalties

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where the need to do so exists and (b) that the level of financial penalty will be set at a high enough level to both punish the offender and deter repeat offending.

7. **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

Appendix 2 - Housing Act 2004 (HHSRS)

Under the Housing Act 2004, local housing authorities are able to assess housing conditions for specific hazards. It looks at the effect that deficiencies in the home can have on the health and safety of occupants and visitors by using a risk assessment approach called the HHSRS. The aim of individual risk assessment is to reduce or eliminate hazards to health and safety in domestic accommodation. Potentially there are 29 hazards and each hazard is assessed separately and rated according to how serious the likelihood of harm.

The 29 hazards:

Damp and mould growth	Lead	Lighting	Falls/baths	Hot surfaces
Excess cold	Radiation	Noise	Falls on level	Collision/entrapment
Excess heat	Un-combusted fuel gas	Domestic hygiene	Falling on stairs. etc	Explosions
Asbestos	Volatile compounds	Food safety	Falling between levels	Ergonomics
Biocides	Crowding and space	Personal hygiene	Electrical hazards	Structural collapse
Carbon monoxide	Entry by intruders	Water supply	Fire	

The assessment process is not just a question of examining defects to a property, but it comprises risk assessment, probable outcomes and the resulting effects on the occupiers' health, safety and welfare.

Two keys tests are applied:

- The likelihood of an occurrence (such as an accident or ill health) as a direct result of this deficiency in the house;
- The likely outcomes in terms of injury or ill health (physical and mental) arising from the deficiency

The final score is divided into bands ranging from A-J. Councils have a duty to take action to remedy hazards that fall in bands A-C which are termed category 1 hazards.

Category 2 hazards are also subject to enforcement powers by councils. Each case is individual and the appropriate enforcement action will be chosen which reflects the circumstances concerned.

The Act also provides a range of enforcement tools:

Improvement Notices - section 11 is used for category 1 hazards, section 12 is used for category 2 hazards. An improvement notice should be used where reasonable remedial works can be carried out to reduce the hazard sufficiently.

Prohibition Orders - section 20 for category 1 hazards and section 21 for category 2 hazards. This order may prohibit the use of part or all of premises for some or all purposes or for occupation by a particular number or description of people. An order may be appropriate where conditions present a risk by remedial action is not possible because of cost or other reason. It may also be used to limit the number of persons occupying the

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dwelling, or prohibit the use of the dwelling by specific groups. In an HMO it can be used to prohibit the use of specified dwelling units.

Hazard Awareness Notices - section 28 for category 1 hazards and section 29 for category 2. This is used where a hazard has been identified but it is not necessarily serious enough to take formal action. It is a way of drawing attention to the need for remedial action. This notice should not be used if the situation is considered serious enough for follow up inspections to be made. This notice is not registered as a land charge and has no appeal procedure.

Emergency Remedial Action - section 40 is only acceptable for use where there is an imminent risk of serious harm and the hazard must rate as a category 1. The authority must undertake any necessary remedial works that are required to reduce the immediate risk. A warrant to enter the premises in order to carry out the work may be granted by a Justice of the Peace where he/she is satisfied that the authority would not be granted admission by the owner.

Emergency Prohibition Order - section 43 is only acceptable for use where there is an imminent risk of serious harm, the hazard rates as a category 1 and where it is not practical to carry out the remedial works as in section 40.

Demolition Order - this can only be used in response to category 1 hazards, but not if the building is listed. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

Clearance Area - All residential buildings in the proposed area must have at least one category 1 hazard. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

Suspend Improvement Notices or Prohibition Orders - these notices may be suspended where enforcement action can safely be postponed until a specified event or time. This can be a period of time or a change in occupancy. Current occupation and wishes must be taken into account. These may also be used where there is programmed maintenance. The suspensions must be reviewed, at the very least, every 12 months. The advantage of suspending a notice is that there is a record of the LHA's involvement and the situation must then be reviewed. It is also recorded as a local land charge.

The Act requires enforcing authorities to produce a statement of reasons justifying the type of action they are taking. This must accompany all notices and orders served.

Appendix 3 - Enforcement and Penalties for The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

These Regulations impose mandatory duties on the private landlords of residential premises in respect of electrical safety standards. These regulations apply to all specified tenancies. A “specified tenancy” means a tenancy of residential premises in England Which:

- Grants one or more persons the right to occupy all or part of the premises as their only or main residence;
- Provides for payment of rent (whether or not a market rent); and
- Is not a tenancy of a description specified in Schedule 1 to the Regulations.

The excluded tenancies set out in Schedule 1 of the Regulations relate to:

- Social Housing, where the landlord is a private registered provider;
- Accommodation shared with a landlord or a landlord’s family, where at least one amenity is shared (an amenity in this context means a toilet, bathroom, kitchen or living room);
- Long leases, or tenancies that grant a right of occupation for the term of seven years or more (see Paragraph 3 of Schedule 1 of the Regulations for the definition of long lease);
- Student halls of residence;
- Certain hostels and refuges, which are managed by private registered providers of social housing, or operated on a non-commercial basis and funded by central or local government or a government agency, or managed by a voluntary organisation or charity;
- Care homes as defined by section 3 of the Care Standards Act 2000;
- Hospitals and hospices; and
- Other accommodation relating to healthcare provision (relating to accommodation provided owing to a statutory duty placed on the NHS).

Generally the Regulations apply to the vast majority of residential tenancies in the private rented sector.

The Regulations are subject to a phased introduction, and apply to:

- All new specified tenancies from 1 July 2020; and
- All existing specified tenancies from 1 April 2021.

Duties of private landlords in relation to electrical installations.

- Regulation 3 of the Regulations sets out the duties imposed on private landlords.
- Unless subject to a statutory exemption, private landlords must:
- Ensure that the ‘electrical safety standards’ are met to the current IET Wiring Regulations during any period of occupation;
- Ensure that all electrical installations in their rented properties are inspected and

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tested by a qualified and competent person at intervals of not more than five years (or less if the most recent report recommends a shorter period before the next inspection);

- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test;
- Supply a copy of the report to the existing tenant within 28 days of the inspection and test;
- Supply a copy of the report to any new tenant before they occupy the premises;
- Supply a copy of the report to any prospective tenant within 28 days of receiving a written request for the report;
- Supply the local housing authority with a copy of the report within seven days of receiving a written request for a copy;
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test;
- Where the report shows that further investigative and/or remedial work is necessary, complete the work within 28 days or any shorter period if specified in the report;
- Where further investigative and/or remedial work is necessary, supply the tenant and the local housing authority with written confirmation from a qualified and competent person that confirms the completion of the further investigative and/or remedial works within 28 days of the completion of those works;

Duty of local Housing Authority to serve Remedial Notice

Where a local housing authority has reasonable grounds to believe that a private landlord is in breach of one or more of the duties imposed by the Regulations, the authority must serve a Remedial Notice on that private landlord. A Remedial Notice will specify the remedial action necessary and require that the action be completed within 28 days (beginning with the day on which the notice is served). A private landlord may make written representations against such a notice within 21 days.

Duty of private landlords to comply with a Remedial Notice

If served with a Remedial Notice, a private landlord has a duty to take the specified remedial action if:

- No representation are made to the local housing authority; or
- The local housing authority confirms the notice after consideration of any written representations received.

If no written representations are received, the private landlord must complete the remedial action within the 28-day deadline, If written representations are made and the local housing authority subsequently confirms the notice, the remedial action must be completed within 21 days of the date the private landlord is informed that the notice has been confirmed. The cost of carrying out remedial work can be recovered from the landlord.

Appendix 4 - The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 - Statement of principles for determining financial penalties

Introduction

This statement sets out the principles that Sevenoaks District Council (the council) will apply in exercising its powers to require a relevant landlord (landlord) to pay a financial penalty.

Purpose of statement of principles

The council is required under these regulations to prepare and publish a statement of principles and it must follow this guide when deciding on the amount of a penalty charge.

The council may revise its statement of principles at any time, but where it does so, it must publish a revised statement of principles published at the time when the breach in question occurred.

The legal framework

The powers come from the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the regulations), being a Statutory Instrument (2015 No.1693) which came into force on 1 October 2015.

The regulations place a duty on landlords, which include freeholders or leaseholders who have created a tenancy, lease, licence, sub-lease or sub-licence. The regulations exclude registered providers of social housing.

The duty requires that landlords ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation;
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contains a solid fuel burning appliance.

And, for tenancies starting from 1 October 2015:

- that checks are made by the landlord, or someone acting on his behalf, that the alarm(s) is/are in proper working order on the day the tenancy starts.

Where the council has reasonable grounds to believe that a landlord is in breach of one or more of the above duties, the council must serve a remedial notice on the landlord. The remedial notice is a notice served under Regulation 5 of these regulations.

If the landlord then fails to take the remedial action specified in the notice within the specified timescale, the council can require a landlord to pay a penalty charge. The power to charge a penalty arises from Regulation 8 of these regulations.

A landlord will not be considered to be in breach of their duty to comply with the remedial notice, if they can demonstrate they have taken all reasonable steps, other than legal proceedings to comply. This can be done by making written representations to the council at the address given at the bottom of this page within 28 days of when the remedial notice is served.

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Sevenoaks District Council will impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the remedial notice within the required timescale.

The purpose of imposing a financial penalty

The primary purpose of the council's exercise of its regulatory powers is to protect the occupants' safety within a dwelling in the event of a fire.

The primary aims of financial penalties will be to:

- ensure landlords take proper responsibility for their properties
- eliminate any financial gain or benefit from non-compliance with the regulations
- be proportionate to the nature of the breach of the regulations and the potential harm outcomes
- aim to deter future non-compliance
- reimburse the costs incurred by the council in undertaking work in default
- lower the risk to tenant's health and safety

Criteria for the imposition of a financial penalty

A failure to comply with the requirements of a remedial notice allows the council to require payment of a penalty charge.

In considering the imposition of a penalty, the authority will look at the evidence concerning the breach of the requirement of the notice. This could be obtained from a property inspection, or from information provided by the tenant or agent that no remedial action had been undertaken.

For example, landlords can demonstrate compliance with the regulations by supplying dated photographs or alarms, together with installation records or confirmation by the tenant that a system is in proper working order.

Landlords need to take steps to demonstrate that they have met the testing at the start of the tenancy requirements. Examples of how this can be achieved are by tenants signing an inventory form and that they were tested and were in working order at the start of the tenancy. Tenancy agreements can specify the frequency that a tenant should test the alarm to ensure it is in proper working order.

In deciding whether it would be appropriate to impose a penalty, the authority will take full account of the particular facts and circumstances of the breach under consideration.

A financial penalty charge will be considered appropriate if the council is satisfied, on the balance of probabilities that the landlord who had been served with remedial notice under Regulation 5 had failed to take the remedial action specified in the notice within the time period specified.

Principles for determining the amount of a financial penalty

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the legislation and which will deter non-compliance. It should also cover the costs incurred by the council in administering and implementing the legislation.

Fire and carbon monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System and often result in death and serious injury.

In the case of fire, the absence of working smoke alarms in residential premises is a significant factor in producing worse outcomes.

This is particularly so at night, as without the early warning they provide, a small fire can develop unnoticed rapidly to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

Carbon monoxide is a colourless, odourless and extremely toxic gas. At high concentrations it can cause unconsciousness and death. At lower concentrations it causes a range of symptoms from headaches, dizziness, weakness, nausea, confusion, and disorientation, to fatigue - all symptoms which are sometimes confused with influenza or depression. For all these reasons, carbon monoxide is often dubbed "the silent killer". Open fires and solid fuel appliances can be significant sources of carbon monoxide. Carbon monoxide alarms alert occupiers to the presence of the gas at an early stage before its effects become serious.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low and in many cases they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a fire or carbon monoxide poisoning event are far and out of proportion to the cost of installing alarms.

For these reasons, an effective incentive to comply with these regulations is fully justified.

It is understood that the imposition of the maximum potential fixed penalty charge, being £5,000 under the regulations, can present an excessive financial burden but this is balanced against the risk. The low cost of compliance and the fact that all reasonable opportunity will have been given to comply prior to any penalty charge being levied. A recipient of a fixed penalty charge has a right of appeal.

For these reasons a penalty charge of £5,000 is set for non-compliance with a Remedial Notice. A reduction of 50% will apply in respect of a person/company who has not previously received a penalty charge under this legislation and payment is received within 14 days of service of the penalty charge notice. There is no reduction for early payment offered to a person/company who has previously received a penalty charge under this legislation.

The council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a request for a review made by the landlord in writing.

This discretion will not apply when:

1. The person/company served on has obstructed the authority in carrying out its duties; and/or
2. The person/company has previously received a penalty charge under this legislation

The regulations state that the period for payment of the penalty charge must not be less than 28 days.

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The sums received by the council under the penalty charge will offset any remedial works undertaken by the council and the balance may be used by the authority for any of its functions.

Procedural matters

The regulations impose a number of procedural steps which must be taken before the council can impose a requirement on a landlord to pay a penalty charge.

When the council is satisfied that the landlord has failed to comply with the requirements of the remedial notice, all penalty charge notices will be served within six weeks.

Where a review is requested within 29 days from when the penalty charge notice is served, the council will consider any representations made by the landlord. All representations are to be sent to the address at the bottom of this page. The council will notify the landlord of its decision by notice, which will be either to confirm, vary or withdraw the penalty charge notice.

A landlord who has requested a review of a penalty charge notice and has been served with a notice confirming or varying the penalty charge notice, may appeal to the First-Tier Tribunal against the council's decision. Appeals should be made within 28 days from the notice served of the council's decision on review.

If the penalty charge notice is not paid, then recovery of the penalty charge will be an order of the court and proceedings for recovery will commence after 30 days from the date when the penalty charge notice is served.

However, in cases where a landlord has requested a review of the penalty charge notice, recovery will not commence until after 29 days from the date of the notice served giving the council's decision to vary or confirm the penalty charge notice. Where landlords do make an appeal to the First-tier Tribunal, recovery will commence after 29 days from when the appeal is finally determined or withdrawn.

Remedial action taken in default of the landlord

Where a council is satisfied that a landlord has not complied with a specification described in the remedial notice in the required timescale and consent is given by the occupier, the council will arrange for remedial works to be undertaken in default of the landlord. This work in default will be undertaken within 28 days of the council being satisfied of the breach. In these circumstances, battery operated alarms will be installed as a quick and immediate response.

Smoke alarms

In order to comply with these regulations, smoke alarms will be installed at every storey of residential accommodation. This may provide only a temporary solution as the property may be high risk because of:

- its mode of occupancy, such as a house in multiple occupation or building converted into one or more flats;
- having an unsafe internal layout where fire escape routes pass through living rooms or kitchens; or
- the building is three or more storeys high

A full fire risk assessment will subsequently be undertaken, with regards to Leeds City Council Fire Safety Principles and LACORS Housing - Fire Safety Guidance. This will

consider the adequacy of the type and coverage of the smoke alarm system, fire escape routes - including escape windows - and fire separation measures, such as fire doors and protected walls and ceilings.

Any further works required to address serious fire safety hazards in residential property, that are not undertaken through informal agreement, will be enforced using the Housing Act 2004, in accordance with the council's enforcement policy.

Carbon monoxide alarms

In order to comply with these regulations, a carbon monoxide alarm will be installed in every room containing a solid fuel combusting appliance.

All communications for requests for review or representations made against the Remedial Notice (regulation five) or the Penalty Charge Notice (regulation eight) are to be in writing and sent to:

Address: Private Sector Housing Team
Sevenoaks District Council
Council Offices
Argyle Road
Sevenoaks
Kent
TN13 1HG

Telephone: 01732 227155

Alternatively, you can email the private sector housing team at psh@sevenoaks.gov.uk

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Appendix 5 -HMOs

A house in multiple occupation (HMO) is a property rented out by at least 3 people who are not from 1 'household' (for example a family) but share facilities like the bathroom and kitchen. It's sometimes called a 'house share'.

You must have a license if you're renting out a large HMO in England or Wales. Your property is defined as a large HMO if all of the following apply:

it is rented to 5 or more people who form more than 1 household

some or all tenants share toilet, bathroom or kitchen facilities

at least 1 tenant pays rent (or their employer pays it for them)

If the HMO is occupied by less than 5 people, then it is not licensable but would still need to adhere to the management regulations.

Licensing of HMOs

Mandatory licensing

Mandatory licensing of HMOs under part 2 of the Housing Act 2004 requires the District Council to have a licensing scheme in place, seek properties that require licences and license properties that are licensable.

A mandatory licence is required for HMOs with five or more occupiers living in two or more households sharing some facilities.

A landlord's failure to license a property is an offence with the maximum fine on summary of a conviction being £20,000.

Duration of licences

Licences will normally be granted for the full five-year period but the District Council may use its discretion to determine the suitable duration less than five years, if necessary.

'Fit and Proper Person' policy

In granting a licence the District Council must be satisfied that the proposed licence holder, manager and any person involved in the management of the property are fit and proper persons. A person's fit and proper status may be reviewed at any time if circumstances change. Removal of this status could lead to refusal and/or revocation of licence.

The proposed licence holder will need to be exempt from the following before granting a licence:

- any unspent convictions for offences involving fraud or other dishonesty, or violence or drugs or any offence listed Schedule 3 to the Sexual Offences Act 2003
- any unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business
- any contravention of any provision of the law relating to housing or of landlord and tenant law (including any civil proceedings) that results in a judgement against you

Discretionary licensing

The District Council may, at its discretion, bring into force licensing of other residential accommodation, as defined by parts 2 and 3 of the Housing Act 2004, which allows local

authorities to require landlords of some privately rented properties to apply for a licence. There are two types of discretionary licensing:

- **Additional licensing** may be appropriate where a large number of HMOs in an area are not being managed effectively and causing particular problems for the people who live in these HMOs or members of the public;
- **Selective licensing** may be appropriate where there is a problem with anti-social behaviour in an area or an area of low housing demand, and that some or all of the landlords in the area are failing to take action to combat the problem

Standards of HMOs

HMOs will be inspected having regard to the HHSRS and the Management Regulations.

If, after an inspection, it is found the HMO does not meet the District Council's standards or has serious hazards under the rating system, enforcement action may be taken.

Management of HMOs

The Management Regulations (**The Management of Houses in Multiple Occupation (England) Regulations 2006**) apply to HMOs in England, including non-licensable HMOs apart from those that apply to section 257 of the Housing Act 2004 (see below for separate regulations regarding these).

Non-licensable HMOs

- 257 HMOs

Under Section 257 of the Housing Act 2004, Certain converted blocks of flats are also considered to be HMOs regardless of the amount of occupants. These are Buildings or part of a building that has been converted into and consist of self-contained flats. Section 257 applies if:

- a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and
- b) less than two-thirds of the self-contained flats are owner-occupied.

A more comprehensive description can be found under section 257 of the Housing Act 2004

HMOs defined under 257 of the Housing Act must adhere to **The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007**.

- HMOs with less than 5 occupants do not require a licence but must adhere to **The Management of Houses in Multiple Occupation (England) Regulations 2006**.

Management Orders (Housing Act 2004)

These powers will be used as a last resort in relation to HMOs where other attempts to deal with breach of the Management Regulations have failed in the most serious cases, where there is no reasonable prospect of a licence being granted or it is necessary to protect the health, safety or welfare of occupiers, visitors or persons living in the vicinity

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or where serious anti-social behaviour can be evidenced and is found to be significantly affecting other occupiers, visitors or persons in the vicinity of the premises.

Appendix 6 - Enforcement and Financial Penalties for the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are designed to tackle the least energy-efficient properties in England and Wales - those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property, effecting new tenancies from 1 April 2018.

The Council's enforcement objectives include:

“where required privately rented accommodation meets minimum energy efficiency ratings and that Energy Performance certificates are provided”

To meet this objective, Private Sector Housing Officers are authorised to check for different forms of non-compliance with Regulations including:

- From the 1 April 2018 whether the property is sub-standard and let in breach of Regulation 27 (which may include continuing to let the property after 1 April 2020)
- Where the landlord has registered any false or misleading information on the government's *“National PRS Exemptions Register”* or has failed to comply with a compliance notice.

Sevenoaks District Council intend to identify landlords that are not meeting the minimum requirements and determine if it is then appropriate to make financial penalty and whether or not that penalty is published.

In addition, we will advise landlords what actions is necessary for them to take in

Government Guidance

The Department of Business Energy and Industrial Strategy have produced guidance published in 2017 and updated in June 2018.

Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

Purpose

In accordance with Regulation 33 and 34 Local Authorities are responsible for enforcing the minimum level of energy provisions within their area. The purpose of this policy is to describe how Sevenoaks District Council officers will enforce the regulations.

Scope

1. In the first instance The Council will informally advise Landlords who rent properties with and EPC of F or G that they do not meet the minimum energy efficiency standard. The Council will offer advice how the standards can be met and request Landlords to register an exemption if appropriate.

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Landlords will be given an appropriate time to make the necessary changes but will be warned that if they continue to be in breach after the time given, an investigation will follow and formal enforcement action will be considered.

The Council may in circumstances where a landlord has a history of not complying with housing related regulatory requirements, decide to take formal action without giving an informal opportunity for the landlord to comply.

2. The Council has discretion to serve Compliance Notices to request information from the landlord that will help them to decide whether there has been a breach. Sevenoaks District Council will serve Compliance Notices where the additional information is required. The Council will consider serving Penalty Notices where a landlord fails to comply with the Compliance Notice.
3. The Council will check the National PRS Exemptions Register and if it believes a landlord has registered false or misleading information it will consider serving a financial and publication penalty.
4. If offences under these regulations are committed the Council will, where appropriate, serve a Penalty Notice. This Policy provide guidance for officers on how to determine the appropriate penalty.
5. Under regulation 39 the Local Authority may publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. Sevenoaks District Council will place the information on the register at the appropriate time, for a minimum of 12 months.
6. The Landlord has the right to ask a Penalty Notice to be reviewed under Regulation 42. Any request for review must be submitted to the Council within one calendar month of the Penalty Notice being served. Requests for review after the prescribed time will be considered at the Council's discretion.

Guidance for determine the level of a financial penalty

The Maximum level of penalty varies on the type of breach under the Regulations.

Financial Penalties (*Regulation 40*)

Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations.

The maximum penalties are as follows:

- (a) Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty;
- (b) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty;
- (c) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty;
- (d) Where the landlord has failed to comply with comply with compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

Matrix guide to determine appropriate penalty

	Low Culpability	High Culpability
Low Harm	25%	50%
High Harm	50%	100%

Note: % = Proportion of Maximum Penalty.

Factors affecting culpability

High - Landlord has a previous history of non-compliance with housing related regulatory requirements and/or Landlord has failed to comply with requests to comply with these regulations. Knowingly or recklessly incorrect information

Low - First offence under these regulations, no previous history of non-compliance of with Housing related regulatory requirements. Complex issues partially out of control of the landlord have led to non-compliance.

Factors affecting Harm

High - Very low EPC score. Vulnerable tenants occupying property for an extended period of time since non-compliance.

Low - No vulnerable tenants, Higher EPC score close to minimum accepted EPC rating.

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Appendix 7 - Deciding on an appropriate level of financial penalty

STEP 1 - Determining the offence category

The Council will determine the offence category using only the culpability and harm factors in the tables below. The severity of the offence base on the culpability levels below would be determined in conjunction with the statutory guidance.

Culpability

Very high

- Where the offender intentionally breached, or flagrantly disregarded, the law; or
- Who has a high public profile and knew their actions were unlawful.

High

- Actual foresight of, or wilful blindness to, risk of offending but risk nevertheless taken.

Medium

- Offence committed through act or omission, which a person exercising reasonable care would not commit.

Low

Offence committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on this occasion;
- there was no warning/circumstance indicating a risk;
- failings were minor and occurred as an isolated incident.

Track record

The second step in determining the amount of financial penalty relates to the offender's track record. A historically non-compliant landlord or agent should be subject to a more significant penalty on the basis that they have yet to change their behaviour. A penalty amount adjustment relating to the offender's track record is therefore appropriate. This should help deter repeat offending.

The District Council will review all relevant records to identify any previous evidence of legislative failings. However, only evidence relating to the five years immediately prior to the offence date will be taken into account. The evidence reviewed will include:

- Any previous convictions for housing related offences;
- Whether previously subject to a financial penalty for a housing related contravention;
- Whether previously subject to, or associated with, statutory enforcement action (e.g. Improvement Notice, Emergency Prohibition Order, etc.); and
- The number of genuine housing condition complaints received in respect of properties associated with the offender.

Following the review, the offender's track record will be classed as one of the following categories:

- Significant;
- Some;
- None or negligible.

Significant

Where there is evidence of multiple enforcement interventions by the District Council's Private Sector Housing Team, together with evidence of non-compliance, the significant category will be used. In most cases, this category will also be used for any offender who has been successfully prosecuted for a housing offence or been subject to a housing related-financial penalty.

Some

This category will be used where the offender is associated with more evidence than would normally be expected of a good landlord or agent having regard to the size and nature of their portfolio. There is likely to be evidence of statutory enforcement action.

None or negligible

This category will be used if, following a review of the District Council's records, there is no relevant evidence associated with the offender. Any unsubstantiated housing condition complaints will be disregarded. The District Council may also exercise its discretion to disregard any evidence where the issues were minor in nature and there was no reluctance on the part of the landlord or agent to resolve the issues within reasonable timescales.

The descriptor 'Negligible' has been included to allow for a fair and reasonable review of evidence in respect of landlords and agents with larger portfolios. Therefore, if the evidence is negligible having regard to the size of the portfolio in the Sevenoaks District, this category will be used.

Property portfolio size

The third step in determining the amount of financial penalty requires the District Council to allocate a portfolio size. There are four size categories which relate to the number of units of accommodation the offender has ownership of, responsibility for, or association with. The size categories, are:

- One unit of accommodation;
- Two to four units of accommodation;
- Five to 19 units of accommodation;
- 20 or more units of accommodation.

Risk of harm

The fourth step in determining the amount of financial penalty concerns the risk of harm associated with the offence. The nature of the exposure to a harmful occurrence is an important factor when considering the severity of an offence.

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The District Council will make an assessment of the risk of harm by having regard to the seriousness of the harm risked as well as the likelihood of that harm occurring. The offence will be placed into one of the following four categories:

- Level 1;
- Level 2;
- Level 3;
- Level 4.

To assist in determining the level of risk, potential harm outcomes are classified as serious, severe or extreme and the likelihood classified as low, medium or high.

Level 1

This category will be used when the risk of harm does not fall within the Level 2, Level 3 or Level 4 categories.

Any offence associated with the operation of an unlicensed premises under the HMO and selective licensing regimes will usually fall into this category if there is no particular risk of harm associated with the condition or management of the property concerned.

Level 2

The use of this category may infer that the offence was associated with an extreme harm outcome, but the likelihood of a harmful event occurring was low. This category may be used when the risk of harm related to a severe harm outcome and the likelihood of a harmful event occurring was medium. This category may also be used when the risk of harm related to a serious harm outcome and the likelihood of a harmful event occurring was high.

Level 3

The use of this category may infer that the offence was associated with an extreme harm outcome and the likelihood of a harmful event occurring was medium. This category may also be used when the risk of harm related to a severe harm outcome and the likelihood of a harmful event occurring was high.

The use of this category will usually infer that the offence was associated with an extreme harm outcome and the likelihood of a harmful event occurring was high.

Table of Financial Penalties

Having made the four-step assessment described above, the District Council will determine the starting point for the financial penalty using the Table of Financial Penalties.

Culpability	Track Record	Portfolio Size	Agenda Item 6e Risk of Harm			
			Level 1	Level 2	Level 3	Level 4
Very High (100% Premium)	Significant	1	£7,500	£10,000	£12,500	£20,000
		2 to 4	£10,000	£12,500	£15,000	£22,500
		5 to 19	£15,000	£17,500	£20,000	£27,500
		20 +	£17,500	£20,000	£22,500	£30,000
	Some	1	£5,000	£7,500	£10,000	£17,500
		2 to 4	£7,500	£10,000	£12,500	£20,000
		5 to 19	£12,500	£15,000	£17,500	£25,000
		20 +	£15,000	£17,500	£20,000	£27,500
	None or negligible	1	£2,500	£5,000	£7,500	£15,000
		2 to 4	£5,000	£7,500	£10,000	£17,500
		5 to 19	£10,000	£12,500	£15,000	£22,500
		20 +	£12,500	£15,000	£17,500	£25,000
High (80% Premium)	Significant	1	£6,000	£8,000	£10,000	£16,000
		2 to 4	£8,000	£10,000	£12,000	£18,000
		5 to 19	£12,000	£14,000	£16,000	£22,000
		20 +	£14,000	£16,000	£18,000	£24,000
	Some	1	£4,000	£6,000	£8,000	£14,000
		2 to 4	£6,000	£8,000	£10,000	£16,000
		5 to 19	£10,000	£12,000	£14,000	£20,000
		20 +	£12,000	£14,000	£16,000	£22,000
	None or negligible	1	£2,000	£4,000	£6,000	£12,000
		2 to 4	£4,000	£6,000	£8,000	£14,000
		5 to 19	£8,000	£10,000	£12,000	£18,000
		20 +	£10,000	£12,000	£14,000	£20,000
Medium (60% Premium)	Significant	1	£4,500	£6,000	£7,500	£12,000
		2 to 4	£6,000	£7,500	£9,000	£13,500
		5 to 19	£9,000	£10,500	£12,000	£16,500
		20 +	£10,500	£12,000	£13,500	£18,000
	Some	1	£3,000	£4,500	£6,000	£10,500
		2 to 4	£4,500	£6,000	£7,500	£12,000
		5 to 19	£7,500	£9,000	£10,500	£15,000
		20 +	£9,000	£10,500	£12,000	£16,500
	None or negligible	1	£1,500	£3,000	£4,500	£9,000
		2 to 4	£3,000	£4,500	£6,000	£10,500
		5 to 19	£6,000	£7,500	£9,000	£13,500
		20 +	£7,500	£9,000	£10,500	£15,000
Low (40% Premium)	Significant	1	£3,000	£4,000	£5,000	£8,000
		2 to 4	£4,000	£5,000	£6,000	£9,000
		5 to 19	£6,000	£7,000	£8,000	£11,000
		20 +	£7,000	£8,000	£9,000	£12,000
	Some	1	£2,000	£3,000	£4,000	£7,000
		2 to 4	£3,000	£4,000	£5,000	£8,000
		5 to 19	£5,000	£6,000	£7,000	£10,000
		20 +	£6,000	£7,000	£8,000	£11,000
	None or negligible	1	£1,000	£2,000	£3,000	£6,000
		2 to 4	£2,000	£3,000	£4,000	£7,000
		5 to 19	£4,000	£5,000	£6,000	£9,000
		20 +	£5,000	£6,000	£7,000	£10,000

Factors, which the Council will consider in reducing the penalty

The Council will consider any factors, which indicate a reduction in the penalty and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

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- impact of the financial penalty on offender's ability to comply with the law or make restitution to victims;
- impact of the financial penalty on employment of staff, service users, customers and local economy.

Reduction for early admission of guilt

The Council will take into account a potential reduction in penalty for an admission of guilt.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender admitted guilt
- The circumstances in which they admitted guilt
- The degree of co-operation with the investigation

The maximum level of reduction in a penalty for an admission of guilt will be one-third. In some circumstances, there will be a reduced or no level of discount. For example where the evidence of the offence is overwhelming or there is a pattern of criminal behaviour.

Any reduction should not result in a penalty, which is less than the amount of gain from the commission of the offence itself.

Obtaining financial information

The statutory guidance advises that local authorities should use their existing powers to, as far as possible, make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained or the offender has supplied any financial information to the contrary. An offender will be expected to disclose to the Council such data relevant to his financial position to enable the Council to assess what an offender can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has received and from all the circumstances of the case, which *may include the inference that the offender can pay any financial penalty*.

Penalties for Failure to Comply with a Banning Order

The court can impose an unlimited maximum fine for failure to comply with a Banning Order. In addition, the court can also impose a prison sentence.

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the most serious housing related offences. If the Council was satisfied that a breach of a Banning Order had occurred, the Council would normally start prosecution proceedings. In the event that the

Council believed that a civil penalty would be appropriate for a breach of a Banning Order, the council would normally impose a penalty up to a maximum amount of £30,000 to reflect the severity of the offence.

Procedures

Financial Penalty Process and Right for Person to make Representations

Before imposing a financial penalty on a person the Council will, within 6 months of the date of the offence, give the person notice of its proposal to do so (a “notice of intent”); setting out the Council’s reasons for doing so and the level of fine. A person in receipt of the notice of intent can make written representations to the following within 28 days:

Address: Private Sector Housing Team
Sevenoaks District Council
Council Offices
Argyle Road
Sevenoaks
Kent
TN13 1HG

Alternatively, you can email the private sector housing team at psh@sevenoaks.gov.uk

Subsequently the Council will decide whether to issue a financial penalty and the amount. Before doing so the Council will issue a final notice requiring that the penalty be paid.

The final notice will set out:

- the amount of the financial penalty;
- the reason for imposing the penalty;
- information about how to pay the penalty;
- the period for payment of the penalty (28 days);
- information about rights of appeal; and
- the consequences of failure to comply with the notice.

The officer determining the level of the financial penalty will record his/her decision, giving reasons for the amount of the penalty.

The landlord has the right to make representations against the decision and the Council will consider any representation. The Council will provide a response within 21 days, with a decision notice stating whether the penalty will be withdrawn, varied or upheld.

A person who receives a final notice may appeal to the First-tier Tribunal against:

- the decision to impose a penalty; or
- the amount of the penalty.

If a person appeals, the final notice is suspended until the appeal is determined or withdrawn.

Appendix 8 - Other legislation

Local Government (Miscellaneous Provisions) Act 1976

This act enables the council to re-connect or prevent the disconnection of gas, electricity or water supply in tenanted properties. These powers will be used in exceptional circumstances when all other negotiation has failed. These powers will only be used where the tenant is not responsible for payment of the bill.

This act also enables the council to obtain information about the interest in land. The notice is used to determine who owns, manages and occupies a dwelling. The information must be provided within 14 days of service of the document. Failure to provide the information may result in the council bringing a prosecution. On summary conviction the Magistrates Court can fine the relevant person.

Local Government (Miscellaneous Provisions) Act 1982

This act enables the council to board up unsecure empty properties. The council will attempt to contact the owner to carry out the work. If the property remains unsecure the council may serve a notice giving the owner 48 hours to make the property secure. If the property remains unsecure after this the council may carry out the work and re-charge its costs. A local authority need not give any such notice if it is necessary to undertake works immediately or owner/occupier cannot be reasonably traced.

Public Health Act 1961

This act enables the council to require owners/occupiers to unblock or repair toilets. If negotiation fails the council may serve a notice requiring the toilet to be unblocked within seven days. After which the council may carry out the work and re-charge its costs.

If the toilet requires repair the council may serve a notice requiring the toilet to be repaired within 14 days. After which the council may carry out the work and re-charge its costs.

Public Health Act 1936

Sevenoaks District Council has a statutory duty under the provisions of the Public Health Act 1936 to investigate complaints about premises that are in such a filthy and/or verminous condition or are prejudicial to health. This would not include premises which are merely unsightly, untidy or in a bad state of repair.

Environmental Protection Act 1990

This act enables the council to deal with premises that are deemed to be a nuisance/prejudicial to health. Prejudicial to health is defined as injurious or likely to cause injury to health.

Prevention of Pest Act 1949

The Act aims to protect the community, from the potential health and safety and hygiene hazards caused by various pests, including rats, mice, birds and all types of insects etc. There are two parts to this Act, Part One covers Rats and Mice, Part Two covers Infestation of Food.

Under the Act, any person authorised by a local authority, may inspect a premises or site at any reasonable time for infestation. Any person causing an obstruction whilst the premises is under inspection will be subjected to a fine.

Building Act 1984

Section 59 of the Building Act 1984 allows by notice the council to require owners to provide new, repair, or upgrade existing: drains, guttering, cesspools, sewers, drains, soil pips and rainwater pipes, etc.

The council must give the owner of the property reasonable time to carry out the work. If the owner fails to carry out the work the council may carry out the work itself and prosecute.

The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

In addition to the powers to tackle 'rogue' agents under the Housing and Planning Act 2016 there are additional powers for local authorities to regulate letting agents, currently enforced by the PSH Team. Letting agents are required to:

- join a redress scheme;
- transparently publish their fee tariffs;
- declare whether they are a member of a client money protection scheme.

Where an agent fails to join one of the approved redress schemes, we approach the agent, explain the regulation and the penalties involved if they do not comply. The agent will then have 7 days to join a redress scheme.

If the agent is not willing to comply or if they still have not registered within 7 days, we will issue a letter of intent stating that if the agent does not register with a redress scheme, will may impose a fine.

If, after 28 days, the agent is not a member of an approved redress scheme, we may impose a financial penalty of up to £5000.

If the council has decided to issue a fixed penalty, we then issue a final notice The final notice must give the agent at least 28 days to make the payment.

Appendix 9 - Operational Guidance during a Pandemic such as COVID 19

During a pandemic outbreak such as COVID-19 the Private Sector Housing Team are still required to continue to keep the condition of their housing stock under review, their duty to take appropriate action where 'category 1' hazards are identified (most serious hazards/imminent risk to life) remains the same. Local Authorities have a responsibility to prevent potential and imminent risk to the health, safety, and wellbeing of any occupying tenant.

Effective enforcement of standards in rented properties relies on Private sector housing officers visiting rented properties. All officers carrying out inspections and surveys will operate in accordance with the latest Government document [guidance for professionals working safely in people's homes](#).

Local authorities have powers of entry which they can use to gain access to properties and carry out inspections. Current guidance advice indicates that local authorities should resume routine inspections, in line with their own priorities and enforcement policies and to effectively enforce standards in rented properties. However, Local authorities should be mindful that people may still want to exercise caution. In cases where local restrictions are in place, any relevant local advice should also be followed.

During a Pandemic such as COVID-19, Private Sector Housing will continue to ensure that their enforcement policies are updated to reflect the changing situation. We are committed to ensuring our health and safety policies are up to date and cover all officers carrying out inspections and visits during this period.

A decision to inspect a rented property should be made on the basis of risk and in line with a local authority's resource capacity and enforcement policies. Local authorities should have regard to the fact that some people may still wish to exercise caution. An inspection might be made because:

- There is a duty to inspect because, for example, there is an imminent risk to a tenant's health due to a serious hazard or a breach of Regulations in relation to HMOS/HMO Licensing.
- A serious hazard was previously identified and may still exist.
- The local authority has been made aware that a tenant is vulnerable and it is not clear if they are aware of the presence of hazardous conditions or a vulnerable person has requested a DFG.
- This list is not exhaustive and should not be treated as conclusive.

However, it might not be possible to inspect a property due to tenants self-isolating or refusing to allow access. Officers should address this possibility and consider what a reasonable response would be. For example, in properties where tenants are self-isolating:

- A decision may be made to temporarily de-prioritize lower-risk hazards.
- An assessment could be made through photographs, video or live broadcasting by the tenant.
- In cases of very serious risk, when entering a tenant's home to conduct an inspection, you should ensure strict separation is maintained and that the appropriate personal protective equipment (PPE) is used. Government guidance

and the local authority's own health and safety policy should also be followed. Officers should consider whether the risks associated with not rectifying the hazard are higher than the risk of the Pandemic e.g. COVID-19 transmission.

- In cases of extremely hazardous conditions, alternative accommodation might be considered as an alternative to emergency remedial action.

The suggestions above are not exhaustive and all decisions should be made on the merits of the individual case and an assessment of risk. Officers should have regard to the fact that tenants may still wish to exercise caution.

During this unprecedented time Private Sector Housing should only take enforcement action that they determine is necessary in accordance with their own priorities and enforcement policies. They should update and adapt their enforcement policies as required to meet the changing circumstances caused by any Pandemic e.g. COVID-19 and latest government advice regarding the outbreak, and ensure a pragmatic, appropriate and risk-based action is taken.

For example:

- Low risk, routine enforcement action may be temporarily postponed until restrictions are further eased.
- Legal notices served under the Housing Act 2004 may, if the notice provides for this, be suspended for a period due to difficulties in completing the works.
- Non urgent work in default may be deferred.
- Other forms of enforcement action may be considered for the most serious hazards, e.g. a Prohibition Order covering part of a property may be used instead of Emergency Remedial Action.

The above list is intended only as an example and all decisions should be made on the merits of the individual case and based on an assessment of risk and the latest government advice around the outbreak.

It is important that Private Sector Housing continue to work closely with landlords and tenants to ensure standards in rented properties are maintained, using communications and marketing to emphasize the importance of keeping properties free from hazardous conditions and also to reassure landlords that a pragmatic, risk-based and common-sense approach will be used when enforcement decisions are taken. Government has produced separate [guidance for tenants and landlords](#).

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Item 7 (a) - Monitoring Officer's Annual Report

The attached report was considered by the Standards Committee, and the relevant minute extract is below. It is only for noting.

Standards Committee (2 February 2021, Minute 8)

Members considered the sixteenth annual report of the Monitoring Officer, which set out the work of the Monitoring Officer and Standards Committee. Within the report was the breakdown of the complaints he had received from January to December 2020, and brought Members attention to the Standards Hearing held in August 2020. Members were advised that there were elements of the report that would not be included in future reports as these fell within the remit of other Committees.

The Monitoring Officer advised that the Local Government Association (LGA) had worked on a new Model Code of Conduct, and Members could set up a working group to look in detail at the model code and consider whether it should be recommended for adoption by Council. Members were advised that the Council was still fully compliant with the Nolan principles of Public Life through the existing code.

The Monitoring Officer advised that in his opinion the report demonstrated that robust procedures remained in place to maintain good governance and ethical standards at the Council.

Members discussed whether a working group to look at the LGA Model Code of Conduct should be set up, alongside the terms of reference for the working group, membership and whether the Chairman and Vice Chairman of Governance Committee should be invited to attend. The Monitoring Officer advised the process for making any recommendations.

In response to questions Members were advised that it was hoped the current Member complaint investigation would be completed within the next two weeks.

Resolved: that

- a) the report be noted;
- b) a working group of 5 Members be formed, to consist of the Chairman and Vice Chairman of Standards Committee, to consider the Local Government Association Model Councillor Code of Conduct 2020 and whether it should be recommended to Council for adoption;
- c) the following Councillors also be appointed to the working group - Cllrs. Fothergill, Osborne-Jackson and Pender;

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- d) the working group invite the Chairman and Vice Chairman of the Governance Committee to attend their meetings;
- e) an additional meeting of the Standards Committee be scheduled for early April; and
- f) the working group report back to the meeting above (e), and the report and final Committee decision be referred to Governance Committee for consideration before any recommendation to Council.

MONITORING OFFICER'S ANNUAL REPORT

Council - 23 February 2021

Report of: Monitoring Officer

Status: For Consideration

Also considered by: Standards Committee - 2 February 2021

Key Decision: No

This reports support the Key Aim of: The effective management of Council resources

Contact Officer: Martin Goodman, ext. 7242

Recommendation to Standards Committee: That the Monitoring Officer's report be noted.

Recommendation to Council: That the Monitoring Officer's 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 sixteenth 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 2020 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. Members' attention is drawn to the letter

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from the Committee on Standards in Public Life and the draft Model Code of Conduct.

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

Monitoring Officer's Report - Appendix A

Letter from Local Government and Social Care Ombudsman - Appendix B

Review by the Committee on Standards in Public Life (2019) - Appendix C

Letter from Committee on Standards in Public Life (2020) - Appendix D

Model Code of Conduct with appendices - Appendix E

Background Papers

None.

Martin Goodman
Monitoring Officer

**ANNUAL REPORT OF THE
MONITORING OFFICER
CALENDAR YEAR 2020**

Introduction

This is the sixteenth Annual Report of the Monitoring Officer, for the period January 2020 to December 2020. 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 2020 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:

Description	Source
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
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

Description	Source
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 2020.

4.1 Reports from the Local Government Ombudsman

On 22 July 2020 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 2020.

The letter reports that during the year there were three detailed investigations carried out by the Ombudsman. Two of these complaints were upheld and in one of those, the Council had already provided a satisfactory remedy before the complaint reached the Ombudsman.

For comparison, during the previous period (to end March 2019) the Ombudsman received ten complaints about the Council. Detailed investigations were carried out in four of those cases and the complaint was upheld in three.

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.

In the light of the Coronavirus pandemic, parliament passed emergency legislation enabling the various adjustments to be made to the Council's governance arrangements. In particular, appointments made at First Annual Council in 2019 (including that of Chairman) were rolled forward and will cease at the next Annual Council in May 2021.

Parliament also implemented regulations which prohibited meetings from taking place in person and which permitted remote attendance. Meetings, therefore, took place for the majority of the year on the 'Zoom' platform. This necessary adjustment, brought about by Parliamentary legislation, played its own small role in protecting the nation against the spread of the virus.

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 2020 and made investments which were reported elsewhere.

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 2020 are as follows:

- Receiving the Annual Monitoring Officer's Report
- Being on Standby to grant Dispensations
- Being on Standby to carry out hearings
- Forming a Standards Hearings Sub Committee to decide on case 20.005

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.

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 Councils' 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.

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 practices. The matter was discussed at length at the time. While the District Council is not required to take action to implement a formal recommendation, Members' attention is drawn to the attached letter following up on implementation. Members will note that there is no current legal obligation to make any particular changes to the Code of Conduct but that this it remains within the Standards Committee's remit to recommend to Full Council to do so.

During the year, significant and wide ranging work has been undertaken by the LGA on a Model Code of Conduct (attached) which may inform such a process. Members' attention is drawn to this template and no doubt consideration will be given as to whether it is adopted. However, should Members wish to remain with the current Members' Code of Conduct, this would be lawful. The Sevenoaks District Council is of course fully compliant with the seven Nolan principles of public life, as required by the Localism Act 2011.

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.

Ten formal complaints were logged as received between January and December 2020. For comparison, there were eight complaints between January and December 2019. 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 2020. 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
24/01/20	District Member	Public	24/01/20	11/02/20	No further action
13/02/20	Parish Member	Public	13/02/20	20/03/20	No further action
16/02/20	Parish Member	Member	16/02/20	20/03/20	No further action

Date made	Subject Member	Complainant public or Member?	Date received	Assessed	Result
20/02/20	Parish Member	Member	20/02/20	20/03/20	No further action
06/05/20	Parish Member	Public	06/05/20	11/06/20	Hearing (case 20.005)
08/06/20	Not a Member	Public	08/06/19	24/06/20	No further action
15/10/20	Parish Member	Public	15/10/20	Process not complete at end of year	(note, this consisted of four separate complaints)

Members will see from the above table that one complaint proceeded to a Hearing. The outcome of this has been reported elsewhere and it is not necessary to reproduce the Decision Notice, which has been published on the Council's website.

Members will nevertheless wish to acknowledge that the Sub Committee found the relevant Code of Conduct had been breached and imposed a proportionate sanction (a recommendation of training). The Monitoring Officer thanks the Sub Committee, the Investigating Officer and the Independent Person for their hard work on this case.

Members will also note that the last entry on the above list consisted of four separate complaints still working their way through the process by the end of the year.

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 2020 and 31 December 2020. During the year, the structure changed in line with the new composition of Cabinet. 'Meetings' for this purpose makes no distinction between those held in person and those held on 'Zoom':

- Annual Council (deferred due to pandemic to May 2021)-0
- Audit Committee-3
- Cabinet-15
- Cleaner and Greener Advisory Committee-2
- Council-4
- Development and Conservation Advisory Committee-4
- Development Control Committee-13
- Finance and Investment Advisory Committee-4
- Governance Committee-1
- Health Liaison Board-2
- Housing and Health Advisory Committee-3
- Improvement and Innovation Advisory Committee-4
- Licensing Committee-4
- Licensing Hearing-5
- People and Places Advisory Committee-4
- Scrutiny Committee-3
- Sevenoaks Joint Transportation Board-3
- Standards Committee-1

- **Standards Hearing-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

It should be noted that certain compulsory Licensing and Planning training is provided to relevant Members on a regular basis. Upon election all Members are always provided with induction training.

During 2020, plans to provide additional 'in house' training were delayed by the global Coronavirus crisis. However, Members can expect further training during this term.

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 2020 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 in recent years 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. With this in mind, the Audit Committee considered an updated policy on 3 November 2020, along with a policy on Counter Fraud and Corruption.

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. It is possible report that unusually there were applications to carry out surveillance of the sort which requires RIPA authorisation during the year and that these were duly reported to the Investigatory Powers Commissioner's Office.

During the summer of 2020, the Investigatory Powers Commissioner's Office carried out an inspection of the Council's RIPA compliance. The Commissioner's Inspector provided advice and limited recommendations but very much underlined the Council's compliance with the provisions of RIPA.

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 Monitoring Officer has every confidence that Members act within the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

During 2020, there is no doubt that the global Coronavirus pandemic had significant impact upon the Council and its communities. The Police and Crime Commissioner elections scheduled for May 2020 were delayed for one year and will now be held at the same time as the Kent County Council elections in May 2021.

Despite the necessary changes to meetings, the introduction of social distancing and various other changes to ways of working, there was no impact upon governance or standards of significant concern to the Monitoring Officer.

Members will also be aware of the significant legal challenge undertaken by the Council, in respect of the Local Plan. This was a major piece of work with implications for the whole District, undertaken at a time when mere attendance in a court setting was not straightforward.

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:

- Letter from Local Government and Social Care Ombudsman.
- Review by the Committee on Standards in Public Life (2019)
- Letter from Committee on Standards in Public Life (2020)
- Model Code of Conduct with appendices

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Appendix B

22 July 2020

By email

Dr Ramewal
Chief Executive
Sevenoaks District Council

Dear Dr Ramewal

Annual Review letter 2020

I write to you with our annual summary of statistics on the decisions made by the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2020. Given the exceptional pressures under which local authorities have been working over recent months, I thought carefully about whether it was still appropriate to send you this annual update. However, now, more than ever, I believe that it is essential that the public experience of local services is at the heart of our thinking. So, I hope that this feedback, which provides unique insight into the lived experience of your Council's services, will be useful as you continue to deal with the current situation and plan for the future.

Complaint statistics

This year, we continue to place our focus on the outcomes of complaints and what can be learned from them. We want to provide you with the most insightful information we can and have made several changes over recent years to improve the data we capture and report. We focus our statistics on these three key areas:

Complaints upheld - We uphold complaints when we find some form of fault in an authority's actions, including where the authority accepted fault before we investigated. A focus on how often things go wrong, rather than simple volumes of complaints provides a clearer indicator of performance.

Compliance with recommendations - We recommend ways for authorities to put things right when faults have caused injustice. Our recommendations try to put people back in the position they were before the fault and we monitor authorities to ensure they comply with our recommendations. Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedies provided by the authority - We want to encourage the early resolution of complaints and to credit authorities that have a positive and open approach to resolving complaints. We recognise cases where an authority has taken steps to put things

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right before the complaint came to us. The authority upheld the complaint and we agreed with how it offered to put things right.

Finally, we compare the three key annual statistics for your authority with similar types of authorities to work out an average level of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

This data will be uploaded to our interactive map, [Your council's performance](#), along with a copy of this letter on 29 July 2020, and our Review of Local Government Complaints. For further information on how to interpret our statistics, please visit our [website](#).

Resources to help you get it right

There are a range of resources available that can support you to place the learning from complaints, about your authority and others, at the heart of your system of corporate governance. [Your council's performance](#) launched last year and puts our data and information about councils in one place. Again, the emphasis is on learning, not numbers. You can find the decisions we have made, public reports we have issued, and the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

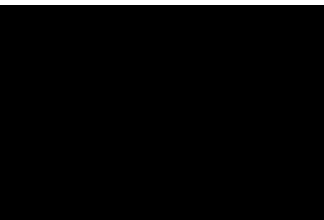
I would encourage you to share the tool with colleagues and elected members; the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.

Earlier this year, we held our link officer seminars in London, Bristol, Leeds and Birmingham. Attended by 178 delegates from 143 local authorities, we focused on maximising the impact of complaints, making sure the right person is involved with complaints at the right time, and how to overcome common challenges.

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. During the year, we delivered 118 courses, training more than 1,400 people. This is 47 more courses than we delivered last year and included more training to adult social care providers than ever before. To find out more visit www.lgo.org.uk/training.

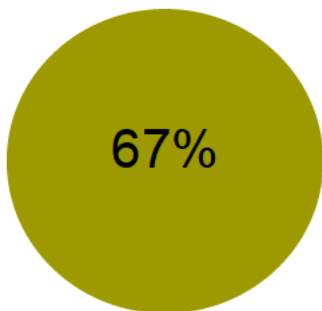
We were pleased to deliver a complaint handling course to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the course was useful to you.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld



67% of complaints we investigated were upheld.

This compares to an average of 45% in similar authorities.

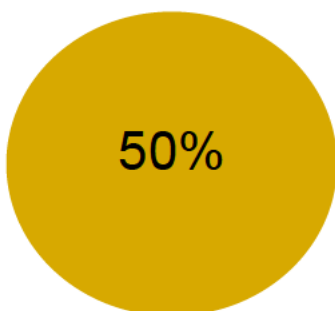
2 upheld decisions

Statistics are based on a total of 3 detailed investigations for the period between 1 April 2019 to 31 March 2020

Compliance with Ombudsman recommendations

No recommendations were due for compliance in this period

Satisfactory remedies provided by the authority



In 50% of upheld cases we found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of 20% in similar authorities.

1 satisfactory remedy decision

Statistics are based on a total of 3 detailed investigations for the period between 1 April 2019 to 31 March 2020

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Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**



Local Government Ethical Standards

Committee on Standards in Public Life

Chair: Lord Evans of Weardale KCB DL

January 2019

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The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of

appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

Lord Evans of Weardale
Chair, Committee on Standards in Public Life



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Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.

There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.

Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be

written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government

Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government

Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association

List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Introduction

The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles.¹

The Committee has had a long-standing interest in local government, which was the subject of its third report in 1997, and which it has considered on a number of occasions since then. Since we last reviewed standards arrangements in local government, the Committee has maintained a watching brief, and has received regular correspondence relating to local government. Our other recent reviews have also received evidence relevant to the maintenance of standards in local government. This review was not prompted, however, by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.

The terms of reference for our review were to:

1. Examine the structures, processes and practices in local government in England for:

- a. Maintaining codes of conduct for local councillors
- b. Investigating alleged breaches fairly and with due process
- c. Enforcing codes and imposing sanctions for misconduct
- d. Declaring interests and managing conflicts of interest
- e. Whistleblowing

2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government

3. Make any recommendations for how they can be improved

4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

Our review covered all local authorities in England, of which there are 353 principal authorities, with 18,111 councillors in 2013, and an estimated 10,000 parish councils in England, with around 80,000 parish councillors. We did not take evidence relating to Combined Authorities, metro mayors, or the Mayor of London and so do not address these areas of local government in this report.

The Committee's remit does not extend to the devolved administrations of the UK, and so our review does not cover local government standards outside England, although we have considered the role, remit, and work of the standards bodies in Scotland, Wales, and Northern Ireland for comparative purposes.

As part of this review, we received 319 written submissions to our consultation, from a range of local authorities, representative bodies, stakeholder organisations, officers, councillors, and members of the public. We held two roundtable seminars; one with Monitoring Officers, clerks and Independent Persons, and one with academics and think tanks. We held 30 individual stakeholder meetings. We also visited five local authorities across different regions of England and tiers of local government speaking to councillors, officers, county associations, Independent Persons, and representatives from town and parish councils.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and specific groups of public office holders. Our best practice for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We intend to review the implementation of our best practice in 2020.

The Committee wishes to thank all those who gave evidence to the review, including those local authorities who hosted a visit by the Committee, and in particular Jonathan Goolden of Wilkin Chapman LLP for his support and advice throughout.

Chapter 1: Overview of standards

Is there a standards problem in local government?

The evidence we have received does not reveal a widespread standards problem within local government. Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct.

However, there is clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. We have also heard evidence of persistent or repeated misconduct by a minority of councillors.

This misconduct occurs at both principal authority level and at parish or town council level. Our evidence suggests, however, a high volume of complaints arising from a small number of town and parish councils (we refer to both as 'parish councils' for clarity). Under the current arrangements, where principal authorities are responsible for investigating and deciding on allegations of misconduct at parish level, these complaints can take up a disproportionate amount of officer time and are likely to be more difficult to address than complaints at principal authority level.

There is currently no requirement for principal authorities or town and parish councils to collect or report data on the volume of formal complaints they receive, but evidence we received indicates that the number varies widely between local authorities.

We received evidence that for parish councils, around 60% of councils had had no complaints, or only one complaint since the Localism Act 2011 came into force, and

around 10% had had four or more complaints. Of councils that had received complaints, 83% said complaints had been made about disrespectful behaviour, 63% about bullying and 31% about disruptive behaviour.²

Throughout this review, we have evaluated the system for upholding high ethical standards in local government as it currently works in practice, to see how far it reflects the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Across the 353 principal authorities in England, where responsibility for ethical standards rests with each individual authority, there is a variety of practice. But there are some common concerns.

At a time of rapid change in local government, not least in response to austerity measures, decision-making in local authorities is getting tougher and more complex. Increased freedoms to work with partners from a variety of sectors runs the risk of putting governance under strain. The importance of ensuring selflessness and integrity by reporting conflicts of interest and eradicating undue influence, in a system which is becoming less transparent and less accountable, is more important than ever. A lack of regulation only heightens the risk of things going badly wrong.

The political landscape is also changing. As we explore in chapter 4, party group discipline is an important ingredient in addressing misconduct, but in some councils the increase in independent members and groups causes additional concerns. The public expect their local representatives to be open and transparent, but it is clear that the increased use of social media has to be handled with

² Hoey Ainscough Associates survey for Society of Local Council Clerks, based on 801 responses from Clerks across England and Wales

care and where necessary properly monitored and checked. Many councils told us of ways in which they were trying to address this, often after having had multiple complaints.

The pressures increase to conduct political debate and decision-making at pace, and there can be frustration with formal procedures to handle complaints which are judged to be too cumbersome, bureaucratic or lengthy. Informality has its place, but must be balanced by the safeguard of formal due process, especially for more serious matters. We heard from councillors how important it is for them to have proper procedures, with an appropriate level of independence and objectivity, to protect them from political mischief or worse.

Local authorities are clearly aware of these issues and are tackling them. But officers need appropriate support, especially those officers in parish councils who often work alone. They are developing best practice and understand what works, and they are working together across professional networks to share their experiences. Councillors themselves have confidence in the system and confidence in themselves to ensure high standards. But throughout this review we heard for the need for greater consistency in codes of conduct and for greater enforceable sanctions for serious and repeated breaches.

Such concerns and risks suggest that the current arrangements should be clarified and strengthened to ensure a robust, effective, and comprehensive system. We set out in this report how we believe local government can be supported to achieve this.

The current system

The current system has a number of checks and balances built in to safeguard against poor ethical standards and protect against impropriety.

Each principal authority operates within its constitution. This creates a governance framework to ensure good administration and decision-making which includes, for example, the separation of the duties of officers and members, accountability to full council, and scrutiny and audit processes. These arrangements are overseen by the officers of the council, and particularly by the three senior statutory officers: the Head of Paid Service (Chief Executive), the Chief Finance Officer (sometimes referred to as the Section 151 Officer) and the Monitoring Officer. The leader of the council and other key members also have an important leadership role to play.

Under section 27 of the Localism Act 2011 each local authority must adopt a code of conduct against which councillors' conduct may be assessed. This code, when viewed as a whole, should reflect the Seven Principles of Public Life. A local authority must also make appropriate provision for councillors to register pecuniary and non-pecuniary interests. Any allegations of misconduct are usually considered in the first instance by the Monitoring Officer, a statutory officer of the council who has responsibility for standards and governance (or by their deputy). If the Monitoring Officer considers that there needs to be a formal investigation, this may be undertaken by the Monitoring Officer themselves, a deputy, or by an external investigator.

As a check on the impartiality of the decision-making process, the council must seek and take into account the view of an Independent Person (appointed by the council) before a decision is made on an alleged breach that has been subject to a formal investigation. A decision can be made by the Monitoring Officer, but many councils maintain a standards committee to make decisions on allegations or to review decisions taken by the Monitoring Officer. The authority may impose

a sanction - which cannot include suspension or disqualification - but may be an apology, training, censure, or withdrawal of certain facilities or access to council buildings. There are, however, no means of enforcing sanctions where it requires positive action by the councillor, for example, an apology or training.

Outside the formal standards procedures in a principal authority, party discipline can also be brought to bear. Most councillors will be members of a political group, and also often a national political party. A political group may follow its own procedures to advise members about their behaviour, remove councillors from committees, suspend them from the group, or remove them from positions to which they have been appointed by the group. A national political party may also follow its own procedures and suspend or expel a councillor from the party. These processes may be undertaken in consultation with the Monitoring Officer or other senior officers, or under the group or party's own initiative.

Within the statutory framework, principal authorities have discretion to develop their own standards procedures according to their own needs and resources. For example, some authorities give a more significant role to their Monitoring Officer and only involve a standards committee or Independent Person in the case of a formal investigation, others make extensive use of party discipline to resolve standards issues informally, and some authorities involve Independent Persons and standards committee members in a range of activities aimed at upholding ethical conduct and ethical decision-making within the authority. This means that authorities' standards arrangements, whilst they have commonalities, can in practice be implemented very differently. We discuss these different approaches throughout this report.

Developments leading to the current framework for local government ethical standards

Much of the framework for local government standards which has been in place since 1997 has been a direct or indirect result of the Committee's recommendations.

Since we first considered local government standards in 1997, the sector has moved from a largely unregulated standards regime to a highly centralised system under the Standards Board, which was subsequently reformed in the mid-2000s and finally abolished in 2012, giving way to the highly devolved system which is currently in place.

1997 The Committee's third report, *Standards of Conduct in Local Government in England, Scotland and Wales* (1997), made a range of recommendations to improve ethical standards in local government. These included a requirement for local authorities to adopt a code of conduct based on general principles, the creation of public registers of interests, and rules on councillors declaring both pecuniary and non-pecuniary interests and withdrawing from discussion or voting where appropriate. Codes of conduct would be enforced by local standards committees with powers to suspend councillors, with tribunals in England, Wales, and Scotland to hear appeals.

1998 The Committee's recommendations were considered in detail by the incoming government in *Modernising local government: a new ethical framework* (1998), published by what was then the Department for Environment, Transport, and the Regions. The response, though agreeing with a number of recommendations, went well beyond what the Committee recommended, and proposed the creation of the Standards Board for England, which would investigate and adjudicate on all complaints about councillors except for those which were trivial or technical. The government held that leaving determination to local standards committees "[...] risks that allegations are not handled with that degree of objectivity or fairness" that the government considered an essential principle of the system.³ The Secretary of State issued a model code of conduct, containing provisions which were required to be included in local codes of conduct, and the Standards Board for England advised councils at the time not to include additional provisions in their codes.

³ Department for Environment, Transport and the Regions (1998), *Modernising local government: a new ethical framework*

2005 In the Committee's 10th report, *Getting the balance right* (2005), the Committee accepted that the standards framework had improved since 1997. However, it criticised the centralised method for handling complaints and argued that, both on proportionality grounds and in order to embed an ethical culture in individual local authorities, the framework should move to locally-based arrangements for all but the most serious cases. It argued for substantial reform of, but not the abolition of, the Standards Board.

2007 Responding to the Committee's 10th report, the government agreed that the Standards Board should become a more strategic regulator, and accepted that there were benefits "[...] in moving towards the promotion of more locally-based decision making in conduct issues, which would encourage local ownership of standards within local authorities". The Standards Board became 'Standards for England' and its role and relationship to local standards committees was altered accordingly by the Local Government and Public Involvement in Health Act 2007, with local authorities given the power to determine all but the most serious allegations. The Standards Committee (England) Regulations 2008 gave standards committees the ability to suspend councillors for up to six months following the finding of a breach.

2010 In 2010, the coalition government proposed significant reform of the local government standards regime, centred on the abolition of Standards for England, which ministers described as “[...] bureaucratic standards arrangements...which so often led to petty or politically motivated complaints”.⁴ The government proposed devolving responsibility for standards to individual local authorities, though without the ability to suspend or disqualify councillors. The initial proposals did not require councils to adopt a code of conduct, nor to have an independent check on deciding breaches.

The Committee welcomed responsibility for standards being held at a local level, noting that this was what it had originally recommended in 1997. However, the then Chair of the Committee, Sir Christopher Kelly KCB, expressed concerns that “[...] the proposals go well beyond the abolition of Standards for England. They involve the abolition of the national code of conduct for local authority members and remove the obligation on local authorities to maintain standards committees, chaired by independent people, to monitor standards and sanction aberrant behaviour. In future it appears that the only way of sanctioning poor behaviour between elections will be the criminal law or appeals to the ombudsman where someone’s interests are directly affected by a decision.”⁵

In response, the government included in the Localism Act 2011 a requirement for councils to adopt a code of conduct which, when viewed as a whole, was: consistent with the Seven Principles of Public Life; required the views of an Independent Person to be sought and taken into account when deciding on breaches of the code of conduct; and put a requirement for pecuniary interests to be registered and declared on the face of the Bill, which passed into law in November 2011.

4 Letter from Bob Neill MP to all local authority leaders, 28 June 2012, Available online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5657/2169997.pdf

5 “Public confidence in local government standards is at risk”, Committee on Standards in Public Life Press Notice, 14 September 2010

Responsibility for standards

Whilst we consider each element of the standards process within this report, we have also considered the system as a whole; in particular, the question of where responsibility for standards in local government should lie – whether locally or with a national, centralised body. Any system needs to be able to support and protect councillors, officers, and members of the public.

There are clear benefits to local authorities having responsibility for ethical standards.

First, ownership of ethical standards – local responsibility for ethical standards ensures that the application and implementation of the Seven Principles of Public Life in local government is fully ‘owned’ by the sector. Ethical standards should not be seen as something that can be outsourced to another organisation; a highly centralised system for codes of conduct, investigations and sanctions risks implying that maintaining an ethical culture is somebody else’s responsibility. The evidence we received strongly indicates that local authorities want to keep responsibility for setting standards, based on the Seven Principles, and maintaining an ethical culture in their own authorities; and want to be given the tools and resources to do so.

Second, flexibility – our evidence suggests that flexibility is a major strength of the current standards arrangements. Local government involves working in close proximity. A system which is overly formal, as a centralised system would tend to be, can actually inhibit high ethical standards as it precludes light-touch, informal action to address potential issues at an early stage, and to resolve them in a way which takes account of the culture and needs of the authority and its existing working relationships.

Third, reduction in vexatious complaints – the evidence we have seen also suggests that the vexatious and politically-motivated complaints that existed under the centralised regime, prior to 2011, and about which we expressed concern in 2005, have significantly reduced.

We have carefully considered the arguments in favour of a centralised body responsible for overseeing standards in local government, as is the case for example in the devolved administrations of the UK.

The obvious benefit would be that it would improve consistency of standards across England. We have considered in particular the argument that members of the public in one area of the country will have the same expectations of the standards upheld by local councillors as members of the public in another area of the country. We suggest, however, that it is possible in general to enhance consistency without centralisation.

We have also considered how increased centralisation may make the process of setting codes, and investigating and deciding upon standards breaches, more independent and objective. It is important that there is independent input and oversight in any standards system, not least to provide councillors with support and adequate protection from unwarranted politically motivated allegations or unfair treatment, and to maintain the confidence of the public. The evidence we received suggests that it is possible to strengthen independent safeguards – through strengthening the role of independent members on standards committees and the Independent Person – within a framework of local responsibility for maintaining standards.

Overall, we do not favour a return to a centralised system and recommend that responsibility for ethical standards should remain with local authorities. While consistency and an independent element are important aspects of the standards framework, the recommendations we make throughout this report would enhance the consistency of standards across England and increase the independence of the relevant processes, whilst retaining local authorities' ownership of ethical standards and the flexibility this allows.

Chapter 2: Codes of conduct and interests

Clear, relevant, and proportionate codes of conduct are central to maintaining ethical standards in public life. Codes of conduct were identified by the Committee as one of the essential ‘strands’ in maintaining ethical standards in public life in its first report in 1995, at a time when many public sector organisations did not have them.

Codes of conduct play an important role in maintaining ethical standards in an organisation. They are not an alternative to values and principles, but they make clear how those values and principles should be put into practice. They enable people to be held to account for their actions by setting out clear expectations about how they should behave.

As we stated in our 2013 report, *Standards Matter*:

Organisations need their ethical principles to be elaborated in codes which contextualise and expand on their practical implications. Holders of public office can then be clear what is expected of them, particularly in grey areas where the application of principles may not be self-evident.⁶

Currently, local authorities have a statutory duty to adopt a code of conduct which, when viewed as a whole, is consistent with the Seven Principles of Public Life, and which includes provisions for registering and declaring pecuniary and non-pecuniary interests.

The intention was not that the Seven Principles could be treated as if a self-contained code, but instead that the principles should be used to underpin a well-drafted, practical and locally-relevant guide to behaviour.

As part of our evidence-gathering, we reviewed a sample of 20 principal authority codes of conduct. We have also drawn on the evidence received through our public consultation, visits and roundtables.

Variation, consistency, and clarity

There is considerable variation in local authority codes of conduct. Some of this is straightforward variation in structure and wording, but there is also considerable variation in length, breadth, clarity and detail.

We heard evidence that variation between codes, even where the codes do not differ in quality, is problematic. It creates confusion among councillors who are simultaneously serving in councils at multiple tiers of local government (for example, on both a parish and a district council, known as ‘dual-hatting’), particularly when requirements for declaring and registering interests are different. It also creates confusion among members of the public over what is required of different councillors in different areas and tiers of local government.

⁶ Committee on Standards in Public Life, *Standards Matter* (Cm 8519, January 2013), 4.4

The main problem I have experienced as Monitoring Officer...is the lack of consistency across codes... In district council areas, as Monitoring Officer, you have oversight of both district and parish council complaints. Each council can have their own version of the code (meeting the minimum provisions under the Localism Act 2011). It makes life difficult for councillors who are ‘twin’ or ‘triple’ hatters having to abide by different codes, and potentially inconsistent in the advice you can provide on each different version of a code.⁷

Monitoring Officer, North Hertfordshire District Council

In Ashford, a ‘Kent model’ code of conduct and arrangements for dealing with complaints were developed based on the previous national code as this was considered preferable to ensure consistency, continuity and clearly defined expectations.¹⁰

Ashford Borough Council

The issue of parish councils’ codes of conduct is closely related; we discuss this in detail in chapter 5.

Model code of conduct

A model code of conduct would create consistency across England, and reflect the common expectations of the public regardless of geography or tier. It would also reduce the potential for confusion among dual-hatted or triple-hatted councillors. As we discuss below, areas such as gifts and hospitality, social media use, and bullying and harassment have all increased in salience, and are not regularly reflected in local authority codes of conduct. All local authorities need to take account of these areas, and a model code of conduct would help to ensure that they do so.

In light of these problems, it is of little surprise that some councils have taken voluntary steps to agree mutual codes of conduct. For example, all of the principal authorities in Worcestershire have agreed a ‘pan-Worcestershire’ code. This also meant that common training could take place across authorities.⁸

In order to ensure a consistency of standards and expectations of both councillors and the public (and not least because we have a lot of dual-hatted members), the eight principal authorities co-operated in advance of the new regime to create a ‘pan-Worcestershire’ Code of Conduct which was adopted by all eight, and we understand a majority of town and parish councils in the county as well.⁹

Worcestershire County Council

Whilst the principle of localism is set to facilitate greater local determination on practices best suited to each authority, this may result in inconsistencies of rigour in application of cases from one authority to another...we recommend that model codes of conduct be developed for use by authorities.¹¹

INLOGOV, University of Birmingham

7 Written evidence 22 (Jeanette Thompson)
 8 Written evidence 173 (Worcestershire County Council)
 9 Written evidence 173 (Worcestershire County Council)
 10 Written evidence 138 (Ashford Borough Council)
 11 Written evidence 160 (INLOGOV)

We recognise that there are benefits to councils being able to amend their own codes. For example, a council may provide more detail on appropriate use of social media, relationships with officers, or conduct during council meetings, depending on its own culture and the specific issues it may face. Local authorities can also revise their codes of conduct where they find them difficult to apply in practice, and to learn from best practice elsewhere. A mandatory code set by central government would be unlikely to be updated regularly or amended in light of learning experiences.

A council having final ownership of its code of conduct solidifies the ownership of ethical standards within an authority. There are benefits to a conversation within a council of what high ethical standards would look like in their own context. For example, Uttlesford District Council told us during our visit that the process of rewriting their code and standards process played a positive role in setting an effective ethical culture and making councillors aware of the behaviour expected of them.¹² A mandatory national code would take away ‘ownership’ of ethical standards from local authorities, since those standards would be set centrally, from outside of local government. The Committee commented on the national code in place before 2000 that it had become something which was “[...] done to local authorities; rather than done with them”.¹³ We would not want to return to such a state of affairs.

We therefore consider that there should be a national model code of conduct, but that this should not be mandatory, and should be able to be adapted by individual authorities.

The existing model codes available to local councils compare unfavourably to bespoke

codes, with little detail on important areas such as social media use and bullying and harassment. Therefore, a new model code would be needed. The updated model code should be drafted by the Local Government Association, given their significant leadership role in the sector, in consultation with representative bodies of councillors and officers of all tiers of local government. The Ministry of Housing, Communities and Local Government should ensure that they are given the necessary resources and support to undertake this work.

Recommendation 1: The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

Bullying and harassment

The evidence received by the Committee suggests that most allegations of code breaches relate to bullying and harassment. This is an area of ethical standards that is much better recognised since the Committee last undertook a review of local government.

Our code of conduct sampling found that most codes of conduct do not cover this behaviour effectively. Whilst most codes sampled had a specific prohibition on bullying and specifically prohibited intimidation in respect of any allegations of wrongdoing, only two out of twenty codes sampled included specific behaviours that would amount to bullying, and five had only a broad provision such as ‘showing respect for others’. Given that the Nolan Principles are not a code of conduct, and so are not prohibitory in character, codes

¹² Uttlesford District Council Standards Committee, Visit to Uttlesford District Council, 10 September 2018

¹³ Committee on Standards in Public Life (2005), *Getting the balance right*, Cm 6407, 3.10

which do not elaborate on them will lack these provisions, although we consider that such prohibitions rightly fall under the Nolan principle of leadership.

may be pressured to make decisions or act in ways which are not in the public interest. As such, it is important that bullying and harassment are dealt with effectively, and that a local authority's code of conduct makes provisions to address these matters.

Example of a bullying provision

Extract from Newcastle City Council code of conduct¹⁴

You must not bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.

(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

Broader standards failure arising from bullying

In several high-profile cases of standards failures in local government, bullying behaviour which was not challenged or addressed enabled other, more serious misconduct to take place, including the failure of scrutiny and governance structures or financial misconduct.

The Gowling WLG report into Sandwell Metropolitan Borough Council in 2016 considered allegations of a councillor improperly influencing the sale and purchase of council property and attempting to gain favours for their family members.

The report found that the councillor at the centre of allegations of financial impropriety had bullied and coerced a senior housing officer over a long period.

Senior officers did not take steps to prevent the bullying from taking place, which the report stated “[...] left a vulnerable employee horribly exposed to undue pressure, and, more corrosively, perpetuated the culture within the department of ignoring governance”.¹⁵

Bullying and harassment can have a significant impact on the wellbeing of officers and councillors who are subject to it. Such behaviour is not acceptable in the workplace, particularly from public office-holders with responsibilities to show leadership.

It is also a broader standards issue, given that individuals subject to bullying or harassment

¹⁴ Newcastle City Council Code of Conduct. Available at: https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/your-council-and-democracy/how-council-works/standards-issues/part_5_2a_-_members_code_of_conduct.pdf
¹⁵ Gowling WLG (2016) *Report to the Chief Executive, Assistant Chief Executive, Monitoring Officer and Chief Financial Officer of Sandwell Metropolitan Borough Council*. Available online at: http://www.sandwell.gov.uk/downloads/file/24029/gowling_wlg_report

The Committee heard from Monitoring Officers and independent investigators that the broad ‘respect’ provision upon which many councils rely is not suitable for dealing with allegations of bullying and harassment. Broad provisions are difficult to adjudicate on with consistency, particularly in the absence of additional, more detailed guidelines of what the provision entails. They also tend to give rise to further disputes over whether behaviour is captured by that provision.

Whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (Acas) have codified a helpful definition: “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient” .¹⁶

Examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities¹⁷

¹⁶ Advisory, Conciliation and Arbitration Service (Acas), *Bullying and harassment in the workplace: a guide for managers and employers*. Available online at: <http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

¹⁷ Advisory, Conciliation and Arbitration Service (Acas), *Bullying and harassment in the workplace: a guide for managers and employers*. Available online at: <http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

Harassment is defined in the Equality Act 2010 as “unwanted conduct related to a relevant protected characteristic”, which has the purpose or effect of violating an individual’s dignity or “creating an intimidating, hostile, degrading, humiliating or offensive environment” for that individual”.¹⁸

These definitions make clear that bullying and harassment are instances of serious misconduct. By their nature they are likely to be persistent behaviour, rather than one-off instances. A councillor should not be considered to be bullying or harassing an officer or another councillor simply by making persistent enquiries or requests for information, nor by saying something that the individual concerned simply dislikes or with which they disagree strongly. Genuine instances of bullying and harassment will fall outside the limits of legitimate free expression; but equally accusations of such behaviour should not be used as an attempt to restrict legitimate inquiries or free expression. We discuss the enhanced protection that is afforded to political expression and the appropriate limits of free speech by councillors in more detail below.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Half of the codes sampled by the Committee made reference to a separate protocol on councillor-officer relations. Whilst many of these protocols focussed on the duties of

officers, particularly in respect of impartiality requirements, we did see protocols laid out reasonable expectations of a good working relationship, which provides better support to the maintenance of a good ethical culture. The requirements of protocols can be enforced through the formal standards process where councils include a specific requirement to act in accordance with the protocol in the main code of conduct.

Intimidation of councillors

During our review, we received evidence relating to the intimidation of councillors, which we undertook to collect as a result of representations received from the local government sector during our 2017 review, *Intimidation in Public Life*.¹⁹

The evidence we received suggests that intimidation of councillors is less widespread than intimidation of Parliamentary candidates and MPs, but, when it does occur, often takes similar forms and is equally severe and distressing. In line with our 2017 findings, it is particularly likely to affect high-profile women in local government.

Instances of councillors being attacked and harassed, notably on social media, is an increasing trend and a very serious issue. There is anecdotal evidence from across the country that female leaders and councillors are subject to more abuse than their male counterparts.²⁰
Local Government Association

Although they do not otherwise fall within the scope of our review, we also heard concerning evidence of intimidation of Police and Crime Commissioners.

18 Equality Act 2010, section 26

19 Committee on Standards in Public Life (2017), *Intimidation in Public Life*, Cm 9543

20 Written evidence 170 (Local Government Association)

On a Sunday afternoon at my home address I was visited by a person who over many years has been a serial complainer about the police and my office. The person is believed to have mental health issues and refused for some time to say who she was or what she wanted. The visit was distressing to my wife and daughter.

My intimidation all related to the release of my home address, with people calling unannounced, one of the three above had an injunction against him.²¹

Association of Police and Crime Commissioners

Given the generally similar pattern of evidence we received in relation to intimidation by social media, we consider that our 2017 recommendations, where implemented, should help to address the intimidation of local councillors.

One aspect in which the intimidation of councillors is distinct from that of MPs and Parliamentary candidates is in relation to home addresses. Unlike MPs and candidates, councillors' addresses are often public, for example, on a council website or on a register of interests. The nature of local democracy means that those who are likely to engage in intimidation of a councillor are likely to live nearby. We heard of cases of councillors being confronted in public whilst in a private capacity, for example, whilst with their family or shopping. Whilst this may not always be intimidatory as such, we heard that councillors are highly aware that they have a high profile in their immediate local area, and so the fear of physical intimidation is much greater. The fact that individuals' home addresses are public

can also make any threats made through electronic means, such as social media, more distressing.

We therefore welcome the government's commitment to bring forward secondary legislation to implement our 2017 recommendation that the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper should be removed.

In *Intimidation in Public Life*, we recommended that Monitoring Officers draw councillors' attention to the sensitive interest provisions in the Localism Act 2011, that permit the non-disclosure of details in the register of interests where the member and Monitoring Officer agree that their disclosure could lead to violence or intimidation.²² We received evidence, however, that often these provisions would only be invoked after a councillor had experienced intimidation or harassment, in which case their address was already publicly available.

Given the experience of intimidation by too many in public life, we do not believe it is justifiable to require any candidate standing for or taking public office to make their home address public, whether on a ballot paper or a register of interests. The general principle should be that an individual's home address should be kept confidential and not disclosed publicly or beyond the necessary officials without the individual's consent.

Some authorities have a blanket policy that home addresses will be recorded on the register of interests but omitted from the published version.

21 Written evidence 307 (Association of Police and Crime Commissioners)

22 Committee on Standards in Public Life (2017), *Intimidation in Public Life*, Cm 9543, 62

Example of local authority policy on home addresses

In accordance with the arrangements for the placing of Register of Interests on the City Council’s website agreed by the Standards Committee details of members’ home addresses will be omitted from the version placed on the website.²³

City of Westminster, *Guidance note to members on Register of Interests.*

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to make clear that the ‘land’ category does not require a councillor to register their home address.

Recommendation 2: The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority’s register of interests.

Scope of the code of conduct

At the moment, codes of conduct can only apply to local councillors when they are acting in their capacity as a councillor.²⁴ This means that in practice a councillor cannot breach a code of conduct by, or be sanctioned for, objectionable behaviour in a private context (for example, the way they conduct themselves in a private dispute with a neighbour).

Numerous complaints are made about councillors’ conduct on social media or at events, which in some cases are well-founded. However, if the councillor is not acting in their official capacity then Monitoring Officers are limited in their ability to deal with such conduct. This undermines the public confidence in the standards regime as the public expect higher standards of conduct from their elected representatives.²⁵

Lawyers in Local Government

Our evidence suggests that the current narrow scope of the code of conduct makes it difficult to effectively deal with some instances of poor behaviour, particularly in relation to social media use.

The question of public and private capacity raises significant questions about the privileges and responsibilities of representatives. Democratic representatives need to have their right to free speech and expression protected and not unduly restricted; but equally the public interest demands that they meet certain responsibilities in that role.

23 City of Westminster, *Guidance note to members on Register of Interests*. Available online at: <https://www.westminster.gov.uk/register-members-interests>

24 Localism Act 2011, section 27(2): “...a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority *when they are acting in that capacity*”

25 Written evidence 228 (Lawyers in Local Government)

Some public sector codes of conduct cover behaviour which could purport to be in a personal capacity, but which would inevitably bear on the individual's public role. For example, government ministers are prohibited from acting as patrons of certain organisations or nominating individuals for awards, even if this would purport to be in their personal capacity.²⁶

This suggests to us that the question is not whether behaviour in a personal capacity can impact on an individual's public role, but when it does so.

We took evidence from the standards bodies in Northern Ireland, Scotland and Wales in order to consider their approaches to this issue.

The devolved standards bodies take one of two approaches: either restricting the scope of the code to apply only when a councillor is acting in an official capacity (Scotland), or allowing that a councillor may engage in behaviour in a purely private capacity, which is serious enough to bring their office or authority into disrepute (Wales and Northern Ireland).

In Scotland, the code of conduct only applies to councillors where a member of the public would reasonably consider that the member was acting in their capacity as a councillor. Factors such as whether the behaviour took place on council property, or through a social media account identifying the individual as a councillor, would be taken into account in deciding whether the code of conduct applied. Even if the councillor behaved in a seriously inappropriate way, the code would not apply if there was no suggestion that they were acting as a councillor when they did so.

In Northern Ireland, four provisions of the code of conduct explicitly apply to councillors in all circumstances, not just when they are carrying out their role as a councillor, including a provision not to bring the office of councillor into disrepute.

In Wales, the code of conduct applies both when a councillor is acting in their official capacity (including if they claim to act or give the impression that they are acting in that capacity), and when a councillor behaves in a way that could "[...] reasonably be regarded as bringing [their] office or [their] authority into disrepute".²⁷ This includes any time a councillor attempts to use their position to gain advantages (or to avoid disadvantages) for themselves or others, or misuses their local authority's resources. The Welsh Ombudsman has also issued guidance of the application of the code of conduct to social media use.

Public Service Ombudsman for Wales social media guidance

"If you refer to yourself as councillor, the code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and Twitter. If you refer to your role as councillor in any way or comments you make are clearly related to your role then the code will apply to any comments you make there. Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute and could therefore breach paragraph 6(1)(a) of the code."²⁸

26 Ministerial Code, paras 7.13, 7.18

27 The Local Authorities (Model Code of Conduct) (Wales) Order 2008, Schedule, section 2(c)

28 Public Service Ombudsman for Wales (2016), *The Code of Conduct for members of local authorities in Wales: Guidance from the Public Services Ombudsman for Wales*. Available online at: <https://www.ombudsman.wales/wp-content/uploads/2018/03/Code-of-Conduct-CC-CBC-NPA-August-2016.pdf>

The widespread use of social media presents a particular challenge to determining whether a code of conduct applies to instances of behaviour. In line with the guidance provided in Wales, it is clear to us that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies. This would be the case even if the individual posts a ‘disclaimer’ to suggest that the account is a personal one.

However, a number of recent cases also suggest to us that high standards are expected of public office holders in their use of social media, even when this purports to be in a personal capacity. What is relevant is not just whether an individual is acting in a official capacity or a personal capacity, but also whether the behaviour itself is in public or in private. Restrictions on what an individual may do or say in public are different in kind from restrictions on an individual’s private life.

There is a need to balance the rights and responsibilities of democratic representatives. The sort of public behaviour that is relevant to a public office and its code of conduct therefore depends on the scope and nature of the public role in question: the requirements for civil servants will rightly be different to the requirements for teachers, for example. Roles representing the public, such as MPs or councillors, have particular privileges that need to be protected, but also need to acknowledge a greater responsibility, given the scope and public visibility of the role.

Inevitably, councillors carry their council ‘label’ to some extent in their public behaviour. What counts as relevant public behaviour for the purpose of the councillor code of conduct should therefore be drawn more broadly.

An individual’s private life – that is, private behaviour in a personal capacity – should rightly remain out of scope. This includes, for example, what is said in private conversations (where those conversations are not in an official capacity), private disputes and personal relationships. But those in high-profile representative roles, including councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made whilst speaking in public or on publicly accessible social media sites.

This does not, however, mean that councillors should be censured just because an individual dislikes or disagrees with what they say; standards in public life do not extend to adjudicating on matters of political debate. Controversial issues must be able to be raised in the public sphere, and councillors should have their right to form and hold opinions respected. ECHR Article 10 rights to freedom of expression must be respected by councils when adjudicating on potential misconduct, taking into account the enhanced protection afforded to political expression.

Article 10: Rights to freedom of expression

Article 10 of the European Convention on Human Rights states that “everyone has the right to freedom of expression”, although this right is not absolute, and is subject to “such formalities, conditions, restrictions and penalties as are prescribed by law and are necessary in a democratic society...for the protection of the rights and interests of others”.²⁹

The *High Court, in Heesom v Public Service Ombudsman for Wales*,³⁰ considered the application of Article 10 to local councillors, taking into account judgments by the European Court of Human Rights.

It found that “Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated.”

It added that politicians, including councillors, have “enhanced protection as to what they say in the political arena” but by the same token are “expected and required to have thicker skins and have more tolerance to comment than ordinary citizens”.

A councillor’s Article 10 rights extend to “all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others” but do not extend to “gratuitous personal comments”.

We do not consider that the approach taken by Wales and Northern Ireland, in extending the code of conduct to any behaviour that is sufficiently serious as to bring the office of councillor or the council into disrepute, could easily be replicated in England. Broad provisions are likely to create disputes about what falls within their scope, particularly when there is not a central authoritative body to rule on those provisions and disseminate previous cases.

We therefore propose that, given their significant representative role, there should be a rebuttable presumption that a councillor’s behaviour in public is in an official capacity. An individual’s behaviour in private, in a personal capacity, should remain outside the scope of the code.

Recommendation 3: Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

Purporting to act as a member or a representative

The 2007 model code for local government stated that its scope included not just when a councillor was “conducting the business of the authority”, but also if a councillor was to “act, claim to act or give the impression you are acting as a representative of your authority”.³¹ The Localism Act 2011 does not include this qualification. As a result, some cases where

29 European Court of Human Rights and Council of Europe, European Convention on Human Rights, Article 10

30 *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin)

31 The Local Authorities (Model Code of Conduct) Order 2007

an individual is improperly purporting to act as a councillor do not fall within the scope of the code, even though the councillor in question would clearly be misusing their office. For example, a councillor may threaten to cause someone a detriment by implying they would do so through their influence as a councillor.

The issue [of public and private capacity] needs to be looked at more in the round, including serious matters which do not lead to a criminal conviction or where a councillor, though not acting as a councillor, has purported to misuse his or her office through threats of the ‘don’t you know who I am’ variety.³²

Hoey Ainscough Associates

*MC v Standards Committee of LB Richmond*³³ drew a distinction between a member purporting to act as a member and purporting to act as a representative of the local authority, stating that one would not necessarily imply the other. Both of these seem to us to be sufficient conditions for the code of conduct to apply to an individual. Given this established case law, any change to the current legislation governing codes of conduct should include both conditions.

Recommendation 4: Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

Compliance with standards processes

Complying with standards investigations, and not seeking to misuse the standards process, is an important aspect of ethical conduct. This is for three reasons. First, there is a strong public interest in an effective standards process that is not subject to disruption or abuse. Secondly, councillors should seek to maintain an ethical culture in their authority, and showing appropriate respect for the process contributes to this. Thirdly, non-compliance and misuse wastes public money and the time of officers.

Councillors should not seek to disrupt standards investigations by, for example, not responding to requests for information, clarification or comment in a timely way, or refusing to confirm their attendance at a standards hearing. Nor should councillors seek to misuse the standards process, for example, by making allegations against another councillor for the purposes of political gain.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Writing codes of conduct

The Committee has previously outlined criteria for an effective code of conduct:

- seen as relevant every day and not exceptional
- proportionate – giving enough detail to guide actions without being so elaborate that people lose sight of the underlying principle

³² Written evidence 212 (Hoey Ainscough Associates)

³³ *MC v Standards Committee of LB Richmond* [2011] UKUT 232 (AAC) (14 June 2011)

- adapted to the needs and context of each organisation
- clear about the consequences of not complying with the code, both for the individual and others
- wherever possible, framed positively³⁴

We have seen evidence that some councils have adopted a minimal code of conduct which amounts to a restatement of the Seven Principles of Public Life. We were concerned to note that DCLG’s illustrative code would fall into this category.³⁵ The Seven Principles of Public Life are not a code of conduct: codes of conduct specify what the principles demand in a specific context in order to guide behaviour. Using principles, rather than rules, in a code of conduct can also lead to protracted arguments about what sort of behaviour falls under a particular principle in the absence of specific guidance.

In terms of codes, as an investigator I encounter a variety of codes. They tend to fall into some broad families, ranging from those authorities that adopted the previous statutory code almost unchanged at one end to the extreme other end of the spectrum, which is only the Nolan Principles. That is the whole code. We have great difficulty in working with ‘Nolan-only’ codes.³⁶

**Jonathan Goolden,
Wilkin Chapman LLP**

Drawing up a code is an important process for an authority: it involves the members of that authority considering what the Seven Principles of Public Life demand in their own context.

A failure to create or adopt a substantive code means that the potential benefits of devolved standards are not being realised.

Many authorities have not yet revisited their codes in the light of learning experiences.³⁷

**Jonathan Goolden,
Wilkin Chapman LLP**

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Codes of conduct should be written in plain English and be accessible for councillors and members of the public. They cannot be written to cover every eventuality, and attempts to do so may actually make codes less effective. They should therefore not be ‘legalistic’ in tone, or overly technical in style.

A code of conduct is not a values or vision statement for an organisation. It therefore needs to state clearly what is required of councillors rather than an aspiration or aim. Often this will mean phrasing requirements in terms of what councillors ‘must not’ do.

The requirements should also be enforceable: codes should not include provisions such as ‘councillors must be aware of...’.

34 Committee on Standards in Public Life, *Standards Matter* (Cm 8519, January 2013), 4.9

35 DCLG (2016), *Illustrative Text for Local Government Code of Conduct*. Available online at: <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

36 Jonathan Goolden, Roundtable, 18 April 2018

37 Jonathan Goolden, Roundtable, 18 April 2018

Where detailed provisions or guidance are required (for example, guidance about social media, or guidance on officer-member relations) these should ideally be kept in a separate document.

Codes of conduct are central to upholding high standards in public life. They should not be inaccessible on a local authority's website, or as an annex to an authority's constitution.

Example of a clear code of conduct

Extract from Plymouth City Council code of conduct³⁸

Disrepute

Councillors must not act in a manner which could be seen to bring the council or the role of councillor into disrepute.

Misuse of position

Councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

Use of council resources

When councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes (including party political purposes).

Advice of Monitoring Officer and Responsible Finance Officer

Councillors must consider any advice given by the Monitoring Officer or Responsible Finance Officer when taking decisions.

Giving reasons for decisions

Councillors must give reasons when required to by the law or by any council procedures.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Councillors' interests

The Nolan principle of integrity is based upon protecting the public interest. Where there is undue influence on a public office-holder, including through conflicts of interest, this can lead to decisions which are not made in the public interest.

Integrity: Holders of public office must avoid placing themselves under obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

A system for managing conflicts of interest should distinguish between the requirements for *registering* interests and *declaring or managing interests*. Not all interests that are registered would necessarily present a conflict such that they would need to be managed. Equally, a councillor may have a very specific conflict of interest in relation to a matter, which it would be disproportionate to register given the improbability of that conflict arising in the future.

38 Available online at: <https://www.plymouth.gov.uk/sites/default/files/Code%20of%20Conduct%20and%20Rules%20of%20Debate.pdf>

The purpose of a register of interests is to make transparent an individual's financial and non-financial interests and relationships that are the most likely to lead to a potential conflict. This includes for example, paid employment, significant investments, trusteeships, and directorships. This enables an individual to be held to account for the way in which they manage these interests where necessary.

An interest needs to be managed only where it is reasonable to suppose that an individual's participation in a discussion or decision could be unduly influenced by a particular relationship or personal interest.

How an interest should be managed depends on three factors: the degree of involvement of the individual in the decision or discussion; how directly related the interest or relationship is to the decision or discussion in question; and how significant the interest or relationship is to the individual. Where these factors are minor, then simply declaring the interest may be sufficient. Where the factors are significant, an individual should recuse themselves from the discussion and decision; and should leave the room in the most serious cases.

Where the arrangements necessary to manage an interest or relationship prevent the individual properly from discharging their role (for example, if restrictive arrangements would very regularly have to be put in place), then either the interest should be disposed of or the role relinquished.

The Disclosable Pecuniary Interests (DPI) arrangements

The evidence we have received is that the current Disclosable Pecuniary Interests (DPI) arrangements are not working: the requirements for declaring and managing interests are too narrow; they are unclear both to councillors and the public; and they do not require the registration of important interests such as unpaid directorships and gifts and hospitality.

Strengthening and clarifying the system for declaring and managing interests is all the more important in light of increasingly complex decision-making in local government. To ensure and to demonstrate openly that the principle of integrity is being upheld, it is important to have comprehensive and robust arrangements in place for managing potential conflicts of interest.

We appreciate that the DPI requirements as set down in the Localism Act 2011 and in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are drafted in such a way that a breach of those requirements constitutes a criminal offence. However, as we explain in chapter 4, we have concluded that the criminal offences in the Localism Act 2011 are not fit for purpose and we recommend that they should be repealed. Our conclusions and recommendations in this section therefore do not take these offences into account.

Registering interests

The requirements for a register of interests should be based on the principle we lay out above, that the purpose of a register is to make transparent those interests and relationships which would be most likely to lead to a conflict of interest.

Currently, local authorities are required by law only to make arrangements for registering and declaring pecuniary interests of a councillor and their spouse or partner.

The current list contains manifest omissions such as hospitality deriving from a councillor's position, unpaid employment (including directorships), interest in land outside of a council's area, pecuniary interests of close family members who are not spouses, and memberships of lobby or campaign groups.³⁹

Cornerstone Barristers

We received evidence from a number of legal practitioners and local authorities to suggest that the current list of interests required to be registered is drawn too narrowly.

The narrow requirements of the current law are partly a result of the DPI regime not distinguishing between requirements for registering interests on the one hand, and for declaring and managing interests on the other, which we address below.

Pecuniary interests

Currently, councillors must register their and their spouse or partner's pecuniary interests within the following categories:

- employment, office, trade, profession or vocation carried on for profit or gain
- sponsorship towards election expenses or expenses incurred in carrying out duties as a member
- contracts between the authority and the individual, or a body in which the individual has a beneficial interest
- land in the local authority's area
- securities where the firm has land or a place of business in the local authority's area, and the holding is worth more than £25,000 or the individual holds more than 1% of share capital
- licences to occupy land in the local authority
- corporate tenancies where the landlord is the local authority

Based on the evidence we received, the current list of pecuniary interests required to be registered is satisfactory.

Non-pecuniary interests

Local authorities are not required by law to include specific non-pecuniary interests on their register of interests, although many do so. The Committee's sampling of codes of conduct found most codes had a provision on registering and declaring non-pecuniary interests, although there was some variation in what was required. Four codes out of twenty had no provisions relating to non-pecuniary interests. Some had a broad provision of

39 Written evidence 281 (Cornerstone Barristers)

declaring when a matter might affect a councillor more than the majority of people in the affected area. One authority required councillors only to declare if they were a member of a trade union. Most opted for a form of words that included any management roles in a charity, a body of a ‘public nature’, or an organisation seeking to influence opinion or public policy. Some codes created a category of personal interests or other interests (some of which pecuniary) which, whilst not registrable, should be declared under certain circumstances.

Where councils only comply with the disclosable pecuniary interest requirements and a code of conduct that does little more than comply with the Nolan Principles, it was felt that the regime was too light touch to maintain public confidence.⁴⁰

Mid Sussex District Council

The purpose of a register is to make transparent those interests and relationships which would be most likely to lead to a conflict of interest. Based on this principle, two additional categories of interests should be required to be included in a local authority’s register of interests. First, relevant commercial interests of a councillor and their spouse or partner which may be unpaid – for example, an unpaid directorship (even if non-executive). Secondly, relevant non-pecuniary interests of a councillor and their spouse or partner such as trusteeships or membership of organisations that seek to influence opinion or public policy.

As members increasingly become involved in voluntary and third sector bodies, the issue of conflicts is more prominent and it is not a matter in respect of which there is adequate provision in the code of conduct [...] although there are some provisions within the Localism Act in relation to predetermination it is not considered that it is adequately dealt with in the ethics context beyond DPis.⁴¹

London Borough of Croydon

At a local level, it is perhaps even more likely that non-pecuniary interests – for example, being an unpaid trustee of a local sports club – would lead to a conflict of interest than a councillor’s ordinary paid employment. As the Monitoring Officer of Camden Council stated in evidence to us: “[...] we expect that the public would consider that a member who was a long-serving unpaid trustee of a charity may not be able to consider a potential grant award by the council to the charity entirely fairly and objectively”.⁴²

As we explain in more detail below, the test for whether a councillor should have to register an interest should nevertheless be separate from the test for whether a councillor should have to withdraw from a discussion or vote. Under our recommendations, even if a councillor would have to register an interest for the sake of transparency, they would not have to withdraw from a discussion or vote unless there was a conflict of interest, based on the ‘objective test’ in recommendation 7 below.

40 Written evidence 50 (Mid Sussex District Council)

41 Written evidence 166 (London Borough of Croydon)

42 Written evidence 151 (Andrew Maughan, Camden Council)

Recommendation 5: The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

Gifts and hospitality

Currently, there is no legal requirement for local authorities to maintain a gifts and hospitality register, nor for individual councillors to register or declare gifts and hospitality they receive as part of their role.

Most codes sampled by the Committee required councillors to register gifts and hospitality in some way. Six out of twenty of the codes sampled had no provision for this. Among codes providing for a gifts and hospitality register, there was variation in the value threshold, which was variously set at £25, £50, or £100. Gifts and hospitality were also treated in a number of different ways: some codes established a straightforward register, some stated that gifts or hospitality were an ‘other interest’ which should be registered alongside non-pecuniary interests, and others defined the giver of a gift or hospitality over a certain value effectively as an ‘associate’ of the councillor, whose interest should be declared if a matter would affect them.

In London, we found £79,000 had been spent by more than 200 developers, lobbyists and others involved in the property industry on 723 lunches, dinners and all-expenses paid trips for 105 councillors.⁴³

Transparency International UK

The Committee has seen evidence that the accessibility and timeliness of local authorities’ registers of interest varies widely. Many are reported in a non-standard format, and some registers are not updated for long periods. Independent oversight and inspection is important to maintaining high ethical standards, and local authorities should facilitate this by ensuring that their registers are accessible to those who would wish to inspect them.

We are also concerned about the use of high thresholds for reporting gifts and hospitality even where registers exist. An individual threshold of £100 could allow a councillor to accept significant gifts and hospitality from a single source on multiple occasions, without needing to register the fact that they have done so. £50 is the registration threshold for gifts or donations during election campaigns, which would then provide a consistent declaration threshold both during and outside election periods.⁴⁴

Recommendation 6: Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

⁴³ Written evidence 315 (Transparency International UK)

⁴⁴ Available online at: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/141773/ca-part-3-locals-ew.pdf, 20

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

We are aware of helpful guidance from the Cabinet Office for civil servants on the broader principles surrounding gifts and hospitality. They propose three principles that should guide whether an individual should accept gifts or hospitality:

Cabinet Office principles for accepting gifts or hospitality

- Purpose – acceptance should be in the interests of departments and should further government objectives.
- Proportionality – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation may lead to an impression that the organisation is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider.
- (Avoidance of) conflict of interest – officials should consider the provider’s relationship with the department, whether it is bidding for work or grants or being investigated or criticised, and whether it is appropriate to accept an offer from a taxpayer-funded organisation.⁴⁵

The principles of proportionality and avoiding conflicts of interest are particularly important to safeguard the principle of integrity.

The Committee has considered the issue of gifts and hospitality offered by lobbyists in particular, in its report *Strengthening transparency around lobbying*. We concluded that public officer holders accepting significant gifts and hospitality “[...] risks creating a conflict of interest by placing them under an obligation to a third party, which may affect them in their work including when they take decisions, which is relevant to the Nolan principle of integrity”.⁴⁶

In February 2018, it was reported in the press that the chairman of Westminster City Council planning committee received gifts and hospitality 514 times in three years, worth at least at a total of £13,000. The councillor subsequently stood down following an internal inquiry.

The evidence we have received suggests that acceptance of gifts and hospitality is of most concern when it comes to planning. Planning is an area of decision-making where a small number of councillors can have a significant impact on the financial interests of specific individuals or firms. Councillors involved in planning decisions should therefore generally not accept over-frequent or over-generous hospitality and should always ensure that acceptance of such hospitality does not constitute a conflict of interest.

45 Cabinet Office (2010), *Guidance on civil servants receiving hospitality*. Available online at: <https://www.gov.uk/government/publications/guidance-on-civil-servants-receiving-hospitality>

46 Committee on Standards in Public Life (2013), *Strengthening transparency around lobbying*, 3.18

Partner and family interests

Under the DPI arrangements, any relevant pecuniary interests of a councillor’s spouse or partner are considered as a DPI of the councillor.

We heard concerns during the review that the DPI arrangements infringe on the privacy of a councillor’s spouse or partner. We recognise these concerns, though note that, where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

Under the Localism Act 2011, however, councils are not required to register spouse or partner interests separately from those of the councillor, although many do so. The DCLG guidance on DPIs states that: “[...] for the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is your disclosable pecuniary interest. Whilst the detailed format of the register of members’ interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.”⁴⁷

Declaring and managing interests

The evidence we received suggests that the DPI requirements for declaring and managing interests are currently unclear. The current wording in the Localism Act 2011 requires that a councillor must not participate in a discussion or vote in a matter (or take any further steps in relation to it) where they are present at a meeting and they have “[...] a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting”. The test of having a ‘disclosable

pecuniary interest *in* any matter’ is ambiguous, as strictly speaking under the Act a councillor’s DPI is the employment, land, or investment (for example) itself. The Act does not specify how closely related an interest must be to the matter under consideration to count as an interest ‘in’ that matter. Recent case law has not settled this issue decisively, which means that there is little authoritative guidance for councillors or those who advise them.

Despite the regulations and DCLG guidance, there is still a dispute regarding what would be a Disclosable Pecuniary Interest – for example, in situations where the interest is the subject of the meeting or affected by the decision – such as in planning applications. This can make declarations of interests problematic.⁴⁸

North Hertfordshire District Council

The fundamental problem is in the wording of the Localism Act which requires members to declare interests (and not participate at meetings) when they have a DPI ‘in any matter to be considered at a meeting’. Under the former regime, the situation was much clearer as an interest arose where where a matter under consideration ‘relates to or is likely to affect’ the interest, thus creating a nexus between the item of business and the incidence of interest. This nexus is absent from the Localism Act regime and it creates significant uncertainty as to when a DPI exists in certain situations.⁴⁹

Ashford Borough Council

47 Department for Communities and Local Government (2013), Openness and transparency on personal interests: A guide for councillors

48 Written evidence 22 (North Hertfordshire District Council)

49 Written evidence 138 (Ashford Borough Council)

The current declaration and withdrawal requirements are also too narrow. Currently, a councillor would not need to declare an interest or recuse themselves where a close family member was affected by a decision, nor a close associate (whether a personal friend or a business associate). This should be addressed by a more demanding test for declaring and managing interests, separately to registration requirements.

We have seen that the standards arrangements in Scotland, Wales and Northern Ireland usually rely upon an ‘objective test’ for determining whether an interest needs actively to be managed (for example, the individual recusing themselves).

Tests for actively managing interests in the devolved codes

Scotland

“Whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.”⁵⁰

Wales

“[...] if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.”⁵¹

Northern Ireland

“An interest will be considered significant where you anticipate that a decision on the matter might reasonably be expected to benefit or disadvantage yourself to a greater extent than a other council constituents.”⁵²

(Councillors must also declare any registered interest in a matter under consideration.)

We propose the introduction of an objective test, in line with practice in Wales and Scotland, for whether a councillor should recuse themselves from a discussion or vote. We heard from the Standards Commission for Scotland and the Public Service Ombudsman for Wales that this test works well in practice. We note that a practical division between the requirements for registering interests and managing interests, with an objective test for the latter, is in line with the categories of personal and prejudicial interests under the

50 Scotland Code of Conduct for Councillors, para 5.3

51 The Local Authorities (Model Code of Conduct) (Wales) Order 2008, Schedule, section 12

52 Northern Ireland Local Government Code of Conduct for Councillors, para 6.3

Local Government Act 2000. We heard that officers and councillors generally considered these to be clearer and easier to understand than the DPI arrangements.

In line with the principles we set out for declaring and managing interests above, councillors should declare an interest where an interest in their register relates to a matter they are due to discuss or decide upon, but they do not need to recuse themselves unless the objective test is met.

We note that section 25 of the Localism Act 2011, which draws a firm distinction between predisposition and predetermination, is relevant to the participation of councillors in certain decisions or votes. A councillor should not be considered to have a significant interest in a matter, and therefore have to withdraw from a discussion or vote, just by virtue of having previously expressed a prior view, even a strong view, on the matter in question. This includes if they are, for example, a member of a relevant campaigning group for that purpose.

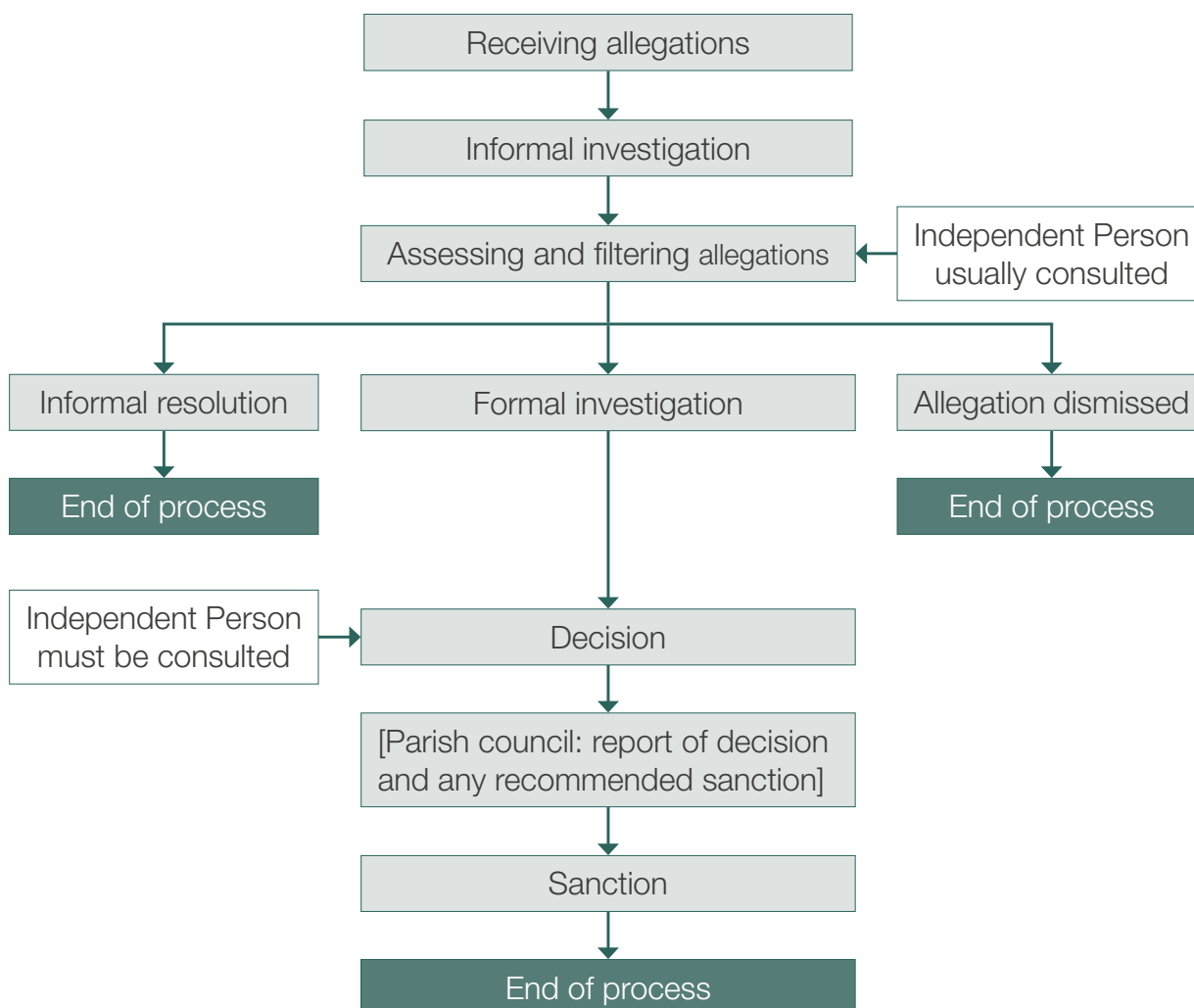
Recommendation 7: Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision-making in relation to that matter”.

Chapter 3: Investigations and safeguards

Investigations

An authority must have an effective, fair, impartial, and transparent complaints and investigation procedure, in which both councillors and the public can have confidence. Sanctions should be imposed in a consistent way, and only where there is a genuine breach.

The current investigation process



Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

An investigation process needs to be proportionate and fair. The process must have an independent element as a check on the impartiality of decision-making. The more significant the sanctions that can be imposed, the more robust the independent element needs to be in order to safeguard the fairness of the process. At the moment, this element is primarily fulfilled by the Independent Person. Whilst the Monitoring Officer has the power under current legislation to investigate and make decisions on allegations, many principal authorities have standards committees to decide on allegations and impose sanctions.

Filtering complaints

The Monitoring Officer usually filters complaints about councillor conduct and judges if the complaints are trivial or vexatious, or whether they should proceed to a full investigation. Usually this filtering is based on the judgment of the officer, often against a formal policy, though the Monitoring Officer may seek the advice of an independent person or members of a standards committee when they do so.

The standards bodies in Scotland, Wales and Northern Ireland all make use of a ‘public interest’ test when filtering complaints. These tests set clear expectations to those making complaints and ensure consistency of approach. The tests do not necessarily need to be detailed. For example, the Northern Ireland Local Government Commissioner for Standards provides a simple two-stage test, which asks whether they ‘can’ investigate the complaint, and whether they ‘should’.

Northern Ireland Local Government Commissioner for Standards public interest test

1 ‘CAN’ we investigate your complaint?

- Is the person you are complaining about a councillor?
- Did the conduct occur within the last six months?
- Is the conduct something that is covered by the code?

2 ‘SHOULD’ we investigate your complaint?

- Is there evidence which supports the complaint?
- Is the conduct something which it is possible to investigate?
- Would an investigation be proportionate and in the public interest?⁵³

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Safeguards

A certain level of independent oversight is crucial to any standards arrangement. The inclusion of an independent element in the process of deciding on code breaches is important to ensure that the process is fair and impartial, and that councillors are protected against politically-motivated, malicious or unfounded allegations of misconduct.

53 Available online at: <https://nipso.org.uk/nilgcs/making-a-complaint/how-we-deal-with-your-complaint/>

In the current local government standards system, this element is provided by the Independent Person. We believe that this safeguard should be strengthened and clarified. Other safeguards should also be put in place to ensure the fairness of the process, by enabling independent members of standards committees to vote, and a provision for councillors to appeal a decision to suspend them following the finding of a breach.

Our councillors feel safe with the standards committee because they know any allegation will be dealt with fairly and impartially. As group whips, we know that if something goes through the process it will have the confidence of our members.⁵⁴
Cllr Dan Cohen, Leeds City Council

Independent Persons

The role of the Independent Person has become a distinctive office in its own right. The provisions in the Localism Act 2011 give councils considerable flexibility over what sort of person performs the role (with only the criteria for ‘independence’ specified) and how the role is performed, subject to the requirement that their views must be able to be sought by members and complainants and that their views must to be sought and taken into account before deciding on an allegation that has been subject to a formal investigation.

We have met some exceptional Independent Persons in the course of our review, who give their time and expertise to maintain high standards in local authorities. We have been impressed by the diligence and commitment of those we have met. The role is often unpaid or subject to a nominal payment or honorarium.

The Independent Person has no formal powers, and whilst their views must be ‘taken into account’, they do not have a decisive say on the outcome of an investigation. As such, the nature and effectiveness of the role in any individual instance depends both upon the appointee and the attitude of the local authority.

The title ‘Independent Person’ creates a false impression with the public, who believe that I have real decision-making powers. In reality I have no powers at all, the role is wholly advisory and weak [...]⁵⁵
Richard Stow, Independent Person

We have seen a number of different approaches taken by local authorities and by the office-holders themselves towards the Independent Person rules. Some are simply consulted as required over email by a Monitoring Officer, or attend standards committees in an observer capacity; others play an active role in reviewing an authority’s code or processes, offering training to councillors or even forming an authority-wide ethics panel to advise on all aspects of ethical practice and decision-making.

Regardless of the approach taken, it is clear that a positive relationship with the local authority’s Monitoring Officer is crucial to being able to perform the role effectively. This relationship involves a mutual recognition of roles: on the one hand, recognising that the Monitoring Officer has specific responsibility and accountability for the standards process in an authority, and on the other that the Independent Person can bring a valuable external and impartial perspective that can assure and enhance the fairness of the process.

54 Cllr Dan Cohen, Visit to Leeds City Council, Tuesday 18 September 2018

55 Written evidence 209 (Richard Stow)

We do agree that the Independent Persons provide a valuable objective voice in the standards process. It is incredibly useful for the Monitoring Officer to have this support and advice from an external perspective, and it offers a great opportunity for local residents to bring a wide variety of experience and expertise to the process.⁵⁶

London Borough of Sutton

Local authorities use Independent Persons in different ways, and we have seen evidence of a range of good practice. Many authorities will appoint two or more Independent Persons. Some authorities will, in any given case, have one Independent Person offer a view to members or complainants, and another to offer a view to the local authority, so as not to be in a position where they may be forced to prejudge the merit of an allegation. Other authorities will consult with one Independent Person on whether to undertake a formal investigation, and another to advise on that investigation. Many local authorities consult an Independent Person at all points of the process, including when filtering complaints.

Best practice 7: Local authorities should have access to at least two Independent Persons.

We heard that many Monitoring Officers appreciate the impartial view that the Independent Person can offer, both to improve the quality of decision-making itself and as a visible check on the process to reassure councillors and complainants that their decisions are made fairly. We have also heard evidence, however, of councils failing to make

good use of their Independent Person, and of an antagonistic or dismissive attitude towards their role.

The evidence we received suggests that the Independent Person role needs to be clarified, strengthened, and better supported.

The years since the passage of the Localism Act have seen a more defined role for the Independent Person emerge. This role should now be formalised. In our view, an Independent Person needs not just to be independent according to the requirements of the Localism Act 2011 but should also show an ability to:

- offer authoritative and impartial advice
- maintain independence in a politically sensitive environment
- gain the confidence of councillors, officers, and the public
- make decisions on an impartial basis, grounded in the evidence
- work constructively with the local authority and senior officers

The Independent Person should be seen primarily as an impartial advisor to the council on code of conduct matters. They should provide a view on code of conduct allegations based on the evidence before them, and whilst being aware of the political context, should be politically neutral. Local authorities should make use of their perspective and expertise when reviewing their code of conduct and processes. Their advice should also be able to be sought from subject members and members of the public, in line with the requirements of the Localism Act.

56 Written evidence 311 (London Borough of Sutton)

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

The role should also be strengthened. Security of tenure is important in order to protect Independent Persons from being removed from their role for unpopular advice or recommendations. Equally, however, restricted tenure can ensure that the Independent Person’s judgment and independence is not compromised by a long period of involvement in a single authority.

There is a tendency to recruit IPs on a four-year basis and that is eminently sensible; it makes it less possible for IPs to be accused of becoming too close to council members. I think it is important to ensure that IPs are seen as remaining independent and continuing to reach their own conclusions on issues where their views are sought.⁵⁷

**Dr Peter Bebbington,
Independent Person**

We therefore recommend that Independent Persons should be appointed for a fixed term of two years, with the option of a single re-appointment. The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory.

Recommendation 8: The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Currently, there is no requirement for the Independent Person’s view on a case to be formally recorded, for example, in a formal decision issued by the Monitoring Officer or a standards committee. Whilst there may be reasons that the decision-maker ultimately reaches a different view from the Independent Person, the safeguard that they provide would be stronger if their view was always made transparent.

Although the law requires them to give views on matters under investigation and for the council to have regard to those views, in practice they are often invisible from the process to an outsider – the public whom they are meant to represent. It is not clear to us where their views are published so that the public can have confidence that the council has had regard to them and that the process has been independently verified.⁵⁸

Hoey Ainscough Associates

Recommendation 9: The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

⁵⁷ Dr Peter Bebbington, Roundtable, 18 April 2018

⁵⁸ Written evidence 212 (Hoey Ainscough Associates)

Were councils to be given the ability to suspend councillors, as we recommend in chapter 4, more safeguards would need to be put in place to ensure that this sanction is imposed fairly and that councillors are properly protected from potential misuse of the standards process. We suggest that the Independent Person would have to confirm that, in their view, a breach of the code had taken place, and that they agree that suspension would be proportionate, in order for the local authority to impose suspension for that breach.

Recommendation 10: A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.

We have noted recent First Tier Tribunal cases⁵⁹ which have found that it will often be, on balance, in the public interest to disclose the view or advice of the Independent Person under the Freedom of Information Act 2000. As above, we support the Independent Person's advice being made public, which could enhance openness and accountability. However, we are concerned that Independent Persons would not automatically enjoy indemnity if a councillor or member of the public were to take legal action against them, in the same way that a member or officer of an authority would. Local authorities should take steps to provide legal indemnity to Independent Persons if their views are disclosed, and the government should confirm this through secondary legislation if needed.

Recommendation 11: Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

We have seen the benefits of strong networks among Monitoring Officers and senior officers, in order to share best practice, undertake professional development, and learn from each other's experiences. We would support the creation of a network of Independent Persons, which, despite the potential benefits it could offer, is currently lacking at present.

59 Bennis v ICO & Stratford [2018] UKFTT 2017_0220 (GRC)

Strengthening and clarifying the role of the Independent Person

Current role	Proposed role
No role specification	Clarified role specification
No requirements for term	Fixed-term appointment, renewable once
Required only to be consulted by the authority on an allegation subject to a formal investigation	Best practice also includes being consulted on allegations the MO is minded to dismiss, and on whether to undertake a formal investigation
No formal powers	Must agree with the finding of a breach and that suspension is proportionate for a councillor to be suspended
No disclosure requirements	The view of the IP is recorded in any formal decision notice or minutes
No legal protection	Legal indemnity provided by local authority

Standards committees

Under the Localism Act 2011, local authorities are not required to have standards committees to adjudicate on breaches and decide upon sanctions, but a large number of authorities in England choose to do so.

Local authorities should maintain a standards committee. A standards committee can play a role in deciding on allegations and sanctions, or in monitoring standards issues in the local authority and reporting back to full council, or a combination of these.

We have come across a range of different ways in which standards committees operate as part of our review. Leeds City Council produce a valuable annual report to council from the standards committee. Cornwall Council include representatives from town and parish councils and a town clerk, in addition to independent members and members of the principal authority. The Independent Persons who observe the Uttlesford District Council

standards committee have also led training workshops and the redrafting of the code of conduct. Each of these, in their own way, harness the knowledge and observations of the standards committee to elevate issues or significant trends to the notice of the council.

Under the current legislative framework, a standards committee may be advisory (only advising the council as a whole on what action to take, and unable by itself to exercise any of the council's formal powers) or decision-making (having the council's formal powers to decide on allegations and to impose sanctions where a breach is found delegated to it). If the standards committee is a decision-making committee, it is permitted to have independent members (members who are not councillors) appointed to it, but those members are not allowed to vote. Advisory standards committees may have voting independent members. Under the current legislation, Independent Persons in an authority cannot also be members of its standards committee.⁶⁰

⁶⁰ Localism Act 2011, sections 27(4) and 28(8)

A number of respondents to our consultation considered that the system would be strengthened by allowing independent members of decision-making standards committees to vote. We suggest that the current requirements for an Independent Person, with the necessary amendments, should apply to such members (that the individual is not a member, not otherwise co-opted on to a committee of the authority, not an officer in the authority or a dependent parish within the last five years, nor a relative or close friend of such an individual).

The Member Conduct Committee at Wychavon is broadly happy with the existing processes and structures, but feels that it was a retrograde step to remove the voting rights of independent members, who are a cornerstone of an objective conduct committee. The committee would also suggest that the ability to invite parish council representatives to take part in investigations should be restored.⁶¹

Wychavon Borough Council

We have also seen evidence of the advantages of including parish representatives on standards committees, who under the current arrangements, could not be voting members unless on an advisory committee. Including parish representatives on a principal authority standards committee can build a more effective relationship between their respective councils and enable the committee to take the perspective and views of the parish into account.

Recommendation 12: Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

Even where a local authority includes independent members on a standards committee, they would still be required to retain an Independent Person. In line with our best practice above, although the independent members of standards committee would enhance the independence of a formal decision-making process on an allegation, an Independent Person would still be required to advise subject members on allegations and advise the Monitoring Officer on allegations they are minded to dismiss and on whether to undertake a formal investigation.

Appeals and escalation

A means of appeal is an important aspect of natural justice, and as a safeguard for councillors to ensure that the standards process operates fairly and impartially. Whilst the Local Government and Social Care Ombudsman (who we refer to as the “Local Government Ombudsman”) can consider complaints about the investigation and decision process followed by a local authority where there is evidence of injustice, there is currently no means of appeal against the finding of a breach by a local authority within the local government standards system.

A formal appeal system would be disproportionate in relation to the most commonly imposed sanctions, such as censure or training. However, we recommend

61 Written evidence 211 (Peter Purnell)

in chapter 4 the introduction of a power to suspend councillors for up to six months. As an aspect of natural justice, such a sanction would require a right of appeal.

The lack of a right of appeal (either by the complainant/subject member) is often criticised.⁶²

Lawyers in Local Government

We have considered a range of options for how a right of appeal could be included within the local government standards arrangements, including internal appeals within a principal authority. However, we consider that an appeals process should ideally be independent. As we set out in chapter 1, we do not believe that a new, external standards body should be created, and so consider that giving a role for appeals to the Local Government Ombudsman would be the most appropriate way to enable an independent, external appeal process.

If these more serious sanctions were available to standards committees, we accept that this could require some kind of external/independent appeal process to be available to the member complained about. This could be organised through the LGA or regional associations such as London councils, and need not require a return to the much criticised national statutory arrangements of the Standards Board, although some additional resource would be required. An alternative would be for the Ombudsman to consider or hear appeals if they met a certain threshold, as we understand the Welsh LGO does in their role.⁶³

London Borough of Sutton

Currently, the Local Government Ombudsman can investigate a local authority's decision-making process in undertaking a standards investigation or imposing a sanction on grounds of maladministration where there is some evidence of injustice, for example, if there is an unreasonable delay or evidence of a conflict of interest. This avenue is open both to complainants and to subject councillors. The Ombudsman could then recommend a remedy to the local authority (though this is not legally enforceable). The Local Government Ombudsman stated in evidence to us that it has investigated the standards process in a local authority in a small number of cases, usually recommending a remedy of re-running a standards investigation.⁶⁴ This is an under-appreciated safeguard within the current system.

Common issues with local authority standards processes considered by the Local Government Ombudsman⁶⁵

- unreasonable delays in councils taking action to investigate a complaint
- councils failing to take into account relevant information in reaching its decision
- councils not following their own procedures in investigating the complaint (e.g. not involving an independent person) or not having proper procedures in place

The Ombudsman cannot, however, adjudicate on the substantive question of whether a breach actually took place and what the appropriate sanction would be, as this lies outside their remit.

62 Written evidence 228 (Lawyers in Local Government)

63 Written evidence 311 (London Borough of Sutton)

64 Written evidence 126 (Local Government and Social Care Ombudsman)

65 Written evidence 126 (Local Government and Social Care Ombudsman)

Our powers enable us to investigate the council's handling of the complaint, and where there is evidence of injustice, we will be able to make recommendations for how the issues can be remedied. However, we cannot consider the substantive issues that form the complaint itself and do not provide a right of appeal against a council's decision whether there has been a breach of standards of conduct.⁶⁶

Local Government Ombudsman

The Local Government Ombudsman indicated in evidence to us that they considered that adjudicating on substantive standards issues would complement their existing work. Given that standards failings are often linked to broader institutional issues, giving the Ombudsman a greater role in considering ethical standards issues could improve their oversight of the sector as a whole.

In order to provide a genuine appeal function, the Ombudsman's decision would need to be legally binding on the local authority – rather than a non-binding recommendation, which is the formal status of the Ombudsman's decisions on cases of maladministration. This would likely require a separate legislative basis. We note that the Public Service Ombudsman for Wales also has a separate legislative basis for their investigations into breaches of the code of conduct to their broader ombudsman role.

In order to ensure that the appeal function would be used proportionately, we consider that it should only be available for councillors who have had a sanction of suspension imposed. The right of appeal should be time-limited, and the Ombudsman should issue

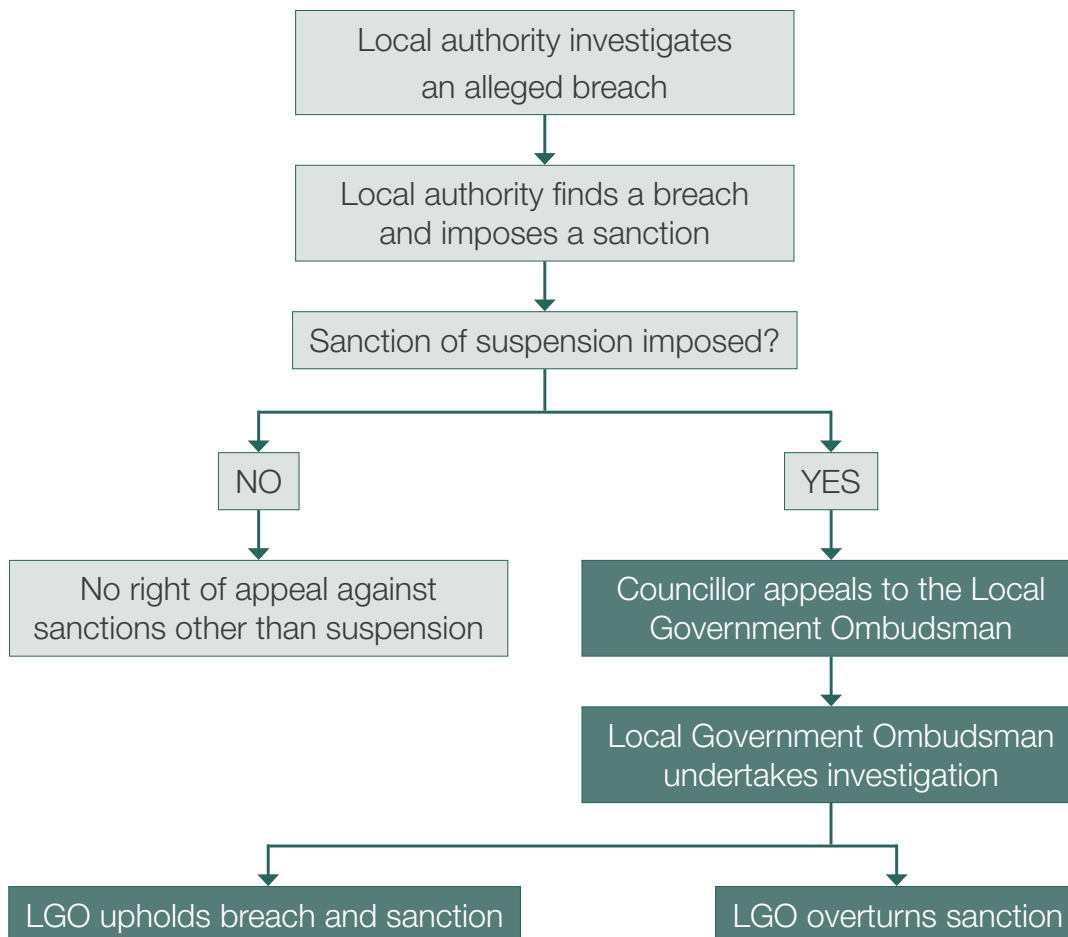
a decision within a specified, reasonable timeframe. The Ombudsman should be able to apply their own public interest test in deciding whether to investigate a case on appeal by a councillor. Complainants should not be permitted to appeal against a finding, but, as now, could complain to the Ombudsman on grounds of maladministration if they consider that the process followed was flawed; if, for example, there was evidence that was provided that was not taken into account.

Whilst the Ombudsman's remit does not extend to town and parish councils, under the Localism Act, sanctions can only be imposed on parish councillors following the finding of breach and a recommended sanction by the principal authority, which we recommend below should become a binding decision by the principal authority. We therefore consider that parish councillors who are subject to a suspension should be able to appeal to the Local Government Ombudsman as the decision is taken by a principal authority, who already fall within the Ombudsman's remit.

The role of the Local Government Ombudsman would then be similar, on the one hand, to the role performed by the Adjudication Panel for Wales, which hears appeals of decisions by local standards committees; and on the other, to the Public Service Ombudsman for Wales and the Northern Ireland Public Services Ombudsman who have a combined local government standards and local government ombudsman role. A role limited to appeals against a decision to impose a period of suspension would mean that local authorities would retain primary responsibility for local standards and would avoid the creation of a centralised standards body.

66 Written evidence 126 (Local Government and Social Care Ombudsman)

Proposed appeals process



Recommendation 13: Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

The Nolan principle of openness demands that councils should be taking decisions, including decisions on standards issues, in an open way. The experience of the Committee is that whilst transparency does not automatically increase public trust in a process, it is nevertheless essential to enabling public scrutiny and accountability.

Recommendation 14: The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

We have seen examples of both good and bad practice in how open councils' standards processes are. The best examples involved a single, easily accessible page on an authority's website explaining in straightforward terms how a member of the public can make a complaint under the code of conduct, what their complaint needs to include, the process for handling complaints, and the expected timescales for investigations and decisions. That page would also include links to recent decisions on allegations that came before the standards committee.

Promoting openness and transparency

Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Openness and transparency are important secondary safeguards, to ensure that the process can be scrutinised by other councillors and by the public. We heard evidence that many councils do not publish data and decisions on standards issues in a regular or open way. Councils should be free to make their own arrangements for whether they maintain a public list of pending investigations. However, councils should be recording allegations and complaints they receive, even if they do not result in an investigation, and should certainly publish decisions on formal investigations.

Recommendation 15: The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Avoiding legalisation

It is vital to get the balance right between the privileges and responsibilities of democratic representatives. Whilst councillors have a responsibility to uphold high standards, in particular by upholding their council's code of conduct, it would be concerning if they could easily be made subject to an expensive legal process, which could then make the standards system open to misuse. The standards arrangements in England should therefore remain based on 'lay justice', where the requirements and processes are sufficiently clear and straightforward so that no councillor subject to an investigation would be disadvantaged by lacking formal legal representation.

Updating and clarifying the Localism Act 2011 to address the practical problems of interpretation that have come to light in recent years – particularly regarding conflicts of interests – would help in this regard, as would a greater role for the Local Government Ombudsman, by allowing councillors to appeal a sanction of suspension without having to resort to the civil courts for review or remedy.

More broadly, the focus should remain on individual local authorities maintaining high standards in their own councils. Councils need not be tied up with long-running standards investigations; they should put in place strong filtering mechanisms to make sure that only allegations with real merit begin a formal process of investigation. Likewise, use of the most serious sanctions should remain rare. For those subject to an investigation or sanctions process, councils should also provide clear, plain English guidance on how the process works and councillors' responsibilities within it.

Chapter 4: Sanctions

Any system designed to uphold standards of ethical behaviour needs to include ways to address and redress behaviour which falls seriously and/or repeatedly short of what is expected. Under the current arrangements when a councillor has been found to have broken the code of conduct there is no requirement to comply with remedial action. Whilst it is recognised that early, informal resolution of minor misdemeanours can be the most effective, the evidence we received demonstrated overwhelmingly that this lack of enforcement authority is a weakness in the system which may also deter genuine concerns being raised. The questions remain, however, as to what sanctions are appropriate and proportionate, and who should enforce them.

Throughout this review it has become clear that ethical principles must be embedded in organisational culture through training and leadership, and codes of conduct should guide the behaviour of individuals by spelling out what those principles require. When misconduct does occur, however, sanctions play an important role in maintaining standards.

Sanctions are also needed to give credibility to an ethical culture, so that the culture is not engaged with cynically or lightly. As one academic commentator on local government standards has pointed out, “[...] although there is a tension between ‘rules-based’ and ‘cultural’ strategies it does not follow that they are mutually exclusive. Rather, the challenge is to find the balance between a system that supports self-motivation and trust whilst still being credible in the face of examples of persistent misconduct and cynical motivation.”⁶⁷

As we have stated previously, “[...] people need to see poor behaviour punished as well as good behaviour rewarded, although it is, of course, better for people to internalise the principles behind the right behaviour, and to want to do the right thing, than to do so only because of the fear of getting caught and punished.”⁶⁸

The purpose of sanctions

Sanctions serve four purposes in a standards framework: motivating observance of standards arrangements, deterring damaging behaviour, preventing further wrongdoing, and maintaining public confidence.

Sanctions help to ensure that individuals engage with an ethical standards regime. Our predecessor Committee noted in its first report that “[...] unless obligations are routinely and firmly enforced, a culture of slackness can develop with the danger that in due course this could lead on to tolerance of corruption”.⁶⁹ In this review we heard of a small but significant number of individual councillors who appeared to have no respect for a standards regime without cost or consequence and whose continued poor behaviour demonstrated their ‘opting out’.

Punitive sanctions can act as a deterrent to behaviour which is seriously damaging to the public interest. Sometimes a lapse in good conduct can be a genuine oversight, often due to lack of understanding or awareness, and any sanction should be appropriate and proportionate. But the more damaging behaviour requires a greater deterrent, particularly where it brings local democracy into disrepute or otherwise harms the public good.

67 Stephen Greasley (2007) “Maintaining ethical cultures: Self-regulation in English local government”, *Local Government Studies*, 33:3, 451-464

68 Committee on Standards in Public Life (2013), *Standards Matter*, Cm 8519, 4.25

69 Committee on Standards in Public Life (1995), *Standards in Public Life*, Cm 2850-I, para 97

Some sanctions are needed to prevent further wrongdoing where a breach occurs. These sanctions will typically involve curtailing or restricting an individual's activity in relation to council business, especially where the form of the breach suggests that a repeat offence is likely, or where council business would be inhibited by an individual's continued involvement.

The credibility of any standards regime is undermined without the option to resort to sanction when needed. Sanctions help to maintain public confidence that something can be done when things go badly wrong. When used correctly, the application of appropriate sanctions give reassurance that the expectations of the public of high standards of conduct are being observed, and that wrongdoing is taken seriously. Public confidence will, however, only be maintained if sanctions are sufficient to deter and prevent further wrongdoing, and are imposed fairly and in a timely way.

The current sanctions arrangements

The Localism Act 2011 removed the ability for councillors to be suspended or disqualified (except for the statutory disqualification requirements which we discuss below). As a result, councils have become increasingly creative in their approach to using sanctions. Sanctions used by local authorities include censure, apology and training, as well as the removal from committee responsibilities by a party and in some cases, the withdrawal of access to facilities and resources (for example laptops or unescorted building passes). However, sanctions which ban members from council premises usually require cross-party support and are typically only considered appropriate in response to threatening behaviour such as bullying council officers.

The evidence we received suggests that the lack of serious sanctions, such as suspension:

- prevents local authorities from enforcing lower level sanctions, such as training or apology. When councillors refuse to apologise or to undergo training, the only route open to councils is to publicise the breach and the refusal.
- damages the public credibility of the standards system. Members of the public who make code of conduct complaints but do not see a significant outcome even where a breach is found would be justifiably frustrated that the standards system is not dealing with misconduct in a robust or effective way.
- makes the cost and resources of undertaking an investigation disproportionate in relation to sanctions available. We have heard evidence that Monitoring Officers resist undertaking standards investigations where possible, due to the significant cost, where a likely sanction may only be censure or training. We have also heard some evidence that members of the public do not make formal complaints as they do not consider the effort worthwhile given the limited outcomes available.
- gives local authorities no effective means of containing reputational damage or preventing recurrence, for example, in the case of disclosure of confidential information or bullying of officials. We heard that the lack of effective sanctions is deeply frustrating for officers and councillors who want to maintain the effective running of a council and to maintain high standards of conduct.

The removal of the powers previously open to local authorities to suspend a councillor and the broader sanctions open to Standards for England has removed the teeth of the standards regime, particularly in relation to repeat offenders. This undermines public confidence in the standards regime, particularly in the eyes of complainants who may be left with the belief that a councillor found guilty of a breach has ‘got away with it’.⁷⁰

Tonbridge and Malling Borough Council

We do have good processes in place, but rarely use them due to the expense and time taken knowing that there is no significant sanction available at the end of the process to address serious issues. Councils simply cannot afford to enter into potentially long and costly processes unless it is clearly in the public interest. Time and money are key factors when they really should not be. As such, no-one achieves real satisfaction under the current standards regime.⁷¹

Taunton Deane Borough Council

It is the almost universal view of every council we have worked with that the limited range of sanctions available to councils is completely unsuitable for the worst cases and for serial misconduct.⁷²

Hoey Ainscough Associates

Press reports show continuing instances of bullying, insulting, offensive and inappropriate behaviour towards fellow members, public and officers. Even when action is taken, in the worst cases, the limited sanctions that can be imposed are ignored or even seen as a ‘badge of honour’... reports have historically shown how, if unchecked at the outset, a corrosive and demoralizing culture can quickly take hold.⁷³

David Prince CBE

Some councillors view low-level sanctions such as censure as a ‘badge of honour’, to indicate that they do not cooperate with the ‘established’ process, and may often not cooperate with sanctions in order to cause disruption to a local authority and the individuals within it.

Party group discipline

Political groups, where they exist, make use of their own internal disciplinary processes. These processes are used, for example, to enforce whipping, but also in response to breaches of ethical standards. The evidence we received suggested that these processes are used partly to fill the gap left by the lack of formal sanctions available to principal authorities.

70 Written evidence 24 (Tonbridge and Malling Borough Council)

71 Written evidence 131 (Taunton Deane Borough Council)

72 Written evidence 212 (Hoey Ainscough Associates)

73 Written evidence 31 (David Prince CBE)

In many places party discipline has effectively filled the void left by the council's lack of formal powers but in our experience this is patchy and too subject to political calculation, such as the effect on balance of power within an authority so cannot be relied upon to be consistent across the country.⁷⁴

Hoey Ainscough Associates

A political group is a group of any two or more councillors in a principal authority who formally notify the Monitoring Officer that they wish to be considered as a political group. Members of a political group do not have to be members of the same political party, though most councils will include groups from the main national political parties. The relative strength of numbers in political groups will determine the administration and opposition in a council.

Political groups will often undertake a whipping function, so that the group votes consistently on particular proposals (though this is not permitted in functions such as planning and licensing). They will exercise party discipline, both to enforce whipping and group rules, but also in response to poor behaviour by councillors.

The greatest sanctions appear to be informal sanctions issued by groups and leaders, in terms of, for example, removal from committees, other bodies, posts, and of the whip. Our strong view is that while in many cases political groups have acted on such bases, a standards framework that is reliant on the decisions of those groups to effect proportionate sanctions is not an effective one.⁷⁵

Andrew Maughan, Monitoring Officer, Camden Council

Under the legislation which governs council committees, the council allocates seats on committees to political groups in proportion to the relative sizes of the political groups within the council as a whole. The council is required to put the wishes of a political group into effect as far as possible when allocating individual councillors to committees from within that group. This means that in practice, political group leaders decide on committee appointments (although the wishes of a majority of group members would in theory take precedence). This is a significant power of patronage that can be used as part of a disciplinary process by parties. Groups may also remove individuals from other posts to which they have been nominated by their group; and a majority party may also take away portfolios or other special responsibilities.

We heard from political parties that the threat of suspension or expulsion from a group in particular can be an effective deterrent at the level of political group within a council.

Whilst political groups have a formal legal definition, in practice they are organised differently in different authorities. Some will be highly organised with a hierarchy of a leader, deputy leader and group whips, will have group discussions on a large number of matters that come before council, and enforce whipping through party discipline. Others will have a group leader also acting as a group whip, and may take a lighter-touch approach to group discussions or whipping. Independent groups, for example, are very likely to take a light-touch approach to whipping, or, indeed, may have independence from a whip as the central rationale for the group.

Party discipline can play a positive role in upholding ethical standards within a local authority. We heard that senior officers may

74 Written evidence 212 (Hoey Ainscough Associates)

75 Written evidence 151 (Andrew Maughan, Camden Council)

often make an informal approach to political group leaders if they have concerns over the behaviour of a member of that group. Internal party discipline, or even simply advice from a group leader, can be a useful means of moderating individuals' behaviour without needing to resort to the formal standards process. However, we also heard of instances where an approach to a political group was considered a serious step, and that the Monitoring Officer, if they had any concerns about the behaviour of a councillor, would speak to that individual on a one-to-one basis.

Sometimes, however, cases of alleged misconduct may go to a political group leader or even the national leader of a political party instead of being reported to the Monitoring Officer at a local authority.

Examples of political party disciplinary process used as an alternative to the formal standards process

In July 2018, a Greenwich councillor was suspended by their political group, as a result of their being charged with fraud following investigation by the council and referral to the police. The councillor was also removed from appointments made by their party group.

In Nuneaton, a political group leader wrote to the leader of a national political party in July 2018, to seek party discipline for councillors of that party for alleged abuse during a council meeting.

While party discipline can therefore have a positive role to play within local government, it also has drawbacks. Party discipline cannot apply to councillors who are not a

member of a political group. This means that party discipline cannot be used in relation to independent councillors, including those who might previously have been expelled from a party group. Political groups seldom exist in parishes, and so cannot address misconduct at parish level.

Party discipline may mean that political factors are taken into account over the public interest. When an authority is dominated by a single party or there is a very slim majority held by a party, that party may have an interest in downplaying or minimising standards breaches, rather than addressing them. It may also inhibit scrutiny and openness more generally where this may cause embarrassment to the party group.

Party discipline processes can run concurrently with, and in some cases preempt, the outcome of a formal standards investigation. We saw evidence that political parties have taken steps to enable swift discipline by group leaders or whips at a local level in serious cases. But this will tend to lack transparency, without formal announcements of measures taken or open investigative processes, particularly when political parties are under pressure to respond quickly.

There used to be a fairly clunky process of bringing a report to the group for the group to take action. We've revised that to take account of the way that news can spread so rapidly, and given group leaders the power to make a decision there and then for a time limited period along with the whip.⁷⁶

**Cllr Rory Love, Chairman,
Conservative Councillors' Association**

76 Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018

We also sought evidence during our review on the role of national political parties. Whilst national political parties will often have their own code of conduct, their involvement in allegations of misconduct will tend to be on a case-by-case basis, with less of a formal system for escalating and managing complaints. Party representatives we spoke to said that, understandably, the national party would involve itself only in serious cases or where it had an interest for particular reasons. Inevitably, the involvement of a national party is more likely when reputational issues are at stake, for example, during the selection of candidates at election time.

During the recent elections, we had no hesitation in suspending candidates from the Conservative whip even before the election day as a message to say “if you have the privilege of representing our party, there are standards we expect of you”.⁷⁷

**Cllr Rory Love, Chairman,
Conservative Councillors’ Association**

There is a particular focus [on standards] just before the point of election, which I think will remain the case. That’s when the party has the most influence, that’s when those conversations take place.⁷⁸

**Cllr Simon Henig CBE, Chair,
Association of Labour Councillors**

We have therefore concluded that political parties cannot play the central role in sanctions and upholding standards within an authority. Political group discipline is, essentially, an internal matter. This means it will never have the levels of transparency, consistency and

the relevant checks on impartiality that should characterise a fair and effective standards process. Whilst we have come across examples of positive joint working across political groups, and very effective relationships between officers and political groups, the party disciplinary process is still subject to political imperatives, even in authorities with otherwise very effective standards arrangements. In addition, political groups rarely operate at parish council level, and so party discipline cannot effectively address misconduct at parish level.

If, as our evidence suggests, the current high levels of involvement of parties in the standards process is due to a lack of formal sanctions, the reintroduction of a power of suspension may lead to a diminished role for political parties. Even if this were the case, political parties would still have an important role to play, which we consider further in chapter 8.

The sanction of the ‘ballot box’

We have considered the case that, beyond censure or training, the most appropriate sanction for councillors is the ‘ballot box’, namely, the possibility that they could be voted out at a local election as a result of misconduct. We conclude that the ‘sanction of the ballot box’ is insufficient, both in principle and in practice.

Relying upon the electorate to address poor member conduct at the ballot box is insufficient. The current regime needs to specifically include greater powers for local authorities to robustly address poor member conduct.⁷⁹

**Sandwell Metropolitan Borough
Council**

⁷⁷ Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018

⁷⁸ Cllr Simon Henig CBE, Individual oral evidence, Wednesday 18 July 2018

⁷⁹ Written evidence 239 (Sandwell Metropolitan Borough Council)

In cases where really serious misconduct happens, and the perpetrator is not discouraged by adverse publicity, there is a significant gap between how the current system can deal with such cases and any criminal sanction, criminal sanctions always being a final resort. The argument that the ultimate arbiter of behaviour is the public at the ballot box does not fully answer this issue.⁸⁰

Wycombe District Council

It is of course accepted that the democratic election of councillors must be respected. Following this, some would argue that (barring disqualification set out in law) only the public who conferred that mandate through an election can take it away by means of another election. It is argued that this is appropriate because only the public can be the proper judge of the suitability of a councillor to represent them which they only have the proper authority to do in an election or re-election.

Whilst the public will of course judge standards in public life at election time to some extent, the process of choosing a representative is based on wider political issues. As the Committee stated in 2013, “[...] decisions about who to vote for are made on the basis of a number of considerations. It would be undesirable for the electorate to have to set aside the opportunity to express their wider political views at election time simply to express a view on a standards issue.”⁸¹ Indeed, voting in elections is often drawn on party lines rather than the overall suitability of an individual candidate.

Public expectations of elected representatives continue to increase not diminish. High ethical standards should be demonstrably observed in practice throughout a term in office. Much harm can be done to individual wellbeing, the democratic process, and council business if misconduct goes unchecked for up to four years.

Public participation ends at the ballot box. There must be more to ensure local governance commits to fulfil the expectations of their electorate where possible [...].⁸²

Cllr David Gaye

It is also the case that a large number of seats in parish and town councils, and occasionally at principal authority level in more sparsely populated areas, are uncontested. In such circumstances the public are not choosing to exercise their judgment, and as a result there is no opportunity for electoral accountability to influence ethical standards.

The argument that the ballot box will decide is a moot point when over 50% of the town and parish councils in Cornwall do not have elections and these local councillors are returned unopposed.⁸³

Cornwall Council

Democratic representation carries both privileges and responsibilities. The significance of that mandate, and the rights and powers that it gives to councillors, also means that a councillor is rightfully subject to the Seven Principles of Public Life and the obligations

80 Written evidence 186 (Wycombe District Council)

81 Committee on Standards in Public Life, *Standards Matter* (2013), Cm 8519, 4.18

82 Written evidence 302 (Cllr David Gaye)

83 Written evidence 147 (Cornwall Council)

under the council's code of conduct. Councillors' conduct should reflect the importance of their elected role and their need to act in the public interest. A standards regime that prevents a councillor from carrying out their role for a period, for example by suspension, does not undermine a councillor's electoral mandate. Rather it underlines the significance of the role and the expectations of high ethical standards that come with elected office.

Sanctions in the devolved standards bodies

The sanctions available to the devolved standards bodies in Wales, Scotland and Northern Ireland, which were also available to the Adjudication Panel in England before its abolition, are suspension for up to one year and disqualification for up to five years.

The devolved standards bodies have used the most serious sanctions available to them sparingly. In 2017/18, the Standards Commission for Scotland has only once suspended a councillor for more than six months (although a number of cases involved a councillor who stood down, where the Commission indicated it would have imposed suspension if it were available).⁸⁴

In 2016/17, the Northern Ireland Local Government Commissioner for Standards disqualified one councillor for three years, and suspended one councillor for three months.⁸⁵

In 2016/17, the Adjudication Panel for Wales suspended four councillors, all for fewer than six months.⁸⁶ However, it should be noted that almost 20% of references and appeals to the Adjudication Panel since 2012 have resulted in disqualification.

Stronger sanctions

We have concluded that stronger sanctions should be made available to local authorities.

We have not seen compelling evidence for introducing a power of disqualification. We consider that there is very strong reason to introduce a power of suspension, but this should only be for a period of up to six months. The evidence we received suggested that the suspension of allowances would form an important aspect of this sanction.

We would expect that such a power would be used rarely. Suspension should be used only in the case of the most serious breaches, such as serious cases of bullying and harassment, or significant breaches of the rules on declaring financial interests; or else in the case of repeated breaches or repeated non-compliance with lower level sanctions.

The sanctions that could be made available to local authorities depend upon the investigative processes and safeguards available to meet the requirements of due process. The more significant the sanction, the more important it is that the process ensures impartial application of sanctions. The evidence we have received suggests that the power to disqualify or suspend a councillor without allowances for longer than six months would likely require a formal independent tribunal arrangement in order to comply with a councillor's ECHR Article 6 right to a fair trial. We do not consider that such arrangements could be put in place without the introduction of a central standards body, which we reject for the reasons discussed in chapter 1.

⁸⁴ Written evidence 106 (Standards Commission for Scotland)

⁸⁵ Northern Ireland Local Government Commissioner for Standards (2017), *Annual Report 2016-17*. Available online at: <https://nipso.org.uk/site/wp-content/uploads/2017/12/NILGCS-Report-2016-17.pdf>

⁸⁶ Adjudication Panel for Wales Register of Tribunals. Available online at: <http://apw.gov.wales/about/register-of-tribunals/?lang=en>

Recommendation 16: Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

Legislation giving effect to this should ensure that non-attendance at council meetings during a period of suspension should be disregarded for the purposes of section 85 of the Local Government Act 1972, which provides that a councillor ceases to be a member of the local authority if they fail to attend council meetings for six consecutive months.

Giving legal certainty to councils

At the moment, councils who impose sanctions at the most serious end of the current range – premises bans and withdrawal of facilities – are doing so without a clear basis in statute or case law. The relevant case law on sanctions has expressly identified training, censure, or publicising the breach as within a council’s power, but does not limit the available sanctions to only these. We have heard expert views on both sides of the argument as to whether measures such as premises bans are likely to be *ultra vires* or could be considered as tantamount to suspension; councils are therefore accepting a certain measure of legal risk in using these sanctions. The government should make clear what local authorities’ powers are in this area, and put them beyond doubt in legislation if necessary.

As we have seen, sanctions serve a number of purposes in a standards framework, one of which is the prevention of further wrongdoing. Sanctions such as premises bans and withdrawal of facilities may be useful for this purpose, as part of a range of available sanctions.

Recommendation 17: The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

Criminal offences in the Localism Act 2011

The provisions in the Localism Act make it a criminal offence for a councillor to fail to comply with their duties to register or declare Disclosable Pecuniary Interests (DPI), participate in a discussion or vote in a matter in which they have a DPI, or take any further steps in relation to such a matter. The maximum penalty is a level 5 fine and disqualification as a councillor for up to five years. It is important to acknowledge the seriousness of such a matter and to continue to support the need for serious sanctions for non-compliance in these circumstances. However, the evidence we have received suggests overwhelmingly that resorting to the criminal law is not the most appropriate way to handle such misdemeanours.

The making of certain breaches a criminal offence does not seem to have worked as such matters have to be referred to the police who, from my experience, are not geared up to the local government world and do not (understandably) see such matters as a high priority to them...matters can take a long time and often end up being handed back to the council to deal with in any case.⁸⁷

Taunton Deane Borough Council

87 Written evidence 131 (Taunton Deane Borough Council)

The current arrangements are disproportionate. Failure to register or manage interests is a breach of the Seven Principles and damaging to the public interest, but it would usually be remedied by the application of internal sanctions. To potentially criminalise a public office-holder for what is essentially a code of conduct matter is inappropriate. It sets a high bar for the standard of proof and is a costly process for the public purse. It is also, inevitably, a long process which can be disproportionately stressful. We have heard evidence which suggests that the police are wary of the potential for politically motivated allegations and the highly sensitive nature of investigations to which they may not be able to allocate sufficient resources when budgets are constrained. We also heard of a number of instances where the police have not pursued cases referred to them.

Recommendation 18: The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Disqualification of councillors

The criteria for disqualification of councillors are currently relatively limited. In the case of a councillor being convicted of a criminal offence, they would only be disqualified if they are imprisoned for three months or more.

Current law on the disqualification of councillors

Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority, if they:

- are subject to bankruptcy orders
- are imprisoned for three months or more on conviction of a criminal offence (without the option of a fine)
- are found personally guilty of corrupt or illegal practice in an election

They are also disqualified if they:

- are employed by the local authority
- are employed by a company which is under the control of the local authority
- are employed under the direction of various local authority committees, boards or the Greater London Authority
- are a teacher in a school maintained by the local authority

The Ministry for Housing, Communities and Local Government have committed to bringing forward legislation to add to the existing criteria for disqualification, following a public consultation in September 2017. The additional conditions will include being listed on the sex offenders register, receiving a Criminal Behaviour Order under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014, and receiving a civil injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014. We support these changes, which will better reflect the expectations of the public.

Chapter 5:

Town and parish councils

Local government is made up of a number of tiers, of which town and parish councils are the most local. Their functions vary but may include: maintaining local amenities such as parks, cemeteries, and memorials; responding to planning consultations undertaken by principal authorities; producing neighbourhood development plans; and making grants or undertaking other activities to benefit their local communities. In recent years, however, many parish councils have undertaken a broader range of roles that traditionally were performed by principal authorities, such as economic regeneration and transport services.⁸⁸

While the vast majority of people who serve on town and parish councils do so for the benefit of their community and in doing so observe the Seven Principles of Public Life, the Committee received evidence suggesting that poor behaviour and serious misconduct by some councillors is creating significant disruption in those communities. The evidence also suggests that this misconduct can create a increased workload for the relevant principal authority.

Our predecessor Committees have excluded town and parish councils from their reviews into local government standards; we have chosen to focus on them because the number and nature of concerns shared with the Committee by those who work in and with parish councils was sufficient for us to question whether the present arrangements provide for good governance and meet the needs of the public.

Autonomy and accountability of parish and town councils

The oversight regime for parish councils is light-touch, in view of their comparatively lower budgets and limited remit compared to principal authorities.

There is, however, significant variation in the budgets of town and parish councils. A number of small parish councils have budgets of less than £25,000; but some may have budgets exceeding £1 million.

Parish councils with a precept of less than £25,000 are exempted from the need to have an annual assurance review or to appoint an external auditor to prepare their accounts. They are, however, required to comply with the government's Transparency Code for exempt authorities, and must appoint an auditor if an elector has an objection to the accounts.

Parish councils, unlike principal authorities, do not fall within the remit of the Local Government Ombudsman no matter their size or budget, so they are not subject to investigations or rulings on grounds of maladministration. This means that the stakes in some councils at this level are very high where there are either serious or persistent standards issues. Our view is that the current system does not take this potential risk into account.

Under the Localism Act 2011, much of the responsibility for standards in town and parish councils belongs to their principal

⁸⁸ Local Government Chronicle (2016), *Power to the people*. Available online at: <https://www.nalc.gov.uk/library/news-stories/2437-lgc-supplement-2016/file>

authority. We have seen a variety of models for how parishes relate to a principal authority in relation to standards. In many cases, the Monitoring Officer is the main point of communication, and communicates mainly with the clerk. Some councils maintain joint standards committees, with town and parish councillors sitting alongside councillors from the principal authority to discuss issues from both the principal authority and the parish councils, though parish council representatives cannot vote if the committee is a decision-making committee of the principal authority. We have also seen an important role played by county associations of local councils, who can maintain links with the principal authority through the senior officers and in some cases provide mediation and support on standards issues at the parish level.

One of the things we do in the CALC is provide an advisory service and someone to investigate what's gone on and someone to go along to listen to grievances.⁸⁹

Cornwall Association of Local Councils

When it comes to the day-to-day relationship with principal authorities, some parishes will see the principal authority as a point of support or advice on standards issues; some are heavily dependent on the principal authority to provide legal advice and to deal with governance or behavioural problems; but some have an antagonistic relationship with the principal authority and do not respect its formal remit in respect of ethical standards. As with the standards process within a council, the role of the Monitoring Officer is crucial in maintaining a positive and effective relationship with dependent parishes. We have also seen

the benefits of a strong relationship between senior officers (particularly the Monitoring Officer) and the county association of local councils.

We recognise the need to balance the autonomy of parish councils with accountability. The oversight of parish councils must be proportionate in relation to their comparatively limited budget and remit. Our view is that for the majority of parish councils, the current balance works well, although to address the standards issues which in a minority of councils have undermined good governance, we recommend changes below in the formal relationship between parish councils and principal authorities in relation to standards.

How effectively parish councils use their autonomy over their own governance is highly dependent on the skills, experience and support of the parish clerk. Clerks are sometimes the only employees of the council and also the repository of significant amounts of information, advice and guidance for councillors in undertaking parish business. Where the relationship between the councillors and their clerk is positive there is little need for additional accountability or support in the system.

However, we received evidence of substantial difficulties experienced where clerks are either inexperienced, untrained or feel isolated, particularly if they are the subject of poor behaviour on the part of councillors. Ongoing education and training of clerks would provide: confidence to some clerks on the scope and limits of their role; a network of peers who can provide advice and support when new situations arise that are challenging for a single clerk working alone; and a level of consistency and accountability to councillors, auditors

89 Sarah Mason, County Executive Officer, Cornwall Association of Local Councils, Visit to Cornwall Council, Monday 24 September 2018

and the public about the services a clerk can be expected to provide. There is, therefore, a significant need for clerks to be formally qualified (for example, through qualifications run by the Society for Local Council Clerks). Such qualifications need not be costly for parish councils.⁹⁰

Recommendation 19: Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.

Misconduct in parish councils

Analysis of survey responses from over 800 parish clerks, undertaken by Hoey Ainscough Associates on behalf of the Society of Local Council Clerks, suggests that 15% of parish councils experience serious behavioural issues such as bullying and disrespect towards other councillors or the clerk, and 5% of parish councils experience these issues to an extent that they are unable to carry out some or all of their proper functions.

We regularly come across cases of serious bullying and disrespect towards officers and fellow councillors, threatening and intimidating behaviour towards staff, obsessive behaviour and deliberate flouting of the need to declare interests. While such behaviour is very much in the minority it can seriously damage the reputation of an authority, as well as causing huge amounts of stress and effectively gumming up the workings of a council. This is particularly true at parish council level.⁹¹

Hoey Ainscough Associates

We heard of a number of individual cases of serious bullying or other unacceptable behaviour, particularly directed towards local council clerks, leading to high turnover of staff.

The impact often includes serious ill health, loss of employment, loss of confidence and a long-term detriment to their personal and professional lives. The parish sector experiences a high turnover of staff each year. In some areas of the country this can be up to 20-30% of clerks and a large element of this can be attributed to the underlying behaviour issues. We are aware of cases where the issues are long standing and repeated year on year, with multiple cycles of behavioural issues, loss of personnel and recruitment taking place.⁹²

Society of Local Council Clerks

The evidence we received suggests that reintroducing a power of suspension for local authorities, which would be applicable to parish councillors, may address some of these problems. Although many parish councillors are not paid, a suspension of six months would nevertheless remove them from decisions and communications for all meetings during that period. It would also send a strong message to the individual member and the community. We discuss sanctions in more detail in chapter 4.

The evidence we received also suggested that difficulties persist in resolving standards matters where clerks are not well supported by the parish council to formally make and resolve complaints, or to prevent behaviour from recurring. Parish councils should take corporate responsibility when allegations of a councillor

90 The basic level qualification offered by the Society of Local Council Clerks costs less than £120, and SLCC offer bursaries for clerks who work for parish councils with a very low precept
 91 Written evidence 212 (Hoey Ainscough Associates)
 92 Written evidence 197 (Society of Local Council Clerks)

bullying an employee are received. For example, where behaviour that is in breach of a code is observed by councillors or reported by a clerk, the parish council should lodge a formal standards complaint corporately or in the name of the chair. A clerk should not have to do so themselves. In addition to providing necessary support to the clerk in such circumstances, such measures signify to individual councillors that disruptive behaviour is not ignored or accepted by the council generally.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Of the monitoring officers who responded to the SLCC 11% were unable to commit resources to supporting parish councils with behaviour issues with a further 49% only becoming involved when there is a complaint.⁹³

Society of Local Council Clerks

We have heard that dealing with standards issues in parish councils can be onerous for Monitoring Officers in principal authorities. Monitoring Officers reported to us that they could spend a high proportion of their working time on standards issues in parish councils, and that many of the cases that they had to deal with related to long-standing disputes or tensions, and so are not quickly resolved. We have heard a small number of concerning reports that Monitoring Officers have decided to decline to provide advice or accept

complaints received about or from parish councils about standards issues at the parish tier, citing insufficient resources and support for their work with parishes. Giving principal authorities the ability to deal more effectively with misconduct within parish councils should address to an extent the underlying problem of recurring standards issues, which we discuss below. Beyond this, Monitoring Officers need to be given the resources within their principal authority to allow them to carry out their duties in respect of parish councils as well as their own authority, and to be supported by senior management in doing so.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Investigations and sanctions in town and parish councils

Under the Localism Act, a parish council may comply with the duty to adopt a code of conduct by adopting the code of its principal authority, or by adopting its own code.

The evidence we have received is that the variation in parish codes within a principal authority area is an additional burden on that principal authority when advising, investigating and adjudicating on code breaches.

For example, Cornwall Council is a unitary authority that oversees 213 parish councils, all of which, in theory, could have their own

93 Written evidence 197 (Society of Local Council Clerks)

individual code of conduct, on which Cornwall Council could be required to adjudicate. Through working with the Cornwall Association of Local Councils, Cornwall Council agreed a single code with all the parish councils.⁹⁴

Without the support of CALC in Cornwall, we could have ended up with 214 different codes across the county, and this would have created problems with training, which is delivered by Cornwall Council, and interpreting the code which falls to Cornwall Council to administer.⁹⁵

Cornwall Council

Only a principal authority has the power to undertake a formal investigation and decision on an alleged breach of a parish council’s code under section 28(6) of the Localism Act.

We have concluded that it is anomalous that parish councils have the autonomy to adopt a code of conduct of their choosing, but do not have the authority to investigate and enforce that code.

We do not consider that parishes should be given the power to undertake a formal investigation on a breach of the code of conduct. Our evidence suggests that parish councils do not wish to take on this responsibility, and that they do not have the resources and structures necessarily to do so on a fair and impartial basis.

There is a need to balance the autonomy of parishes, with a recognition that ultimately the principal authority must be responsible for investigating breaches. We acknowledge the benefits of a councils being able to amend

their own code, which we discuss in chapter 2. Given this burden on principal authorities, however, and the confusion that often arises in the case of dual-hatted councillors, we consider on balance that the costs of giving parish councils the option to adopt their own code of conduct outweigh the benefits.

Recommendation 20: Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

Following *Taylor v Honiton Town Council*,⁹⁶ a parish council cannot substitute its own decision on an allegation for that of the principal authority. If it imposes a sanction on the councillor, it may only impose the sanction recommended by the principal authority. Whilst Taylor did not address the question directly, the evidence we have received from practitioners is that a parish council is not bound to implement a sanction even if that is recommended by the principal authority.

The Wychavon Committee feels that only having the power to make recommendations to parish councils regarding breaches of the code of conduct often leaves complainants feeling that there is little merit in bringing forward any complaint, especially when coupled with the current regime’s stipulation that investigations cannot be pursued if a councillor leaves office.⁹⁷

Wychavon Borough Council

94 Written evidence 206 (Cornwall Association of Local Councils)
 95 Written evidence 147 (Cornwall Council)
 96 Taylor v Honiton Town Council and East Devon District Council [2016] EWHC 3307 (Admin)
 97 Written evidence 78 (Wychavon Borough Council)

Accordingly, parish councils may disregard the sanction recommended by a principal authority. This may sometimes be due to an antagonistic relationship with the principal authority, or pressure from particular parish councillors not to implement the recommendation. This already prevents the effective holding to account of some parish councillors for misconduct. If, as we recommend, local authorities were given a power of suspension, under the current law a parish council could effectively ignore a decision to suspend one of its members. We therefore consider that any sanction imposed on a parish councillor following the finding of a breach should be determined by the parish's principal authority, which will require a change to section 28 of the Localism Act 2011.

Recommendation 21: Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

resources to undertake a formal standards investigation; and sanctions should only be imposed following a fair and impartial process, as we discuss in chapter 3.

However, this does not suggest that there is no action that parish councils may take if an employee is being bullied. The evidence we have received from practitioners is that earlier case law has established that a parish council as a corporate body is vicariously liable for actions by an individual councillor which would involve an implied breach of their contractual obligations as an employer, including an implied obligation to provide a reasonable congenial working environment.¹⁰⁰ We understand that councils may therefore legally take proportionate, protective steps to safeguard employees if they are experiencing bullying or other unacceptable behaviour, for example, requiring that a particular councillor does not contact directly that named member of staff. However, for sanctions to be imposed, which are by nature punitive, then a formal complaint must be made, with an investigation undertaken by the principal authority.

We have heard concerns that the judgement in *R (Harvey) v Ledbury Town Council*,⁹⁸ which was delivered during our review, prevents parish councils from taking action in the case of bullying. The principle that sanctions could not be applied to councillors outside of the formal investigation and decision process, involving an Independent Person, by a principal authority, is a straightforward application of the earlier judgment in *Taylor v Honiton Town Council*.⁹⁹ The evidence we have received is that this principle is the right approach: a parish council would not typically have the

98 *R (Harvey) v Ledbury Town Council* [2018] EWHC 1151 (Admin)

99 *Taylor v Honiton Town Council and East Devon District Council* [2016] EWHC 3307 (Admin)

100 See *Moore v Bude-Stratton Town Council* [2000] EAT 313_99_2703, which was affirmed in *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin), 82

Chapter 6: Supporting officers

Role of the Monitoring Officer

The Monitoring Officer is one of the three statutory officers in local government, alongside the Head of Paid Service (Chief Executive or Chief Officer) and the Chief Finance Officer (often referred to as the Section 151 Officer).

The three statutory officers need to work together. They are not separate. I have always had a practice of ensuring I held regular statutory officer meetings where we specifically talked about those things where one of us might want to intervene.¹⁰¹

Max Caller CBE

The post of Monitoring Officer is set out in statute in section 5 of the Local Government and Housing Act 1989. The original statutory role was to report to the council on any proposal, decision or omission by the council which is likely to give rise to a contravention of law or to maladministration. Given the legal aspect of the role, the Monitoring Officer is often the head of legal services in an authority. More recently, the role is often (but not always) combined with oversight of democratic services (the team of officers who prepare and co-ordinate agendas and papers for committee and council meetings).

The Local Government Act 2000 provided for a greater role for the Monitoring Officer on ethical standards.¹⁰² Guidance issued by the

then-Department for Environment, Transport and the Regions summed up its approach, following the passage of the Local Government Act 2000:

The monitoring officer will have a key role in promoting and maintaining high standards of conduct within a local authority, in particular through provision of support to the local authority's standards committee.¹⁰³

The Monitoring Officer (or their deputy) remains the lynchpin of the arrangements for upholding ethical standards in an authority.

We are aware of a perception that the role of the Monitoring Officer is becoming more difficult.

A survey of 111 Monitoring Officers, carried out by Local Government Lawyer, identified that the increasing complexity of local government decision-making, especially commercial decision-making and outsourcing, was a particular challenge in the role, especially where there is an imperative to drive forward projects and decisions. 38% of those surveyed said that the role had become more risky in 'a significant way', and 48% said that it was moderately riskier than in the past.¹⁰⁴

¹⁰¹ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹⁰² For example, in sections 59, 60, 66 of the Local Government Act 2000

¹⁰³ Department for the Environment, Transport and the Regions (2000), *New council constitutions: guidance to English Authorities* (reissued by DCLG, 2006). Available online at:

<http://webarchive.nationalarchives.gov.uk/20120920053721/http://www.communities.gov.uk/documents/localgovernment/pdf/155181.pdf>

¹⁰⁴ Local Government Lawyer (2018), *Monitoring Officers Report*. Available online at:

<http://www.localgovernmentlawyer.co.uk/monitoringofficers/?page=1>

The Monitoring Officer role is particularly varied and includes quite disparate aspects. A Monitoring Officer who also oversees a department of the council will have a role in senior management, and will be responsible for large teams. They will offer formal legal advice; but they will also act as a mediator and adviser in relation to standards issues. Some of the most significant difficulties for Monitoring Officers include the inherent potential for conflict when simultaneously:

- acting as a source of advice and guidance for members and officers (and parish councils for which they are the Monitoring Officer)
- assessing complaints in the first instance after it is received by a council
- obtaining and weighing advice from Independent Persons
- overseeing and managing investigations to determine whether serious breaches of the code of conduct have occurred, either personally or by seeking outside expertise and handling the consequential report and conveying it to members

The role involves a broad set of skills, and is broader than a chief legal adviser role. It is through the appropriate application of these skills and knowledge (including by developing a network of peers with whom Monitoring Officers can seek reassurance and check the consistency and fairness of their approach), that we have seen these competing pressures can be dealt with effectively.

The role of the Monitoring Officer in relation to ethical standards is no different to that in relation to their other statutory responsibilities. Dealing with complaints in relation to Members should not expose the Monitoring Officer to any greater risk of conflict. However, many have arrangements in place so that they do not advise the Standards Committee in relation to a complaint where they have been the investigating officer, etc.¹⁰⁵

Lawyers in Local Government

More nuanced but even far more serious complications can arise where the Monitoring Officer is overseeing an investigation into a senior member of the local authority, particularly a portfolio-holder. There is a potential conflict of interest, given the professional relationship between the Monitoring Officer and Cabinet members, in providing procedural and legal advice to enable them to pursue their objectives. In this case, the Monitoring Officer should be robustly supported and protected by the Chief Executive. Any investigation, even if outsourced to an independent investigator, should be overseen and managed ideally by the Monitoring Officer from a different authority, or failing that by a deputy, with the Monitoring Officer kept at arm's-length.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

¹⁰⁵ Written evidence 228 (Lawyers in Local Government)

Whilst the location of the Monitoring Officer in the organisational hierarchy may vary, depending on the nature and functions of the individual authority, we have heard that effective governance relies on a strong working relationship between the three statutory officers (Chief Executive, Section 151 Officer, and Monitoring Officer). In particular, a Monitoring Officer needs to be able raise issues of concern to the Chief Executive, and be able to rely on the support of the Chief Executive in making difficult decisions, to know that they will not be undermined. We have seen that the confidence and support of the Chief Executive is crucial to ensuring the Monitoring Officer has the ability to uphold standards in a council, and can engage authoritatively with individual members.

We accept that the role of the Monitoring Officer is a difficult one to navigate, given the tensions that may be involved in advising on and addressing misconduct, alongside offering legal advice to achieve the council and administration's corporate objectives. We have concluded, however, that it is not unique in these tensions. The role can be made coherent and manageable, with the support of other statutory officers.

Standing of statutory officers

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons.¹⁰⁶ The previous protections applied in respect of any disciplinary action taken against a statutory officer, not just dismissal, and required the action to be recommended by a Designated Independent Person.

A few respondents to the consultation referenced the political pressure that Monitoring Officers come under to achieve particular outcomes and that this can place them in a conflicted as well as vulnerable position. The statutory protections for Monitoring Officers should be re-visited. LLG strongly supports this assertion.¹⁰⁷

Lawyers in Local Government

We have received a range of evidence on the implications of the changed environment for senior officers. We have heard of cases where Monitoring Officers have been put under undue pressure or forced to resign because of unwelcome advice or decisions, and heard that a diminished standing of senior officers has hampered their ability to give objective advice especially when this may not be welcome. On the other hand, we have heard that the current environment ensures that authorities are genuinely led by elected members, and that officers do not have too dominant a role in a local authority, which confuses the lines of accountability.

On balance, we consider that the disciplinary protections for statutory officers should be enhanced, by extending those protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

Recommendation 22: The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

¹⁰⁶ Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)

¹⁰⁷ Written evidence 228 (Lawyers in Local Government)

Training of officers

We also heard during the review of the danger of councillors or officers perceiving necessary processes and procedures in local government as arbitrary or bureaucratic. When councillors do not appreciate the rationale for the decision-making processes – that exist in order to ensure objectivity, integrity, openness, and accountability – that can lead to undue pressure on officers to ‘bend the rules’, and implement the wishes of the administration regardless of the proper processes.

Sometimes there is a denigration in the culture of an authority because the authority has been hollowed out. In that instance, there is no longer the core of individuals who know the rationale for the rules, rather than just the rules themselves.¹⁰⁸

Max Caller CBE

When officers do not appreciate the rationale for the governance processes, then they can be treated as a ‘rubber stamp’, circumvented, or simply not fully utilised, leading to a compromise in the quality of decision-making.

There is a need to remind people of why the systems of governance are there: why, for example, reports are taken in public.¹⁰⁹

Dame Stella Manzie DBE

Local authorities’ training on governance and process should therefore include an explanation of the rationale for the processes in place, and link specific procedures to their wider aim of ensuring ethical decision-making. Training and support in the governance and

corporate aspects of the statutory officer roles is particularly important, since we heard that there is not necessarily a standard training offer for the statutory aspects of senior officer roles. We discuss councillor induction training in greater detail in chapter 8.

Whistleblowing

The written evidence we received suggests that local authorities will generally have a whistleblowing policy in place.

Since the abolition of the Audit Commission, local government audit is undertaken externally by private companies. External auditors are listed as ‘prescribed persons’, those to whom certain disclosures in the public interest can be made that will attract employment protections under the Public Interest Disclosure Act 1998.

However, the evidence we received suggested that local authorities will not tend to specify a named contact or provide contact information within the external auditor. This would have the effect of deterring whistleblowers from contacting the auditor, or make it difficult to report a concern.

The perceived lack of independence of the current external regime for auditing local government, coupled with the absence of comprehensive information for the public, councillors, and officials as to who to contact in a private audit firm could deter individuals coming forward.¹¹⁰

Protect

¹⁰⁸ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹⁰⁹ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

¹¹⁰ Written evidence 305 (Protect)

Recommendation 23: The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority’s website.

We therefore see benefits to councillors being listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998, to make it easier for individuals to make protected disclosures to a councillor.

Recommendation 24: Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Under the current whistleblowing law in the UK, councillors are not listed as a ‘prescribed person’, which means that the disclosure of information to them in the public interest must meet a higher standard in order to attract employment protections.

Whilst it is accepted that reporting concerns to councillors is not appropriate in all circumstances, there have from our experience been scenarios where concerns have not been dealt with at an internal level, and due to nuances of the individual situation, the most effective way of bringing about scrutiny of the concerns may be to inform elected local government councillors.¹¹¹

Protect

Under the current legislation, ordinary disclosure within a line management chain has a lower bar for attracting employment protection. Generally, an employee would therefore make a disclosure to their manager (for example), before making a ‘wider disclosure’. However, we accept that there will be instances where a local government officer may feel able only to make a disclosure to a councillor, rather than another officer.

111 Written evidence 305 (Protect)

Chapter 7:

Councils' corporate arrangements

A more complex environment

A number of recent changes have created a more complex environment for local government which can impact on ethical standards.

Local Economic Partnerships (LEPs), which have access to up to £12 billion of funding via the Regional Growth Fund over five years, are one feature of this new environment. LEPs are partnerships between the private and public sectors. They usually cross local government boundaries, to reflect economic patterns rather than administrative functions. LEPs tend to be limited companies, but may also be voluntary partnerships that work through a specific local authority. LEPs are chaired by an individual drawn from the private sector and tend to have a majority private sector board. Funding was awarded to individual LEPs on the basis of the submission of strategic economic plans, and tends to be spent on areas such as transport or skills.

Councils may also embark on joint ventures – for example, partnering with a development company on a high-value housing project, or with an outsourcing firm to deliver back-office services. In such cases the council usually owns 50% of the company and is represented on its board.

Joint working and collaboration can improve outcomes by pooling resources and sharing knowledge. But partnerships also introduce complexity and mixed incentives that can create ethical risks.

The local government sector has also seen a significant change in the way councils are funded. Local government funding has moved from central block grant funding, towards locally-raised funds such as council tax precepts, business rates retention and fees.

Councils have been involved in high-value procurement for many years. However, this new funding environment has resulted in changes in the way that services are delivered, for example, by increased use of outsourcing. This may not always be a council's preferred mode of delivery and councils may feel forced to pursue a particular path in spite of the challenges in maintaining scrutiny, accountability, and high ethical standards.

The NAO has found that these changes have created an environment of financial uncertainty for local councils, who may find it difficult to match its revenue streams to cost pressures in discharging their statutory obligations.¹¹² The changes have therefore altered the imperatives for revenue generation, giving incentives for increasing the value of tax base from which council tax and business rates are raised, and for undertaking other revenue-generating activities, for example, by maintaining a commercial property portfolio.

¹¹² National Audit Office (2018), *Financial sustainability of local authorities*. Available online at: <https://www.nao.org.uk/report/financial-sustainability-of-local-authorities-2018/>

Resulting governance challenges

This complex environment – made up of partnerships, joint ventures, and other new entities – creates the potential for ethical risks. Ethical standards apply to how decisions are made, as much as to an individual's day-to-day conduct, and ethical decision-making is needed to ensure that councils act in the public interest.

In fact we often don't speak about it, all we talk about is people's conduct, whereas actually ethics comes into how decisions are made, how did you weigh this up against this, what constitutes fairness, what is the measure, what is the ethical basis for considering this or choosing this process.¹¹³

Barry Quirk CBE, Chief Executive, London Borough of Kensington and Chelsea

First, such complexity makes it difficult to identify who is accountable for particular decisions or outcomes. In turn, this can make it difficult for officers, councillors, and the public to hold local authorities and other sectoral bodies effectively to account. The *Municipal Journal*, reporting on a roundtable held jointly with the National Audit Office, quoted a participant who argued that “[...] governance has become impossible what with districts, counties, LEPs etc. What gets lost is the clarity of accountability.”¹¹⁴

Secondly, the complexity can create conflicts of interest. If a council officer or a councillor is a director of a limited company jointly-owned by the council, they will have fiduciary duties which have the potential to conflict with the interests of the council. Such conflicts may also

arise the other way around, when the council has to make decisions about a company in which it has a significant interest.

Thirdly, the growth in separate bodies – such as investment vehicles, joint ventures, and LEPs – can result in less transparency over decision-making. This is because the new bodies are not likely to be subject to the same reporting and transparency requirements and structures as the local authority itself, but are nonetheless carrying out functions crucial to the work of the authority. The need for proportionate commercial confidentiality adds a further dimension of complexity to this issue.

Responding to the new governance challenges

Setting up separate bodies

We have heard that local authorities setting up a separate body without sufficient clarity over the governance arrangements, can create a governance ‘illusion’, that because of its relative day-to-day independence the local authority is not responsible or accountable for its activities and propriety. To avoid this, attention needs to be paid to ethical governance at three key stages.

Individual members on outside bodies can be a problem; councillors' legitimacy comes from their election, and they need I think to import with them the ethical dimension that they have from being a councillor.¹¹⁵

Barry Quirk CBE, Chief Executive, London Borough of Kensington and Chelsea

113 Barry Quirk CBE, Individual oral evidence, Wednesday 19 September

114 “What next for care and health?”, *Municipal Journal*, 22 February 2018, 16

115 Barry Quirk CBE, Individual oral evidence, Wednesday 19 September 2018

First, local authorities may set up bodies with very different structures and functions, that will require different governance arrangements. However, it is important that at the earliest stage, the authority considers and makes decisions about:

- what the relationship will be between the body and the local authority
- what role the statutory officers will have in overseeing its activities and providing assurance on its governance
- how and when the body will report to full council
- what the relationship will be between the body and individual councillors
- how councillors will scrutinise the activities of the body, in particular if it will fall within the remit of the audit or scrutiny committee, and if not, how else scrutiny will happen

Secondly, additional consideration needs to be given to governance if councillors or officers are to be involved or appointed to the body, for example as observers or as board directors. Ideally, the body should be set up so that its interests are aligned with the council's policy aims, in order to minimise any potential conflicts of interest. Nevertheless, if councillors or officers are appointed to the body, they should receive briefing on their governance responsibilities, in particular their legal responsibility to discharge any fiduciary duties to the new body.

The local authority needs, in particular, to consider whether councillors' involvement on the board would constitute a conflict of interest that will need to be managed if the authority makes decisions about the body.

Councils need to put safeguards in place where they decide to involve a council representative in a decision-making position on an ALEO [arm's-length external organisation]. These include procedures for dealing with conflicts of interest, making training and advice available, and personal liability insurance to protect board members in their role.¹¹⁶

Audit Scotland, *Councils' use of arm's-length external organisations (ALEOs)*

Audit Scotland outlined the advantages and disadvantages of councillors sitting on separate bodies in their report, *Councils' use of arm's-length external organisations (ALEOs)*.

Potential advantages of council nominees as board directors or trustees

- can improve the relationship between the ALEO and the council
- can bring an insight into the council and its objectives and the broader community
- council representatives can gain valuable first-hand experience of service issues and different sectors

¹¹⁶ Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

Potential disadvantages of council nominees as board directors or trustees

- can bring additional demands to their already diverse role
- representatives may lack the background, skills or understanding required of the role
- risk of conflict of interest between their role on the ALEO and their role on the council
- negative impact on council decision-making where councillors withdraw from committees owing to conflicts of interest
- exposure to legal risks and personal liability
- risk to continuity if councillors lose their position if not re-elected¹¹⁷

The disadvantages to councillors acting as directors or trustees for separate, council-owned or council-sponsored bodies suggests that this should not be considered a default option for local authority oversight of a separate body. Audit Scotland noted that, whilst they had not come across any cases of significant misconduct, appointing a member or officer in an observer or liaison capacity to the board of a body without a formal decision-making role could limit the potential for conflicts of interest.¹¹⁸

Council representatives can take a monitoring and liaison role as an alternative to taking a board position. This allows them to oversee and advise the ALEO without taking a decision-making role on the ALEO. Most of our sample group of councils had strengthened the role of such officers to give them greater seniority and influence. Their role involves managing the relationship between the council and the ALEO, and monitoring the performance of the ALEO and its compliance with its contracts or service agreements with the council.¹¹⁹

Audit Scotland, *Councils' use of arm's-length external organisations*

The code of conduct for councillors in Scotland includes a provision exempting councillors from the requirement to withdraw from a discussion where they have an interest, if that interest is by virtue of being appointed to a body which is 'established wholly or mainly for the purpose of providing services to the councillor's local authority' or which has 'entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority'. This exemption was put in place "[...] so that ALEOs can function with councillors as members. It also recognises that it is not practical for a councillor to always remove themselves from council discussions relating to the ALEO".¹²⁰ However, councillors may still not take part in any decision-making in relation to that body where it is in a quasi-judicial capacity, and ideally not in decisions relating to funding of that body.

117 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

118 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

119 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

120 Standards Commission for Scotland (2016), *Advice for councillors on ALEOs*. Available online at: [http://www.standardscommissionscotland.org.uk/uploads/tiny_mce/160928%20Advice%20for%20Councillors%20on%20ALEOs\(FINAL\)%20.pdf](http://www.standardscommissionscotland.org.uk/uploads/tiny_mce/160928%20Advice%20for%20Councillors%20on%20ALEOs(FINAL)%20.pdf)

We accept that, in some circumstances, local authorities in England may be justified in granting a member a dispensation under section 33 of the Localism Act 2011 for decision-making regarding a separate body on which the member has a formal role. This is because the exact nature of any potential conflict will vary depending on the relationship between the authority and the body in question. Councillors should always declare their interest if they hold a position with a council-owned or council-sponsored body. However, in general, we suggest that local authorities consider councillors or officers having observer, rather than director, status on a relevant board so as to minimise potential conflicts of interest.

Thirdly, both the body and the local authority need to practice ongoing assurance, oversight, and transparency, and regularly review the governance procedures to ensure that they are still appropriate.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Local Enterprise Partnerships (LEPs)

Our evidence suggests that there can be a lack of transparency around Local Enterprise Partnerships (LEPs), and gaps in the processes within LEPs to manage potential conflicts of interest.

I've encountered ward members during my LEP board experience, which works well. But more support is needed for LEP panel members in terms of processes and accessibility.¹²¹

Nicola Greenan, Director, East Street Arts, and LEP board member

An internal government review of the National Assurance Framework, led by Mary Ney, a non-executive director of MHCLG, found problems with the governance arrangements for LEPs. Ney found, for example, that whilst LEPs will adopt a conflict of interest policy and maintain registers of interests, “[...] the content of policies and approach to publication varies considerably and is dependent on the overall cultural approach within the organisation”.¹²²

The report also identified a need to consider “[...] the position of public sector members on LEP boards in the context of the changing role of local authorities and their increased involvement in commercial enterprises and alternative delivery mechanisms. This is currently somewhat underdeveloped in terms of LEP governance implications”.¹²³ Ney recommended that “[...] the National Assurance Framework requires LEPs to include in their local statements how scenarios of potential conflicts of interest of local councillors, private sector and other board members will be managed whilst ensuring input from their areas of expertise in developing

¹²¹ Nicola Greenan, Visit to Leeds City Council, Tuesday 18 September 2018

¹²² Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 6.1

¹²³ Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 3.4

strategies and decision-making, without impacting on good governance".¹²⁴

We agree with Ney's conclusions and recommendations. We welcome MHCLG's commitment to implement in full the recommendations from the Ney review. We also welcome the department's commitment, in *Strengthened Local Enterprise Partnerships*, to improve scrutiny and peer review among LEPs.¹²⁵

Ethical standards and corporate failure

Our evidence suggests a strong link between failings in ethical standards and corporate failure by councils.

The most obvious way in which this can happen is through a culture of 'slackness', where low level breaches of ethical standards go unchallenged and unaddressed. This can then seep into the culture of an authority and allows for more significant wrongdoing to take place, which would have significant implications for the performance and reputation of the council.

However, in most cases the process is more complicated, and several factors are jointly present in order for serious corporate governance failings to take place. As part of our review, we examined reports from high-profile cases of corporate governance failure.

Tower Hamlets Borough Council (incidents between 2010-14, report by PWC Best Value inspection, 2014)¹²⁶

The Best Value report was commissioned by DCLG to consider four different areas where the council allegedly failed to provide 'best value': payment of grants; transfer of property; spending on publicity; and processes on entering into contracts. The report found problems within the local authority in respect of the first three strands.

The report noted a lack of transparency over reasoning for grant decisions, and an abrogation of governance and oversight by the relevant committee, who would discuss the detail of decisions rather than following and overseeing the overarching mechanisms and methodologies that the authority had put in place.

The report also concluded that there were potential conflicts of interests, as well as a lack of transparency and rigour in the reasoning of decisions to transfer property.

The inspectors found an ambiguity in the demarcation between official and political activity by officers.

The report concluded that there were inadequate governance arrangements, in particular a failure to follow declaration and conflict of interest requirements rigorously, and a failure of officers to follow through on resolutions relating to governance and oversight.

¹²⁴ Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 6.3

¹²⁵ Ministry of Housing, Communities and Local Government (2018), *Strengthened Local Enterprise Partnerships*

¹²⁶ PricewaterhouseCoopers LLP (2014), *Best value inspection of London Borough of Tower Hamlets*. Available online at: <https://www.gov.uk/government/publications/best-value-inspection-of-london-borough-of-tower-hamlets>

Doncaster Metropolitan Borough Council (incidents between 2005-09, report of the Audit Commission Corporate Governance Inspection, 2010)¹²⁷

The Audit Commission found in 2009 that Doncaster was a 'failing council'. Its governance failings at that time meant that it did not have the capacity to secure needed improvement in services. The Audit Commission identified three areas which were "[...] individually divisive and collectively fatal to good governance, each serving to compound and magnify the negative impacts of the others":

- the way the council operates to frustrate what the Mayor and Cabinet seek to do
- the lack of effective leadership shown by the Mayor and Cabinet
- the lack of leadership displayed by some chief officers, and the way they have all been unable to work effectively together to improve services

The commission concluded that councillors placed political objectives, in particular frustrating the work of the council leadership, above their public duties.

The inspection found that the scrutiny function in the council was not undertaking genuine scrutiny, but rather was acting as a parallel executive decision-making process, for example, in drawing up its own budget and policy rather than considering the proposals and decisions made by the Cabinet.

The 2009 IDeA ethical governance healthcheck found that individual councillor behaviours at Doncaster were "venomous, vicious, and vindictive".¹²⁸ The commission report likewise found evidence of bullying and intimidating behaviour, for example, "comments such as 'we have long memories' and 'we will get you' made to officers when, in the course of their professional duty, they have given advice which certain councillors are uncomfortable with or dislike".

The commission also found that officers were collectively unable to withstand pressure from some senior councillors, compromising their impartiality and leading to a loss of trust by other councillors. The report also suggested that the leadership style of the interim Chief Executive compromised the impartiality of officers; and that inexperienced leadership by the Mayor further weakened the governance of the council.

¹²⁷ Audit Commission (2010), *Doncaster Metropolitan Borough Council: Corporate Governance Inspection*. Available online at: <https://webarchive.nationalarchives.gov.uk/20121206054613/http://www.audit-commission.gov.uk/inspection-assessment/local-gov-inspection/reports/Pages/201004doncastermetropolitanboroughcouncilcorporategovernanceinspection.aspx>

¹²⁸ Cited in Audit Commission (2010), *Doncaster Metropolitan Borough Council: Corporate Governance Inspection*, para 34

Northamptonshire County Council (events taking place between 2015-17; report by Max Caller CBE, Best Value Inspector, 2018)¹²⁹

Whilst the problems faced by Northamptonshire Council were primarily financial, underlying these was a lack of scrutiny, both at an overall level and at the level of individual councillors being permitted to ask questions.

The inspection team said that they were “[...] struck by the number of councillors who told us that they had been refused information when they sought to ask questions”.

“Members told us that they had been informed that ‘you can only ask that at scrutiny meetings and not outside a meeting’ that ‘I need to get permission from the Cabinet member to discuss this with you’ or just not getting a response. Councillors told us that they felt if they asked difficult questions at Audit Committee or scrutiny meetings they would be replaced and there was some evidence to support this.”

The report also commented that “[...] there had been no attempt to review either successful or unsuccessful budget inclusions in past years to learn lessons as to why things went well or failed to be delivered”.

Based on these reports, and our broader evidence, we have identified three common threads in cases of corporate governance failings, all of which are linked to failures in upholding the Seven Principles of Public Life.

First, an unbalanced relationship between members and officers. This involves a breakdown in the structures of accountability and objectivity, which should allow officers to provide quality, impartial advice to the members who are ultimately accountable for the work of the council. When this is unbalanced, with either officers or members becoming over-dominant, or a blurring of the official and political, there is a risk that decisions are not made in the public interest.

What you see in cases of corporate failure is that the relationship between members and officers gets ‘bent’ – either with over-dominant councillors and weak officers, or indeed vice versa. A ‘member-led authority’ can become ‘member-dominant’.¹³⁰

Dame Stella Manzie DBE

Secondly, a lack of understanding and appreciation of governance processes and scrutiny. All the examples we describe above involve a lack of a proper scrutiny function, fundamental to the Nolan Principles of openness and accountability. Scrutiny, oversight, and audit processes can stagnate when there is a lack of appreciation of why they exist. Scrutiny should not be a process of rubber-stamping, but rather a probing of policy intent, assessment of financial viability, testing of assumptions, and weighing of evidence to ensure that decisions made, are made in the public interest. Local authorities should therefore not be afraid of the scrutiny function or treat it lightly, but should welcome opportunities to strengthen proposals and realise the benefits of bringing potential issues to light at an early stage.

¹²⁹ Max Caller CBE (2018), *Northamptonshire County Council Best Value Inspection*. Available online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/690731/Best_Value_Inspection_NCC.pdf

¹³⁰ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

If you don't maintain a culture, it doesn't happen by itself. You have to work on it, live it, you have to work on it with people who try and breach it (because they don't understand). A good ethical culture atrophies quite quickly.¹³¹

Max Caller CBE

Thirdly, a culture of fear or bullying. This was a strong theme of the cases we considered. When individuals are fearful of speaking up then poor behaviour goes unreported and can become part of an authority's culture. Similarly, when an individual is subject to bullying by another, this can result in undue pressure to act, or refrain from acting, in a way that is contrary to the public interest. A culture of fear or bullying is fundamentally a failure of leadership, whether leaders fail to tackle wrongdoing when it occurs or are themselves the ones who are doing the bullying.

Left unchecked, standards risks can be realised and become instances of corporate failure. The danger of corporate failure points to a need for councils to identify when standards and governance are at risk, and develop and maintain an ethical culture, to protect against those risks in their own authority.

¹³¹ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

Chapter 8: Leadership and culture

Leadership

Leadership is essential in embedding an ethical culture. We have considered throughout our review where, primarily, leadership comes from in local government – who sets the tone when it comes to ethics and standards. We have concluded that leadership is needed from a range of senior individuals, given the multi-faceted nature of local government and the distinctive remits of different roles.

Leadership is needed from a local authority's standards committee. Standards committees play a role not just in formally adjudicating on alleged breaches of the code of conduct, but by continuously reviewing ethical standards in the council, and drawing the authority's attention to areas where standards could be better upheld. Standards committees should see themselves as playing a leadership role in setting expectations of behaviour and continually holding the authority to account on standards issues.

The Chief Executive also plays an important role, especially among officers. Their leadership role includes modelling high standards of conduct, particularly those distinctive to officers in respect of political impartiality and objectivity. But the Chief Executive must also show leadership by empowering other senior officers – such as the Monitoring Officer – to carry out their role effectively. The Chief Executive is ultimately responsible for guarding the demarcation between officers and members, and needs to be clear about when members need to take a decision, and when officers should have the discretion to carry out their roles as they see fit.

If the Chief Executive is weak and senior officers are not backed up then they are stymied as there is nowhere else to go.¹³²
Dame Stella Manzie DBE

Leaders of political groups play a vital leadership role among councillors. Political group leaders set the tone for how new councillors will engage with each other, and set expectations for how councillors will engage with officers. Leader of political groups not only need to model high standards themselves, but should be quick to address poor behaviour when they see it. They should seek to mentor and advise councillors in their party on how to maintain standards of conduct, and be willing to use party discipline when necessary. The leader of the council plays an important role here: as the most visible group leader, they should model the highest standards of conduct and address any poor behaviour by portfolio-holders.

Where group leaders can appoint councillors to the standards committee, they should demonstrate leadership by appointing members who have the experience and commitment to fulfil that role effectively.

Last, there is a leadership role played by the chair of the council. When this post is occupied by a senior and respected member, they can play a role in setting the tone of full council meetings, and ensure that councillors – regardless of party group – are aware of the expectations for how they engage with each other and with officers. This is particularly important in order to provide support for councillors who are not members of a political group, which we discuss further below.

¹³² Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

Turning around a culture

As part of our review, we took evidence from a number of experienced Chief Executives and Commissioners who have each turned around an unhealthy organisational culture in one or more local authorities.

This evidence, alongside our consideration of reports on corporate failures at specific authorities over the recent years, suggests that four measures are needed from senior leaders in order to turn around an unhealthy culture.

First, senior leadership modelling the expected behaviours and signalling from the first day how these behaviours look, sound and feel. This is particularly the case, as we have discussed above, in the early days of a new council or in the case of corporate renewal, once new senior officers or commissioners have been put in place. As well as modelling the expected behaviour, this element of installing and maintaining an ethical culture is about a present, visible and accessible leadership.

As a leader in a council in trouble I think you have to be absolutely clear what you expect, and model that behaviour every day.¹³³

Max Caller CBE, Commissioner, Northamptonshire County Council

I meet every new starter and tell them “You are a fresh pair of eyes. Do call things out. You are a really valuable asset”, so you set that expectation to challenge and seek improvement really early on.¹³⁴

Dawn French, Chief Executive, Uttlesford District Council, Essex

This demonstrated form of visible leadership can also straddle the member-officer divide, with meetings between new officers and council and group leaders to discuss standards being routine until the tone of the council is reset.

Secondly, an attentiveness to even small practices that do not match expected behaviour. Taking a ‘zero tolerance’ approach even to small breaches may be disproportionate when there is a healthy culture, but is necessary to embed the required behaviours when trying to reverse an unhealthy culture.

There have been standards issues in the authorities in which [I have worked], ranging from informality about the parking passes, to trying to keep information away from the opposition, to informality in granting licences, or to circumventing proper financial regulations. Even the lowest level of wrongdoing needs attention, through a private conversation, and when unaddressed can lead to more significant wrongdoing.¹³⁵

Dame Stella Manzie DBE

Thirdly, the timely, fair and accurate identification by senior leadership of opportunities for development and occasions for discipline of those who are in danger of breaching the rules. An effective leader turning around an unhealthy culture will identify the underlying motives of behaviour, to judge whether it is more appropriate privately to advise and correct an individual, or to discipline them.

¹³³ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹³⁴ Dawn French, Visit to Uttlesford District Council, Monday 10 September 2018

¹³⁵ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

Opportunities to develop individuals to build a more effective culture may change over time, and this is even more the case for a council experiencing a period of transition.

Fourthly, whilst there is clearly a role for interim appointments in order to provide transitional leadership, interim arrangements should not be overstretched, to allow new leaders to embed long-term changes to the organisation's culture.

When you have prolonged interim officers, that has a problem for the culture in the longer term. In the interim term, they [interim appointees] can never start to work on those sorts of things.¹³⁶

Max Caller CBE, Commissioner, Northamptonshire County Council

The role of political groups

Whilst political parties can form only part of the system, and are not a substitute either for effective senior officers, or for the formal standards process, they nevertheless have an important role to play in showing leadership and maintaining an ethical culture.

All the political parties need to get a lot more organised and coherent about standards in local authorities. That would still be important even if local authorities had the power to sanction councillors.¹³⁷

Dame Stella Manzie DBE

The role of party groups in maintaining an ethical culture can be conceptualised in two ways. The first is a 'parallel' model, where the activities of political groups are undertaken in parallel alongside activities of the local

authority, for example, parallel disciplinary processes, training, and so on. The second is a 'layered' model, where political groups play a distinct role that sits between direct advice from officers on the one hand and formal processes undertaken by the local authority on the other.

We see risks in local authorities adopting a 'parallel' model. In practice, parallel processes will mean either that political groups are not used and engaged with effectively, which neglects opportunities for informal training and resolution; or that the effective standards training and discipline become, in time, delegated to political groups, which lacks the necessary checks, independence, and transparency. Such a model also tends to depend heavily on individual post-holders, which means that the authority may face standards risks if there is a change either in political leadership or in those occupying senior officer posts.

Rather, local authorities should see political groups as a semi-formal institution in the 'layered' model. We heard that group whips will often see mentoring new councillors and supporting existing councillors as an important part of their role. When it comes to training, local authorities should value and utilise the informal mentoring and support within political groups that can complement the formal training offered by the local authority and advice from officers. Senior officers should regularly engage with group whips and group members to understand the training needs of members and to ensure that the right expectations are set for how councillors act in the chamber, on committees, with officers, and on outside bodies.

With respect to disciplinary processes, ideally the Monitoring Officer or deputy should

¹³⁶ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹³⁷ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

seek early, informal resolution of emerging issues with members. If, for whatever reason, it is considered that a direct approach is inadvisable or the issue is politically sensitive, senior officers should seek to work with group leaders and whips in order to address the issue of a member's conduct. Where there is a formal complaint, or the issue is a serious one, the formal standards processes should be followed, with the necessary checks and transparency.

There is a balance here, and it is about degrees; I know there are times when it's right to go through a formal process in the council with the greater transparency that brings. But there are also times when any sanction would fail if it went through that process. But actually the person probably has gone further than they should have done, it's up against that fine line of the Seven Principles and what they need is a stern warning. It's better sometimes to have that reflected on during 30 days' suspension from their group rather than go through a formal process that finds that there is insufficient evidence.¹³⁸

**Cllr Rory Love, Chairman,
Conservative Councillors' Association**

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

We heard evidence of the difficulties presented by new political groups, or independent members who sit outside the formal group structures. New political groups will not always enable the mentoring of new councillors, to

set expectations of behaviour, or for officers to draw on long-standing working relationships with group leaders. In the case of councillors who sit outside group structures, party discipline and the use of informal approaches to deal with potential misconduct are not possible. As a result, we heard that, generally, political groups can maintain ethical standards more effectively in an authority when they tend to be larger and better resourced. This points to a need for officers to provide greater support and ensure a full induction process for councillors who lack the support of an established political group.

Building an ethical culture

The aim of a standards system is ultimately to build an ethical culture: to embed high standards throughout an organisation, so that it becomes an integral part of how the organisation works as a whole, and how each individual person goes about their role within it. Having a system which effectively investigates complaints which is punitive where necessary is important; what is more important is a system which enables good behaviour.

An ethical culture starts with tone. A civil tone when conducting politics is the basic starting point for a healthy ethical culture. This is true both for the relationship between councillors and officers, and the relationship between different councillors. A common aim of elected members and those supporting them is to work for the benefit of the community they all serve. This provides a solid basis for an ethical culture. Of course, such civility does not mean that individual members or officers should not feel free to challenge or pursue inquiries, but concerns can be expressed in such a way as to be constructive and civil in tone.

Secondly, a local authority needs to set clear expectations of behaviour, as well as its

¹³⁸ Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018

underlying rationale, namely to enable the local authority to perform its functions in a way which is in the public interest. This behaviour needs to be modelled by senior leaders and the expectations of behaviour need to be followed through in advice from officers and group leaders, and any party discipline or sanctions process. The expected behaviour of councillors needs to be set out at an early stage in induction and training programmes.

Our evidence from local authorities suggests that induction for councillors at the earliest stage is crucial to ensuring high standards of conduct. Councils we visited that had not previously arranged training or left it until the dynamics of the groups were set after a new term, were now putting plans in place to ensure that training could occur at an earlier stage in subsequent terms. Councils who perceived they had an effective ethical culture attributed this to early and effective induction of councillors with clear messages from senior leadership about attendance.

To be successful, induction training should not be dry or compliance-focussed, but should set out the rationale for high standards in public life, and should be scenario-based so that councillors can engage with concrete examples and see the relevance of standards to different areas of activity in which they might be involved.

The evidence we received suggests that such training, even where offered, may not always be taken up by councillors. We therefore suggest that a stronger role should be played by political groups and national political parties to ensure that councillors attend relevant training on ethical standards where this is offered by their local authority.

Recommendation 25: Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.

We have considered whether any particular voting pattern – electing councillors every four years, in halves, or in thirds – makes it easier to induct councillors or to preserve an ethical culture. We have concluded that each pattern has advantages and drawbacks in preserving an ethical culture, given the trade-off between regularity of turnover, and the proportion of councillors who are potentially replaced at each election. There is no ‘optimal’ pattern; what matters more is early induction by the local authority.

Thirdly, an objective, impartial Monitoring Officer, who enjoys the confidence of members and of senior officers, is essential. It is important that councillors of all parties know that they can approach the Monitoring Officer in confidence for authoritative and impartial advice.

Fourthly, an ethical culture is an open culture. A local authority should take an open approach to its decision-making, with a presumption that reports and decisions should be public unless there are clear and lawful reasons that the information should be withheld.

When scrutiny is seen as an unnecessary evil and that is what the culture is, it is difficult to know whether decisions are being made properly.¹³⁹

Max Caller CBE, Commissioner, Northamptonshire County Council

We have been concerned by reports of councils relying unnecessarily on commercial confidentiality as a reason to withhold information, and of using informal working groups or pre-meetings in order to hold discussion out of the view of the public, in full cabinet or full council. As the House of Commons Communities and Local Government Committee concluded in relation to commercial information held by local authorities, “[...]we cannot see a justification for withholding such information from councillors [...] councils should be reminded that there should always be an assumption of transparency whenever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority”.¹⁴⁰

High quality and engaged local journalism can help to maintain standards by bringing to light council’s decisions and councillors’ behaviour. We heard in Camden Council, for example, that maintaining an ethical culture was helped by a highly engaged civic community and strong local press, due to the expectation that behaviour and decisions would be publicly reported.

In Camden, we have a very active local press. There is not much that we do that doesn’t get reported. That is probably one (amongst a number) of the positive drivers towards high standards among councillors – what our councillors do and how they behave matters as it is noticed and reported on.¹⁴¹

Andrew Maughan, Monitoring Officer, Camden Council

We are aware, however, that there is a decline of public interest journalism undertaken by the local press in many areas of the country. In some areas of the UK, public-interest journalism is undertaken privately by bloggers, but the quality of such journalism can vary significantly. This suggests to us that local government as a sector cannot rely on public interest journalism to provide the requisite transparency in decision-making; rather local authorities must have the right processes and attitudes in their own organisation to enable external scrutiny of behaviour and decisions.

The role of public-interest journalism is ‘telling people things they didn’t know’. It includes both an investigative aspect and encouraging public engagement with local democracy.¹⁴²

Darryl Chamberlain, editor, 853 blog

The scrutiny function within a local authority is vital to ensure effective and ethical decision-making. An authority should welcome and support scrutiny, seeing it as an opportunity to improve the quality of decision-making by challenging assumptions, probing policy intent, and testing viability. An authority should ideally take a risk-based approach to scrutiny, submitting decisions which carry the greatest risk to the greatest degree of scrutiny. The definition of risk should be based on the risk to the public interest, in respect of the authority’s duties, not reputational risk to the organisation.

¹⁴⁰ House of Commons Communities and Local Government Committee (2017), *Effectiveness of local authority overview and scrutiny committees*, HC 369, para 41

¹⁴¹ Andrew Maughan, Visit to Camden Council, Monday 15 October 2018

¹⁴² Darryl Chamberlain, Individual oral evidence, Tuesday 4 September 2018

[In an unhealthy organisational culture], self regard takes over and leaders end up spending their time looking at risk registers about reputational damage, rather than what the risks to the public are.¹⁴³

Barry Quirk CBE, Chief Executive, Royal Borough of Kensington & Chelsea

Common law rights of councillors to know what is going on are well established in local government. It is not about regulations (although they are there), it is about making sure the culture says ‘these people are elected and have entitlement to know and there are some rules about confidentiality’. They can’t pursue cases where they have individual reasons for not being involved.¹⁴⁴

Max Caller CBE, Commissioner, Northamptonshire County Council

Councils should be open to processes such as peer review, for example, as offered through the Local Government Association, in order to test the effectiveness of their culture and organisational and governance structures. Such reviews should also include consideration of the processes the authority has in place to maintain ethical standards.

Recommendation 26: Local Government Association corporate peer reviews should also include consideration of a local authority’s processes for maintaining ethical standards.

In the first instance, officers and portfolio-holders need to take decisions in a way that are open to scrutiny by council members. Local government differs from central government in that officials are accountable to full council, not to the administration. Council officers therefore have a general obligation to provide information to councillors and to account for decisions to councillors. Officers should ensure that members are aware of their right to gain information and to ask questions, and the culture of the authority should reflect the accountability of officers and the administration to full council.

¹⁴³ Barry Quirk CBE, Individual oral evidence, Wednesday 19 September 2018

¹⁴⁴ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

Conclusion

High standards of conduct in local government are needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Throughout this review, we have seen and heard that both councillors and officers want to maintain the highest standards in their own authorities. The challenge is to maintain a system that serves the best instincts of councillors and officers, whilst guarding against corporate standards risks, and addressing the problem of a small minority of councillors who demonstrate unacceptable behaviour.

A robust system, which includes adequate codes of conduct, investigation mechanisms and safeguards, and – where necessary – punitive sanctions, is important. What is more important, however, is a system and culture that enables good behaviour.

Our recommendations represent a package of reforms to strengthen and clarify the existing framework for local government standards. Whilst many of our recommendations would require primary legislation – whose implementation would be subject to Parliamentary timetabling – we would expect that those recommendations only requiring secondary legislation or amendments to the Local Government Transparency Code could be implemented by government relatively quickly. The best practice we have identified is, in most cases, already operating in a number of local authorities. Taken as a whole, this best practice represents a benchmark that any local authority in England can and should implement in their own organisation. We intend to monitor the uptake of our best practice in 2020.

Ultimately, however, responsibility for ethical standards rests, and should remain, with local authorities. Senior councillors and officers must show leadership in order to build and maintain an ethical culture in their own authority.

We are confident that local government in England has the willingness and capacity to maintain the highest standards in public life; the recommendations and best practice we have outlined will enable them to do so.

Appendix 1: About the Committee on Standards in Public Life

The Committee on Standards in Public Life (the Committee) is an advisory non-departmental public body sponsored by the Cabinet Office. The chair and members are appointed by the Prime Minister.

The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference: *“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”*

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister: *“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.”*

The terms of reference were clarified following the Triennial Review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee *“[...] should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies”, and that “the government understands the Committee’s remit to examine ‘standards of conduct of all holders of public office’ as encompassing all those involved in the delivery of public services, not solely those appointed or elected to public office”.*

The Committee is a standing committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit those areas and monitor whether and how well its recommendations have been put into effect.

Membership of the Committee, as of January 2019

Lord (Jonathan) Evans of Weardale KCB DL,
Chair

The Rt Hon Dame Margaret Beckett DBE MP
Simon Hart MP

Dr Jane Martin CBE

Dame Shirley Pearce DBE

Jane Ramsey

Monisha Shah

(leave of absence since October 2018)

The Rt Hon Lord (Andrew) Stunell OBE

Secretariat

The Committee is assisted by a Secretariat consisting of Lesley Bainsfair (Secretary to the Committee), Ally Foat (Senior Policy Advisor), Stuart Ramsay (Senior Policy Advisor), Nicola Richardson (Senior Policy Advisor) (from January 2019), Aaron Simons (Senior Policy Advisor) (from January 2019), Lesley Glanz (Executive Assistant) (from December 2018) and Amy Austin (Executive Assistant and Policy Advisor). Press support is provided by Maggie O’Boyle.

Professor Colin Copus acted as academic advisor to the Committee during the review.

Appendix 2: Methodology

The Committee used a range of methods as part of its evidence gathering for this review, including:

- a public consultation, which received 319 responses, published online alongside our review
- 30 individual stakeholder meetings
- desk research, including:
 - research on the legal framework for local government standards
 - analysis of a sample of 20 principal authority codes of conduct
 - analysis of reports of corporate failure
- roundtable seminars, with Monitoring Officers, clerks and Independent Persons; and academics and think tanks
- five visits to local authorities in England

Stakeholder meetings

The Committee held 30 meetings with individual stakeholders. These meetings were all held on the basis that the no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Name	Role and organisation
Marie Anderson	Northern Ireland Local Government Commissioner for Standards
Nick Bennett	Public Service Ombudsman for Wales
Clive Betts MP	Chair, House of Commons Housing, Communities and Local Government Committee
Max Caller CBE	Best Value Inspector, Northamptonshire County Council
Darryl Chamberlain	Editor, 853 blog
Kirsty Cole	Deputy Chief Executive, Newark and Sherwood District Council
Kevin Dunion OBE*	Convenor, Standards Commission for Scotland
Jonathan Goolden	Wilkin Chapman LLP
Justin Griggs	National Association of Local Councils

Name	Role and organisation
Cllr Liz Harvey	Councillor and subject of R (Harvey) v Ledbury Town Council
Cllr Simon Henig CBE	Chair, Association of Labour Councillors
Mayor Dave Hodgson	Chair, Association of Liberal Democrat Councillors
Lorna Johnston	Executive Director, Standards Commission for Scotland
Lord (Robert) Kerlake	Former Permanent Secretary, Department of Communities and Local Government
Michael King	Local Government Ombudsman
Cllr Rory Love	Chairman, Conservative Councillors' Association
Dame Stella Manzie DBE	Former Chief Executive, Birmingham City Council
Graeme McDonald	Chief Executive, Solace
Jacqui McKinlay	Chief Executive, Centre for Public Scrutiny
Diana Melville	Governance Advisor, CIPFA (The Chartered Institute of Public Finance and Accountancy)
Aileen Murphie and Abdool Kara	National Audit Office
Mark Norris	Local Government Association
Cllr Marianne Overton MBE	Local Government Association Vice Chair (Independent)
David Prince CBE	Former Chief Executive, Standards for England, and former member of CSPL
Dr Barry Quirk CBE	Chief Executive, Royal Borough of Kensington and Chelsea
Cllr David Simmonds CBE	Former Local Government Association Vice Chair (Conservative)
John Sinnott and Lauren Haslam	Chief Executive and Director of Law and Governance, Leicestershire County Council
Rishi Sunak MP	Minister for Local Government
Richard Vize	Former editor, Local Government Chronicle
Rob Whiteman	Chief Executive, CIPFA (The Chartered Institute of Public Finance and Accountancy)

* Presentation on the work of the Standards Commission for Scotland at the Committee's October 2018 meeting

Roundtable seminars

The Committee held two roundtable seminars as part of this review. The first took place on Wednesday 18 April 2018 in Birmingham, with Monitoring Officers, clerks, and Independent Persons, and was held on the basis that a non-attributed summary note of the seminar would be published following approval by attendees, but verbatim material from the seminar would only be quoted in our report with the permission of the individual concerned. The summary note was published on our website on 14 May 2018. The second took place on Tuesday 24 April 2018, with academics and think tanks, and was held on the basis that a transcript of the seminar would be published following approval by attendees. This was published on our website on 14 May 2018.

Monitoring Officers, Clerks, and Independent Persons roundtable Wednesday 18 April

Name	Organisation
Dr Peter Bebbington	Stratford-upon-Avon District Council
Lord (Paul) Bew	Committee on Standards in Public Life
Kate Charlton	Birmingham City Council
Tom Clark	Mid Sussex District Council
Professor Colin Copus	Local Governance Research Unit, Leicester Business School
Jonathan Goolden	Wilkin Chapman LLP
Philip Horsfield	Lawyers in Local Government
Simon Mansell MBE	Cornwall Council
Tim Martin	West Midlands Combined Authority
Dr Jane Martin CBE	Committee on Standards in Public Life
Sharn Matthews	Northampton Monitoring Officers Group
Megan McKibbin	Ministry of Housing, Communities and Local Government
Lis Moore	Society of Local Council Clerks
Dr Jonathan Rose	Department of Politics & Public Policy, De Montfort University
Richard Stow	Herefordshire County Council
Meera Tharmarajah	National Association of Local Councils
Jeanette Thompson	North Hertfordshire District Council

**Academics and think tanks roundtable
Tuesday 24 April 2018**

Name	Organisation
Lord (Paul) Bew	Committee on Standards in Public Life
John Cade	INLOGOV, University of Birmingham
Professor Colin Copus	Local Governance Research Unit, Leicester Business School
Ellie Greenwood	Local Government Association
Paul Hoey	Hoey Ainscough Associates
Dr Jane Martin CBE	Committee on Standards in Public Life
Megan McKibbin	Ministry of Housing, Communities and Local Government
Jacqui McKinlay	Centre for Public Scrutiny
Mark Norris	Local Government Association
Dame Shirley Pearce DBE	Committee on Standards in Public Life
Jane Ramsey	Committee on Standards in Public Life
Rt Hon Lord (Andrew) Stunell OBE	Committee on Standards in Public Life
Brian Roberts	CIPFA (Chartered Institute for Public Finance and Accountancy)
Professor Tony Travers	London School of Economics and Political Science
Daniel Thornton	Institute for Government

Local authority visits

The Committee undertook visits to five principal authorities in England. The five local authorities were selected to ensure a representative range of geographies, tiers of local government, and political control. All five authorities had made written submissions to the Committee's consultation.

Local authority	Date	Meetings
Uttlesford District Council	10 September 2018	Standards committee; Chief Executive; Monitoring Officer; Independent Persons; parish council chair; Essex Association of Local Councils
Worcestershire County Council	11 September 2018	Standards committee; group leaders; Chief Executive; Monitoring Officer; Independent Person; independent members of standards committee
Leeds City Council	18 September 2018	Standards committee; Chief Executive; Deputy Monitoring Officer; Independent Person; Leader and Deputy Leader; Leader of the Opposition; group whips; community representative
Cornwall Council	24 September 2018	Standards committee; Chief Executive; Monitoring Officer and Deputy Monitoring Officer; Leader; Independent Persons; independent members of standards committee; Cornwall Association of Local Councils
Camden Council	15 October 2018	Monitoring Officer; Chief Executive; Administration Chief Whip; Leader of the Opposition; Independent Person*

*Follow-up telephone conversation

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Committee on Standards in Public Life

Room GC.07, 1 Horse Guards Road, London SW1A 2HQ

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January 2019

**Room G.07
1 Horse Guards Road
London
SW1A 2HQ**

public@public-standards.gov.uk

Sent by email
to Local Authorities in England
For the attention of the Chief Executive

July 2020

LOCAL GOVERNMENT ETHICAL STANDARDS

I am writing from the Committee on Standards in Public Life to follow up recommendations made in our January 2019 [report](#) on local government ethical standards.

In that report, we identified some best practice recommendations which represent a benchmark for ethical practice and which we expect any local authority should implement.

We said in our report that we would review the implementation of those best practice recommendations in 2020. We completely understand the unexpected and unprecedented pressures that local authorities are facing this year with COVID-19, so we are not of course asking for an immediate response. The purpose of this email is to let you know that we will be writing again in the autumn to ask you for your progress against these recommendations. I have attached a list of the best recommendations for ease of reference, but they are of course also set out in the report.

If you have any questions, please do just let us know. Otherwise, we wish you well and look forward to being in touch again later this year.

Secretariat
Committee on Standards in Public Life

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List of Best Practice Recommendations

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial. 19 List of best practice

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

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Appendix E



Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

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Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

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- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

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These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

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Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering

interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it

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is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

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APPENDIX Q: Sevenoaks District Council Members' Code of Conduct

You are a member or co-opted member of the Sevenoaks District Council and hence you shall have regard to the following principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.
7. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

You must always comply with relevant laws and have due regard to local codes and protocols in effect from time to time including Appendix W to the Council's Constitution "Guidance on the Disclosure of Confidential Information by Members".

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify the monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State and set out in Schedule A appended to this Code, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify the monitoring officer of any disclosable pecuniary or non-pecuniary interest which the Council has decided should be included in the register and set out in Schedule B appended to this Code.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State (DPI) and set out in Schedule A. Additionally, you must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which you have a pecuniary interest as defined by regulations made by the Secretary of State (DPI) as set out in Schedule A.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

SCHEDULE A

Disclosable Pecuniary Interests, as prescribed by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No 1464) are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“the Act” means the Localism Act 2011

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“director” includes a member of the committee of management of an industrial and provident society

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

“M” means a member of the relevant authority

“member” includes a co-opted member

“relevant authority” means the authority of which M is a member

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

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	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

NOTE:

In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
- (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;

- (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

SCHEDULE B

An interest which relates to or is likely to affect:

(i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;

(ii) any body—

(a) exercising functions of a public nature;

(b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which the member of the Council is a member or in a position of general control or management;

(iii) any gifts or hospitality worth more than an estimated value of £25 or more which the member has received by virtue of his or her office.

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PAY POLICY STATEMENT

Council - 23 February 2021

Report of: Chief Executive

Status: For Decision

Key Decision: No

This report supports the Council promise to provide value for money

Portfolio Holder: Cllr. Fleming

Contact Officer: Lee Banks, Ext. 7161

Recommendation to Council:

The Pay Policy Statement is adopted by the Council and is 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 available 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.

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- 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 2021 and will take effect from 1 April 2021. The Policy Statement is forward looking and any recruitment decisions taken between 1 April 2021 and 31 March 2022 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

None. It is a statutory requirement to produce and publish a Pay Policy Statement

Key Implications

Financial

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 10 year budget framework.

Legal Implications and Risk Assessment Statement

Failure to publish a Pay Policy Statement, approved by full Council, by 31 March 2021 will be a breach of the Localism Act 2011.

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 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](#)

[Openness and accountability in local pay: Guidance under section 40 of the Localism Act \(Communities and Local Government\)](#)

[Openness and accountability in local pay: supplementary guidance](#)

Dr Pav Ramewal

Chief Executive

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Sevenoaks District Council Pay Policy Statement 2021/22

1. Introduction

- 1.1 The Council's Pay Policy Statement sets out its policies for 2021/22 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 2021/22.

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.

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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;

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- 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 2020/21 the median average salary at Sevenoaks District Council was £26,107, which lies at pay point C4.
- 7.3 The pay multiple between the Chief Executive's salary and the median salary point is 5.8.
- 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.

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Cllr Fleming - Leader's Report

From: 2 November 2020 - 5 February 2021

Date	Event
2 November	<ul style="list-style-type: none"> • Kent Council Leaders' Meeting via Teams
3 November	<ul style="list-style-type: none"> • LGA Peer Review via Teams • Ministerial Webinar via Teams
4 November	<ul style="list-style-type: none"> • Kent Council Leaders' Meeting via Teams
5 November	<ul style="list-style-type: none"> • Westminster Insight's Digital Conference - Pre-recorded presentation attended for Q&A session • Radio Kent Interview - Care for our Community • Cabinet via Zoom
6 November	<ul style="list-style-type: none"> • Kent & Medway Business Fund Investment Advisory Board via Zoom • Cabinet/SMT Coronavirus Update Teleconference - SDC • Photograph with Chairman for Armistice day - SDC • Digital Transformation Discussion with Kitty Nichol-Adhamy via Teams • Meeting with Laura Trott MP via Zoom
9 November	<ul style="list-style-type: none"> • Sevenoaks Town Council Annual Liaison Meeting via Zoom
10 November	<ul style="list-style-type: none"> • LGA Business Rates & LGF Reform TFG via Zoom • Westerham Town Council Annual Liaison Meeting via Zoom
11 November	<ul style="list-style-type: none"> • Armistice Day - Attend Chairman's online event • Kent Council Leaders' Weekly Covid-19 Meeting via Teams • KCC/SDC Meeting re Infrastructure Proposition via Teams
12 November	<ul style="list-style-type: none"> • DCN Executive call via Zoom • Meeting with Locate in Kent via Teams • Kent Rail Strategy telephone meeting with Claire Pamperi • Ministerial Webinar via Teams • Charing LGA Member Peer Conference via Zoom
13 November	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC • Visit to Berkeley's Quinton Court - Sevenoaks
16 November	<ul style="list-style-type: none"> • Meet with applicant for the role of Head of Information & Customer Solutions - SDC • Special Cabinet via Zoom
17 November	<ul style="list-style-type: none"> • APPG Local Government Finance & Local Recovery via Zoom • Net Zero catch-up with officers via Zoom • Kent & Medway Economic Partnership via Zoom • Council via Zoom
18 November	<ul style="list-style-type: none"> • LGA Digital Webinars via Zoom • Meeting with James Ball re Central Sevenoaks 20mph via Zoom • Kent Council Leaders' Weekly Covid-19 Meetings via Teams • 27-37 High Street Demolition Tender Award via Teams

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Date	Event
19 November	<ul style="list-style-type: none"> • LGA Improvement Team catch-up via Teams • Net Zero 2030 Cabinet Working Group meeting via Zoom
20 November	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC • LGA Digital Democracy: Hybrid Meetings - Chair via Zoom • MHCLG Coronavirus Ministerial Webinar via Microsoft Teams
23 November	<ul style="list-style-type: none"> • LGA Improvement & Innovation Lead Member Meeting via Zoom • DCN All-member teleconference via Zoom • Ministerial Webinar via Teams
24 November	<ul style="list-style-type: none"> • LGA Digital Showcase via Zoom Co-Chair • Strategic Programme Board via Zoom
25 November	<ul style="list-style-type: none"> • KCC & District Leader Highways Meeting via Teams
26 November	<ul style="list-style-type: none"> • DCN Executive call via Zoom • SE - Covid-19 Local Tiering Arrangements via Teams • Kent Council Leaders' Meeting via Teams • Improvement & Innovation Advisory Committee via Zoom
27 November	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC • Kent Environment Strategy Conference via Teams
30 November	<ul style="list-style-type: none"> • Visit to Bat & Ball Centre, invited by Sevenoaks Town Council • Meeting with KCC re Secondary provision via Teams • KCC Meeting re EU Transition on Sevenoaks & Tonbridge & Malling via Teams
December 2020	
2 December	<ul style="list-style-type: none"> • Kent Council Leaders' Weekly Covid-19 Meeting via Teams • Kent & Medway Economic Partnership Meeting via Zoom
3 December	<ul style="list-style-type: none"> • LGA Executive Advisory Board
4 December	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC
7 December	<ul style="list-style-type: none"> • Corporate Induction - Presentation to new staff- SDC
8 December	<ul style="list-style-type: none"> • Shoot Grapevine video for Staff Christmas message - SDC • Sevenoaks District Business Board via Zoom • Local Authority Digital Working Group via Teams • SDC/Sencio Board via Zoom
9 December	<ul style="list-style-type: none"> • Staff Christmas Service streamed live from St Luke's Church • Kent Council Leaders' Weekly Covid-19 Meeting via Teams
10 December	<ul style="list-style-type: none"> • DCN Executive Call via Zoom • Quercus 7 Trading & Quercus Housing Guarantor Board via Zoom • Cabinet via Zoom
11 December	<ul style="list-style-type: none"> • LGA meeting with Housing Minister, Chris Pincher MP via Zoom • Cabinet/SMT Coronavirus Update Teleconference - SDC • Kent & Medway Business Fund Investment Advisory Board via Zoom
15 December	<ul style="list-style-type: none"> • Ministerial Webinar - Transition Updates - via Zoom • Cabinet via Zoom
16 December	<ul style="list-style-type: none"> • Interviews with Head of Housing Candidates - SDC • Kent Council Leaders' Weekly Covid-19 Meeting via Teams

Date	Event
17 December	<ul style="list-style-type: none"> • Chair LGA Improvement & Innovation Board via Zoom
18 December	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC
19 December	<ul style="list-style-type: none"> • Ministerial Webinar via Zoom
22 December	<ul style="list-style-type: none"> • Strategic Programme Board via Zoom
23 December	<ul style="list-style-type: none"> • Kent Council Leaders' Weekly Covid-19 Meeting via Teams
30 December	<ul style="list-style-type: none"> • Kent Council Leaders' Weekly Covid-19 Meeting via Teams
31 December	<ul style="list-style-type: none"> • Ministerial Webinar via Teams
January 2021	
5 January	<ul style="list-style-type: none"> • Ministerial Webinar via Teams • LGA Digital - A Cllr's Introduction to ... Digital and Data series discussion via Teams
6 January	<ul style="list-style-type: none"> • Kent Council Leaders' Weekly Covid-19 Meeting via Teams
8 January	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC
11 January	<ul style="list-style-type: none"> • DCN all-member teleconference via Zoom • Communications meeting with officers via Zoom
12 January	<ul style="list-style-type: none"> • Zoom call with new Swanley Town Clerk with Chief Executive • Attend Scrutiny Committee meeting for Improvement & Innovation
13 January	<ul style="list-style-type: none"> • Kent Council Leaders' Meeting via Teams • Ministerial Briefing via Teams
14 January	<ul style="list-style-type: none"> • Chief Executive's Appraisal Review - SDC • DCN Members' Board pre meeting - via Teams • DCN joint Member Board & Chief Executives Group Meeting via Zoom • Conservative Councillors' Association Q&A with Secretary of State via Teams • Zoom call with Kent Wildlife Trust re Sevenoaks Reserve and Visitor Centre • Cabinet via Zoom
15 January	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC
20 January	<ul style="list-style-type: none"> • Kent & Medway Business Fund Investment Advisory Board via Teams • Introduce LGA Social Value Masterclass via Zoom • Chair IDeA Board via Zoom • Kent Council Leaders' Weekly Covid-19 Meeting via Teams
21 January	<ul style="list-style-type: none"> • LGA Councillors' Forum via Zoom • LGA Executive Advisory Board via Zoom
22 January	<ul style="list-style-type: none"> • West Kent Partnership via Teams • Cabinet/SMT Coronavirus Update Teleconference - SDC
25 January	<ul style="list-style-type: none"> • Strategic Programme Board via Zoom
26 January	<ul style="list-style-type: none"> • DCN all-member call via Zoom • Local Authority Digital Working Group via Teams
27 January	<ul style="list-style-type: none"> • LGA Social Media presentation via Teams • Kent Council Leaders' Weekly Covid-19 Meeting via Teams

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Date	Event
28 January	<ul style="list-style-type: none"> • Speaker at Local Government Commercialisation conference via Zoom
29 January	<ul style="list-style-type: none"> • Cabinet/SMT Coronavirus Update Teleconference - SDC Improvement & Innovation Portfolio Holder Meeting via Zoom • SEEC All member meeting via Teams
February 2021	
1 February	<ul style="list-style-type: none"> • KCC Investment Advisory Board future funding programmes via Teams • Edenbridge Planning & Transportation Meeting via Zoom
2 February	<ul style="list-style-type: none"> • LGA Social Media presentation via Teams
3 February	<ul style="list-style-type: none"> • Rural Landowners' Meeting via Zoom • Recording of asymptomatic testing - Sevenoaks Bat & Ball Centre • Kent Council Leaders' Weekly Covid-19 Meeting via Teams • Staff Briefing via Zoom
4 February	<ul style="list-style-type: none"> • Staff Briefing via Zoom
5 February	<ul style="list-style-type: none"> • Cabinet/SMT/Coronavirus Update Teleconference - SDC • Tender opening for 27-37 High Street Swanley - Stage 2 via Zoom

QUARTERLY REPORT ON SPECIAL URGENCY DECISIONS

Council - 23 February 2021

Report of: Chief Executive

Status: For Decision

Key Decision: No

Portfolio Holder: Cllr. Peter Fleming

Contact Officer: Vanessa Etheridge, Ext. 7199

Recommendation: That the report be noted.

Reason for recommendation: To comply with the Council's governance arrangements.

Background

- 1 This report satisfies the requirement of quarterly reporting on Special Urgency Decisions as set out in Appendix A - Access to Information Procedure Rules, paragraph 18.3

'In any event the Leader will submit a quarterly report to the Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (special urgency) or annually where there have been none. The report will include particulars of each decision made and a summary of the matters in respect of when each decision was made.'

- 2 It also satisfies the requirement as set out in Appendix C - Scrutiny Committee Procedure Rules paragraph 18.17, that decisions 'taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.'

Introduction

- 3 One urgency decision was taken at a special meeting of [Cabinet on 15 December 2020](#), Minute 157.
- 4 Minute 155 set out the reasons for urgency.

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Key Implications

Financial

The financial implications of these decisions are included in a separate report which complies with the reporting procedures set out in Appendix D (Financial Procedure Rules) 2(d) paragraphs 2.32 and 2.33 of the Council's Constitution.

Legal Implications and Risk Assessment Statement

All relevant legislation and constitutional requirements were adhered to. Each decision sets out its reason for urgency.

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 decision to use the urgency provisions as set out in the report were taken in view of the pressing need for an immediate response to the crisis.

Members are asked to note this report.

Appendices

None

Background Papers

[Council's Constitution](#)

[Cabinet - 15 December 2020 - Agenda and Minutes](#)

Dr. Pav Ramewal

Chief Executive