

Public Document Pack

LICHFIELD DISTRICT COUNCIL

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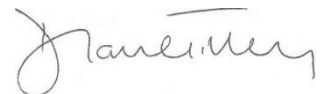
District Council House
Frog Lane
Lichfield
WS13 6YY

5 October 2020

To: Members of the Lichfield District Council

In accordance with Paragraph 4(2) of Part 1 of Schedule 12 to the Local Government Act 1972, you are hereby summoned to attend the meeting of the Lichfield District Council which will be held on **TUESDAY, 13 OCTOBER 2020** at **6.00 pm**.

In light of the current Covid-19 pandemic and government advice on social distancing, the meeting will be held online and streamed live on the Council's [YouTube channel](#)



Chief Executive

AGENDA

1. Apologies for absence (if any)
2. Declarations of interest
3. To approve as a correct record the Minutes of the previous meeting (pages 5 – 26)
4. Chairman's Announcements
5. Report of the Leader of the Council on Cabinet Decisions from the meetings held on 8 September and 6 October (to follow) 2020 and Cabinet Member Decisions (pages 27 – 28)
6. Minutes of the Strategic (Overview And Scrutiny) Committee (pages 29 – 32)
7. Minutes of the Economic Growth, Environment & Development (Overview & Scrutiny) Committee (pages 33 – 36)
8. Minutes of the Community, Housing & Health (Overview & Scrutiny) Committee (pages 37 – 40)
9. Minutes of the Leisure, Parks & Waste Management (Overview & Scrutiny) Committee (pages 41 – 48)
10. Minutes of the Audit & Member Standards Committee

The Chairman of the Audit and Member Standards Committee to move that the proceedings of the meeting held on 22 July 2020 be received and where necessary approved and adopted. (pages 49 – 56)

11. Minutes of the Planning Committee

The Chairman of the Planning Committee to move that the proceedings of the meetings held on 27 July and 24 August 2020 be received and where necessary approved and adopted. (pages 57 – 62)

12. Minutes of the Regulatory & Licensing Committee

The Chairman of the Regulatory & Licensing Committee to move that the proceedings of the meetings held on 30 July and 28 September 2020 be received and where necessary approved and adopted. (pages 63 – 68)

13. Minutes of the Employment Committee

The Chairman of Employment Committee to move that the proceedings of the meeting held on 1 October 2020 (to follow) be received and where necessary approved and adopted.

14. Medium Term Financial Strategy 2020-25 (to follow)

To approve any recommendations made by Cabinet at the meeting on 6 October 2020 in connection with the report on the Medium Term Financial Strategy.

15. Lichfield Masterplan (to follow)

To approve any changes to the Medium Term Financial Strategy recommended by Cabinet at the meeting on 6 October 2020 in connection with the Lichfield Masterplan.

16. Environmental Health Enforcement Policy (pages 69 – 116)

17. Changes to Committees

(a) To approve changes to the Committee arrangements for Asset Management (pages 117 – 120)

(b) To approve changes to the Membership of Committees

18. Motions on Notice

(A) The Following Motion has been submitted by Councillor Norman:

That Lichfield District Council:

(i) acknowledges the efforts that this council has made to reduce greenhouse gas emissions and promote renewable energy by declaring the Climate Change Emergency last year and developing a Local Procurement Policy;

(ii) further recognises

- that very large financial setup and running costs involved in selling locally generated renewable electricity to local customers result in it being impossible for local renewable electricity generators to do so,
- that making these financial costs proportionate to the scale of a renewable electricity supplier's operation would enable and empower new local businesses, or councils, to be providers of locally generated renewable electricity directly to local customers, and

- that revenues received by new local renewable electricity providers could be used to help improve the local economy, local services and facilities and to reduce local greenhouse gas emissions;

(iii) accordingly resolves to support the Local Electricity Bill, supported by many MPs from both sides of the house which, if made law, would establish a Right to Local Supply which would promote local renewable electricity supply companies and co-operatives by making the setup and running costs of selling renewable electricity to local customers proportionate to the size of the supply operation; and

(iv) further resolves to

- inform the local media of this decision,
- write to local MPs, asking them to support the Bill, and
- write to the organisers of the campaign for the Bill, Power for People, (at 8 Delancey Passage, Camden, London NW1 7NN or info@powerforpeople.org.uk) expressing its support.

(B) The following Motion has been submitted by Councillor Evans:

This Council commends the work of the officers to support the transition of Council and committee meetings to an online format in the face of social distancing restrictions due to the coronavirus pandemic. This Council further understands that the use of new technology represents an opportunity for current and future elected representatives to engage a wider audience in its work, including parents or guardians with young children, commuters, shift workers and those with mobility problems. This Council resolves to continue the use of virtual meetings while social distancing restrictions remain in place and to actively consider ways of integrating video conferencing and the online streaming of Council and committee meetings when restrictions are lifted, so that it can continue to engage with the wider community.

19. Questions

To answer any questions under procedure rule 11.2

20. Exclusion of Press and Public

RESOLVED: “That as publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted, the public and press be excluded from the meeting for the following items of business, which would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972”

21. Confidential Minutes of the Employment Committee

The Chairman of Employment Committee to move that the confidential proceedings of the meeting held on 1 October 2020 (to follow) be received and where necessary approved and adopted.

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COUNCIL

14 JULY 2020

PRESENT:

Councillors Powell (Chairman), Cross (Vice-Chair), Anketell, Baker, Ball, Banevicius, Barnett, Binney, Birch, Checkland, Cox, Eadie, Eagland, D Ennis, L Ennis, Evans, Grange, Greatorex, Gwilt, Ho, Humphreys, Lax, Leytham, A Little, E Little, Marshall, Matthews, Norman, Parton-Hughes, Pullen, Ray, Robertson, Salter, Silvester-Hall, Smith, Spruce, Strachan, Tapper, Warburton, Warfield, Westwood, White, M Wilcox, S Wilcox, A Yeates and B Yeates

77 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Brown.

78 DECLARATIONS OF INTEREST

Councillor Norman declared an interest in the Burntwood Neighbourhood Plan as Chairman of Burntwood Town Council's Neighbourhood Plan Task Group.

Councillor Pullen declared an interest in any discussions concerning disabled facilities grants as an application had been made for a member of his family.

Councillor Evans declared an interest in CASES as a Trustee.

79 TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 18 February 2020 were approved as a correct record.

80 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that the following former Members had sadly passed away:

Former Councillor Neil Roberts.

Former Councillor Roberts served as a Member of the Council representing Kings Bromley and Longdon Ward from 1999 until 2015.

He served on many Committees and would be remembered as the Cabinet Member for Development Services which he undertook from 2004 to 2012. During this time he oversaw membership of the Local Enterprise Partnerships and the Heritage Lottery Fund Lichfield Parks Project.

Former Councillor John T. Walker MBE

Former Councillor Walker served as a Member of the Council representing Chase Terrace ward from 1979 to 2007 and 2011 to 2015. He served as Chairman of the District Council from 1995 to 1996.

He became a Member of the Order of the British Empire for his services to the community and was also a Justice of the Peace. He would also be remembered for the charity work he undertook including for the Burntwood Live at Home Scheme.

Former Councillor Alan Pearce,

Former Councillor Pearce served as a Member of the Council representing the Ward of Fazeley from 2011 to 2014. During this time he served on Overview and Scrutiny Committees, Employment and Regulatory & Licensing Committee and would be remembered for his work representing and working with the residents of his ward.

Former Councillor Howard Russell Heath

Former Councillor Heath served as a Member of the Council for Chase Terrace from 1973 to 76 and Boney Hay from 1979 to 2015.

He served on Overview and Scrutiny Committees and numerous other committees during his terms, and would be remembered for his continuous work on planning committee, helping to shape the district for its residents.

A minutes silence was held for the former Members of the Council and everyone who had suffered loss during the Covid19 Pandemic.

81 REPORT OF THE LEADER OF THE COUNCIL ON CABINET DECISIONS FROM THE MEETINGS HELD ON 12 MAY, 2 JUNE AND 7 JULY 2020 AND CABINET MEMBER DECISIONS

Councillor Pullen gave an overview of the action taken during the pandemic noting that the response illustrated the very best of local government and local communities. He said councillors from all parties had stepped forward to do what was needed and the Council had ensured continuity of service.

Highlights included setting up teams to work from home, ensuring the bin rounds continued despite a 40% increase in waste, the distribution of £20 million in grants, offering accommodation to all those sleeping rough, raising £25,000 for a local corona virus relief fund and pioneering a priority shopping system using a concept that was then rolled out across the country. Meanwhile normal business continued and few items had slipped. Councillor Pullen referred to the altruism of communities the dedication of councillors and the expertise, long hours and determination of officers.

Councillor Pullen then submitted his report.

Councillor Ray endorsed the Leaders comments and referencing the Medium Term Financial Strategy asked if there had been further indications from central government about funding. Councillor Pullen advised that the Chancellor would be reimbursing 75 pence in the pound for losses over 5%.

Councillor Norman offered his party's support for Councillor Pullen's comments and he hoped public services would be appreciated even more in the future.

82 MINUTES OF LEISURE, PARKS & WASTE MANAGEMENT (OVERVIEW & SCRUTINY) COMMITTEE - 3 MARCH 2020

Councillor Matthews submitted the Minutes of the Leisure, Parks and Waste Management (Overview & Scrutiny) Committee meeting held 3 March 2020.

83 MINUTES OF ECONOMIC GROWTH, ENVIRONMENT & DEVELOPMENT (OVERVIEW & SCRUTINY) COMMITTEE - 11 MARCH & 9 JUNE 2020

Councillor Cox submitted the Minutes of the Economic Growth, Environment and Development (Overview & Scrutiny) Committee meetings held on 11 March and 9 June 2020.

Councillor Norman questioned the Minutes of the Economic Growth, Environment and Development (Overview & Scrutiny) Committee on 9 June. He said there had been four attempts to reject the Masterplan and the vote on the day was not recorded in the Minutes. He also referred to comments made during the Local Plan debate, and the subsequent apology by the Deputy Leader. He said the meeting appeared to him to result in the resignation of the Chairman of the main scrutiny Committee and the promotion of the Chairman of the Committee to the Cabinet.

Councillor Ball thanked Councillor Cox for his help and support during his term as Vice-Chairman and hoped the future relationship in his new role would not be too adversarial.

Councillor Ray welcomed the fact that a review of the Masterplan had taken place to consider the impact of Covid and said he would like to know more about the funding strategy.

Councillor Cox said consideration of the funding strategy would be down to the new Chairman to take forward and he thanked Councillor Ball for his support as Vice-Chairman.

With regard to the meeting itself, he noted that a briefing paper had been circulated and the video recording was clear in terms of the outcome. In terms of the robustness of Scrutiny he was pleased that the meeting had delivered changes going forward. Councillor Cox advised that the Minutes recorded both the vote declared during the meeting and the corrected outcome for approval by the Committee.

Councillor E Little advised a report would be coming to Scrutiny during the Autumn on the deliverability and viability of the Birmingham Road site.

84 MINUTES OF COMMUNITY, HOUSING AND HEALTH (OVERVIEW & SCRUTINY) COMMITTEE - 18 MARCH 2020

Councillor Eagland submitted the Minutes of the Community, Housing and Health (Overview & Scrutiny) Committee meeting held on 18 March 2020.

Councillor Robertson referred to the Lichfield Late Night Listeners and the important work they undertook.

Councillor Ball expressed disappointment that 'children under 10 on upper floors' was being removed as a priority category in the housing allocations scheme.

85 MINUTES OF STRATEGIC (OVERVIEW AND SCRUTINY) COMMITTEE - 23 JUNE 2020

Councillor Norman submitted the Minutes of the Strategic (Overview & Scrutiny) Committee meetings held on 23 June 2020.

Councillor Norman noted that letters sent by Capita to members of the public in connection with the single person's discount directed people to use the internet as the default option. He asked if the letters could be made more user friendly for people who did not use the internet, which would be consistent with the Council's Engagement Strategy.

Cllr Strachan said the District Council had little control over the letter sent by Capita since they were commissioned by the County Council, however he was aware of its tone and a mystery shopper exercise had found the telephone message to be unsatisfactory. He said work was underway with the programme's managers to try and improve the tone and the Council was taking steps to ensure its own signposting was sensitive.

Councillor A Little said he wished to clarify that his resignation as Chairman of Strategic (O&S) Committee was not primarily based on the result of the vote at the Economic Growth, Environment and Development (Overview & Scrutiny) Committee or the chairing of the Committee, it was far wider and he had made his reasoning clear and he would like Cllr Norman to retract the comments that he resigned singularly on that result.

Councillor Norman said it was not what he recalled saying however if the recording indicated otherwise he would happily apologise.

86 MINUTES OF REGULATORY & LICENSING COMMITTEE - 25 FEBRUARY 2020

It was proposed by Councillor B Yeates, duly seconded and

RESOLVED: That the Minutes of the meeting held on 25 February 2020 be approved and adopted.

87 MINUTES OF PLANNING COMMITTEE - 9 MARCH, 5 MAY AND 1 JUNE 2020

It was proposed by Councillor Marshall that the Minutes of the meetings on 9 March, 5 May and 1 June be approved and adopted.

Councillor Norman referred to the meeting on 1 June and complimented the Chairman on the way he ensured declarations of interest were declared at the meeting. He also commented that a number of Members appeared to consider that they knew more about Highways than the County Council Highway Officer.

Councillor Marshall responded that holding meetings on a virtual platform had been a steep learning curve and he thanked everyone for their efforts.

It was duly seconded and

RESOLVED: That the Minutes of the meetings held on 9 March, 5 May and 1 June 2020 be approved and adopted.

88 MINUTES OF STRATEGIC ASSET MANAGEMENT COMMITTEE - 11 JUNE 2020

It was proposed by Councillor Eadie, duly seconded and

RESOLVED: That the Minutes of the meeting held on 11 June 2020 be approved and adopted.

89 MINUTES OF EMPLOYMENT COMMITTEE - 1 JULY 2020

It was proposed by Councillor Humphreys, duly seconded and

RESOLVED: That the Minutes of the meetings held on 1 July 2020 be approved and adopted.

90 APPOINTMENT OF CHAIRMEN, VICE-CHAIRMEN AND MEMBERS TO COMMITTEES.

Councillor Pullen moved that the appointments of Chairmen, Vice-Chairmen and Members to Committees as set out in the papers previously circulated be approved.

Councillor Norman said he was sorry to report that Councillor Brown had resigned and therefore the report would need to be amended accordingly.

He said Councillor Brown had become aware of comments on the internet and social media about the fact that, despite his best efforts, he didn't use the internet. Councillor Norman said he had been a great ward Member and there appeared to be some ignorance about what a Councillor actually does, and that it goes beyond attending meetings. However Councillor Brown and his family had been caused considerable distress by the vilification on social media and he had resigned from the District Council.

Councillor Evans said Councillor Brown had been a hard working, competent and committed ward councillor and it was disgraceful that he had been hounded and treated this way on social media, to the extent he felt it was necessary to take this action. She said there was far more to being a Councillor than attending meetings and the criticism showed people did not understand the work of a Councillor. She thanked him for his contribution and said it was a sad day for everyone especially considering people of all ages should be encouraged to stand. Furthermore Councillor Brown had been elected before the Covid-19 Pandemic and was attending meetings prior to the restrictions.

Councillor Humphreys said he was sad to hear that Councillor Brown had resigned and he had been a wonderful friend.

Councillor Marshall said he was saddened that Councillor Brown had decided to resign and the reasons behind it. He said he had been a member of Planning Committee since he was elected and had been a valued member. He asked that the Council's best wishes be sent to Councillor Brown.

Councillor D Ennis said he had tried to explain the situation Councillor Brown was in during the pandemic not in terms of age but ill health and the fact he was socially distancing himself for health and safety reasons. He had tried to help Councillor Brown get online, noting sometimes people struggle but they deserved support. Councillor D Ennis said Councillor Brown had been taking precautions and not doing anything wrong. He then gave details of some of the posts and comments that had been made on social media.

Councillor D Ennis said he had been continuing his casework and the fact he could not use technology or attend meetings during a pandemic did not mean he was not an asset to the Council and the Community. He said Councillor Brown had joined the Council because he loved his community and where he lived and he was saddened by the loss of a Councillor who was an asset to his town.

Councillor S Wilcox referred to Lichfield Live and attacks on Councillors and their families. She felt it was damning on the Council and needed to be stopped.

Councillor Greatorex said he thought it was wrong to cite Lichfield Live as the problem since it was more a case of certain individuals than the publication.

Councillor Grange said when you put yourself up for election it is right to expect a level of scrutiny. Where that scrutiny becomes offensive it is possible to block and not read the comments. In the case of Councillor Brown some of the comments were unacceptable and the use of the telephone should have been encouraged as a solution. She said singling out any part of the media was dangerous since it presented Members as not being transparent and open to scrutiny.

Councillor Checkland said Councillor Brown had his sympathy. He said he had come under the social media spot light in relation to Friary Grange Leisure Centre and it had caused enormous personal anguish and he felt some of that was fuelled from within the Council. He said he hoped those watching realised the pressures that Councillors come under when taking up the role.

Councillor Pullen said the overriding objective was for the Council to be open and transparent. That did not mean that some comments are not abhorrent but the overriding objective was to be open and transparent as councillors but he hoped people would recognise the enormous pressure that falls on individual councillors.

It was seconded by Councillor Eadie and

RESOLVED: the appointments of Chairmen, Vice-Chairmen and Members to Committees as set out in the papers previously circulated be approved.

91 ANNUAL TREASURY MANAGEMENT REPORT

Consideration was given to a report confirming that the Council was compliant with all Treasury Limits and Prudential Indicators for 2019/20.

It was proposed by Councillor Strachan, seconded by Councillor Eadie and

RESOLVED: That the actual 2019/20 Prudential Indicators contained within the report be approved.

92 TO APPROVE THE HOUSING, HOMELESSNESS AND ROUGH SLEEPING STRATEGY 2019-2024

Consideration as given to the Housing, Homelessness and Rough Sleeping Strategy 2019-2024 which set out the Council's plans to tackle homelessness, rough sleeping and a range of other housing-related challenges in Lichfield District from 2019 to 2024.

The strategy provided a position statement setting out the Council's strategic priorities and objectives across all housing tenures. The strategy reflected on performance and achievements since the last strategies were published, examined the housing and homelessness challenges faced in the district and explained how the Council and its partners would address these challenges.

For the first time, the housing strategy and the homelessness strategy had been combined into one document. The combined approach ensured homelessness and rough sleeping were not seen in isolation but within a wider framework, which covered the causes of and solutions to challenges such as access to affordable and suitable accommodation and the provision of and access to support and housing for vulnerable households. The approach would ensure a comprehensive and joined up approach to all matters relating to housing, homelessness and rough sleeping.

In moving the recommendations Councillor Lax thanked all the officers involved and stressed the importance of the integrated strategy as the District emerged from lockdown.

Councillor Ball commended the staff involved with the report, welcomed the integrated approach and wished Councillor Lax well in her new role. He referred to the priorities identified in the report and questioned how these would be achieved given the poor record in delivering genuinely affordable housing. Councillor Ball urged Councillor Lax and the Cabinet to purpose the new housing company to provide housing for rent rather than sale and increase the number of affordable homes provided through S106 agreements.

Councillor Robertson also welcomed the integrated approach as a step in the right direction. He said the report was well researched and noted the increase in completions of affordable housing. He highlighted the unmet need for affordable two bedroom houses for rent and that the free market did not seem to be working. He said there was an opportunity to meet this need with the housing company but he was concerned about some of the comments about the company being about housing for sale which would be a missed opportunity.

Councillor Robertson referred to the volunteers and venues supporting the emergency night shelter which was an important service run by volunteers. He hoped there would be no delays to Government funding towards the end of 2020 and that the cold weather would not arrive before the funding.

Councillor Ray supported the core principles of the strategy and said he echoed the comments regarding affordable homes for rent. He questioned when homes would be delivered as part of the Spring housing collaboration.

Councillor Lax noted there had been conveyancing issues and delays due to Covid-10 but efforts were being made to ensure delivery as soon as possible.

Councillor Eagland seconded the recommendations and it was

RESOLVED: (1) That the Housing, Homelessness and Rough Sleeping Strategy 2019-2024 and the accompanying Annexes be approved.

(2) That powers be delegated to the Cabinet Member for Regulatory, Housing and Health in conjunction with the Head of Regulatory Services, Housing and Wellbeing, to amend the strategy and action plan after the year one review to assess the implications of the Covid-19 pandemic and any emerging challenges.

(3) That approval be given to the new policy of earmarking future Right to Buy receipts towards capital investment to support delivery of the Housing, Homelessness and Rough Sleeping Strategy.

93 UPDATE TO THE CONSTITUTION

It was noted that the Council Constitution was constantly reviewed and updated to ensure it remained fit for purpose, reflected changes in legislation, and provided appropriate delegations.

Due to recent staffing changes and findings from a scheme of delegation audit, several changes to the scheme of delegation to officers were recommended.

It was proposed by Councillor Lax, seconded by Councillor Marshall and

RESOLVED: (1) That the updated scheme of delegation be approved.

(2) That the new Cabinet portfolios be approved.

94 PAY POLICY 2020

Members noted the Council's duty under Section 38 of the Localism Act 2011 to prepare and publish an annual Pay Policy Statement and gave consideration to the updated Pay Policy Statement for 2020.

Councillor Ray said he was glad to see a target for apprenticeships and asked about the plans for meeting the target. Councillor Smith stressed the importance of making use of the apprenticeship Levy and advised that approximately 12 apprenticeships were being progressed at the time. In addition the levy could be used to provide training to existing employees and there was potential for using the levy to help local businesses with their training programmes.

It was proposed by Councillor Smith, seconded by Councillor E Little and

RESOLVED: (1) That the contents of the updated Pay Policy Statement be approved

(2) That authority be given to the Head of Governance & Performance in consultation with the Chairman of Employment Committee, to update and republish the pay policy once the national pay negotiations for 2020 are concluded.

95 EXTENSION OF THE SIX MONTH ATTENDANCE RULE

Although verbal notification had been given of Councillor Brown's intention to resign formal notification had yet been received. Therefore the Council proceeded to give consideration to granting Councillor Brown dispensation for non-attendance in accordance with Section 85 of the Local Government Act 1972.

The possibility of participating in meetings by telephone was raised and it was confirmed that this was an option that was offered.

Councillor Robertson supported the delegation of authority to approve dispensations where the reason was related to Covid-19.

It was proposed by Councillor Lax, seconded by Councillor Evans and

RESOLVED: (1) That dispensation to the six month rule for non-attendance at meetings be granted to Councillor Brown; and

(2) That the Head of Governance and Performance (Monitoring Officer) , in consultation with the Chairman of the Council, be delegated to approve dispensations to the six month rule when the reason is related to the Covid-19 virus pandemic.

96 REQUEST BY HINTS WITH CANWELL PARISH COUNCIL TO REGULARISE ITS NAME

It was reported that in 1992 a resolution was passed by Hints Parish Council to change its name to 'Hints with Canwell Parish Council'. However there was no record of an Order giving effect to the name change and it is currently referred to as either Hints *and* Canwell Parish Council or Hints *with* Canwell Parish Council.

Therefore the Parish Council has now requested, in accordance with Section 75 of the Local Government Act 1972, that the District Council approves the making of an Order to regularise the name as Hints with Canwell Parish Council.

It was proposed by Councillor Lax, seconded by Councillor B Yeates and

RESOLVED: That the Council give effect to the wishes of the Parish Council by regularising its name as 'Hints with Canwell Parish Council'

97 QUESTIONS

Q1. Question from Councillor Robertson to the Cabinet Member for Visitor Economy and Local Plan:

What progress has the authority made identify a site for the travelling community to use, as is required by law?

Response from the Cabinet Member for Visitor Economy and Local Plan:

As part of the evidence base work undertaken to support the emerging Local Plan review, the Council had a Gypsy and Traveller Assessment undertaken in conjunction with Tamworth and North Warwickshire and this was completed in November 2019.

This identifies the need to provide for an additional 13 pitches between now and 2040 over and above the existing site provision that already exists. This is to provide 4 pitches for maturing teenagers in the next 5 years from households who meet the planning definition of Gypsy & Traveller, who will need their own pitches, as well as 3 to provide for household demographic changes on existing private sites. In addition, it identifies the need to provide 6 further pitches for those who do not meet the planning definition and are identified as coming from being on unauthorised encampments or from new household formation.

Historically there used to be government guidance outlining what a 'pitch' requirement size would look like, however, that has been withdrawn. The guidance also used to look at whether the need was permanent, or, to cater for influxes of transient populations and therefore short-term provision. The current government approach in relation to the 6 pitches, identified for those as coming from being on unauthorised encampments or from new household formation, is for this need to be viewed as part of the general housing numbers, rather than the Gypsy & Traveller Needs Assessment.

The Gypsy and Traveller Assessment indicates there may be opportunities to remodel and make more efficient use of existing private sites by use of touring caravans, day rooms, etc. It may be that a combination of new provision and better use of existing sites will allow us to meet the needs identified for our District. Given that the majority of identified need comes from households living on private sites it is likely that it will need to be addressed through the provision of private pitches or sites.

With regards to transient movement, we will need to consider if as a local authority we wish to make provision for negotiated stopping. If we were to do so it would provide temporary stopping places that can be made available at times of increased demand due to fairs or cultural celebrations that are attended by Gypsies and Travellers. As a local authority we

could levy a charge for this provision in return for providing facilities such as cold-water supply; portaloos; sewage disposal point and refuse disposal facilities.

The intention is to address the issue of adequate provision by early September at the latest, as we will need to ensure this is included in our emerging local plan, given the Planning Inspectorate identified as a serious omission the failure to address this in our current local plan.

Councillor Robinson asked the following supplementary question:

Since having social distancing restrictions in place there have been instances in the City and other parts of the District of unauthorised encampments and I was heartened by the Cabinet Member's response about making temporary stopping places available. I would like to check that the evidence base will include the need to make basic amenities available, the cost of managing unauthorised encampments and the potential for conflict between the settled community and travelling community around unauthorised encampments.

The Cabinet Member responded:

The Cabinet Members confirmed that there was a need to provide six short term spaces and if we wished to make a charge for the use of the site we would need to supply basic facilities and everything would be looked at in an appropriate fashion.

Q2. Question from Councillor Robertson to the Cabinet Member for Community Engagement:

What was the Council's carbon footprint for previous year?

Response from the Cabinet Member for Community Engagement:

The Council does not have a current measurement of its own carbon footprint, so we are working with neighbouring councils across Staffordshire to agree a comparable methodology for measuring this in order to set a baseline from which to progress. The overall *district* emissions using BEIS data from 2017 (the most recent source) was shared with Councillors in December 2019.

Councillor Robinson asked the following supplementary question:

Working towards a net zero economy and future is important and the Council needs to lead on it. I'm concerned that if we are to support the government net zero target that we don't know what our own contribution towards that is. I would like to know if the Cabinet Member has begun any specific actions related to this importance issue and emergency we find ourselves in.

The Cabinet Member responded:

Yes we did start the work and were working with our partners but unfortunately due to Covid-19 that work was stopped but I look forward to continuing and getting the work started again soon.

Q3. Question from Councillor Robertson to the Cabinet Member for Finance, Procurement, Customer Services, Revenues and Benefits:

When will the local procurement policy be brought before Council?

Response from the Cabinet Member for Finance, Procurement, Customer Services, Revenues and Benefits

The overarching Procurement Strategy is in draft form, with an ongoing action plan that places a heavy emphasis on both procuring locally, and on social benefit in our procurement processes. The next stage in the process is to fill the roles in our newly expanded procurement team, for which the applications close on 19th July and where we already have some exciting applicants coming forward. The successful applicants will then help to develop the final strategy which will be presented to the November meeting of the Strategic O&S committee, and subject to Cabinet approval may make December's Council. I had hoped to bring this forward for September however the recruitment process was delayed by the lockdown, which was a regrettable but necessary consequence.

I look forward to working with Cllr Robertson and other members on shaping this important factor in local recovery and improving ties with local business.

Q4. Question from Councillor Robertson to the Cabinet Member for Finance, Procurement, Customer Services, Revenues and Benefits:

How does the cabinet member think that the decision not to borrow to invest in commercial property will affect the ability of the Council to close our funding gap?

Response from the Cabinet Member for Finance, Procurement, Customer Services, Revenues and Benefits

This question is particularly challenging to answer in the current context while we are still unsure how the global pandemic will affect our financial position and how big the funding gap will be when the dust clears.

The decision was the only possible one to take when the government moved to stop Local Authority "debt for yield" schemes where debt was taken on through the Public Works Loan Board to acquire and speculate on built-out development. As our approved Property Investment Strategy relied upon that route, at least in part, it became unsustainable in its current form. In one way I am grateful that the decision was made for us before we had advanced too far, given the risks inherent in investing in what had become a bubble grown with Local Authority debt.

However, there has been no move to stop Local Authorities borrowing to invest in place shaping - borrowing to develop within the District either alone or as part of a joint venture. At present, how feasible or desirable that will be post-Covid-19 is a moot point and will depend very much on demand for the types of development we are able to deliver. I don't think anybody could predict at this stage whether there will be demand for office accommodation in large scale, for instance, given the potential increase in home working.

So in a simple answer to Cllr Robertson, that decision closes one door but does not necessarily hinder our ability to close the funding gap through investment in property. While the current MTFs assumes a contribution from investment in property of £87k in 2020/21 rising to £658k by 2023/24, we have always been very careful with our forecasts and it may well be the case that this contribution can be met from other investment routes.

Q5. Question from Councillor Evans to the Cabinet Member for Regulatory, Housing and Health:

Can Councillor Lax, who is now the Cabinet Member for the effective delivery of DFG's, please tell us the current state of the provision. We were told we would receive regular updates as we know the provider was not doing as well as was anticipated or as they promised at their initial presentation. What are the issues that are causing concern, when is the contract going to be reviewed and what is the reason for considerably fewer grants being awarded since 2013/14, except for 2014/15?

Are the requests increasing and what is the proportion of elderly people requesting help, compared to younger people with physical disabilities?

Response from the Cabinet Member for Regulatory, Housing and Health:

A report detailing performance in 2019/20 was scheduled for the June meeting of CHH O&S which was postponed and a report will now be presented to the next meeting of the committee on 15th September 2020. This report will provide a detailed update on performance over the last financial year and will also update members on progress this year and the impact so far of the Covid 19 pandemic.

Since April 2018 we have been part of the county-wide Supporting Independent Living in Staffordshire (SILIS) Partnership; the current contract is for 5 years and runs until March 2023 with the potential to extend for two further years until end of March 2025. As Cllr Evans knows, the contract was awarded to Millbrook Healthcare Ltd which now operate 6 home improvement agencies across the UK.

There have been issues with the performance of the contract since the start that resulted in the Partnership issuing Millbrook with a Service Improvement Plan in 2019, which was followed by a formal improvement notice. One outcome of has been much better engagement by Millbrook's senior leadership team and a restructuring of the local Millbrook staff team. In April 2020, the 6 districts also appointed an experienced consultant project manager who is providing specialist support to each authority and has enabled positive improvements to continue, despite the challenges of Covid 19.

Although the service provided by Millbrook has improved, particularly the quality of assessments and adaptations, there remain some challenges, particularly the length of time it takes for works to complete and the backlog of cases due to Covid. Whilst Covid has allowed some cases to proceed, the inability of staff or contractors to visit clients, means that there is now a backlog of cases awaiting assessment which is being addressed. The nature of DFG works and the client group mean that extra risk assessments and safeguards are needed to ensure the safety of both clients, staff and contractors. A Covid risk assessment has been developed to ensure clients, staff and contractors remain safe whilst also allowing applications and works to progress where it is safe to do so.

In answer to the question regarding why fewer grants being awarded since 2013/14, except for 2014/15, comparisons over such a long time scale are difficult to compare due to changes in provider and the different types of contract arrangements over this time.

Are the requests increasing and what is the proportion of elderly people requesting help, compared to younger people with physical disabilities?

During Q1 this financial year, Millbrook have received 29 Enquiries for a DFG. The table below compares to the same quarter in previous years:

	2020	2019
April	8	11
May	11	17
June	10	12
Q1 TOTAL	29	40

Figures compared to 2019 are only slightly lower on a month by month basis, which allowing for Covid is not unexpected.

In terms of age of applicant ages – for 2019-20 there were 60 cases where works were completed; of these 38 were for people aged over 60; and 9 were for people aged 18 and

under; the remaining 13 were for those aged between 19 and 59 (based on age at completion of works).

Councillor Evans asked the following supplementary question:

I am aware that the pandemic has altered many things but we have not had a Community, Housing and Health (O&S) Committee and I would like assurance that if at all possible the meeting in September meeting will go ahead since we need an update on the performance of Millbrook since we know it has not been up to standard and we need to look at this and other issues.

The Cabinet Member Responded:

The next meeting of the Committee is scheduled. In my reply I gave details of the improvements that have been put in place with Millbrook and there has been a significant improvement and the latest figures do show this improvement so I look forward to updating Councillor Evans at the meeting in September.

Q6. Question from Councillor Evans to the Cabinet Member for Regulatory, Housing and Health:

It has long been a concern of some members of the Planning Committee that the percentage of affordable homes is not being met and it appears we are pandering to developers. What is Councillor Lax proposing to do about this shortfall as mentioned in the Local Plan and will she ensure that these will be across the District and not merely in Lichfield and Burntwood?

Does she agree that we are failing our young people who may want to remain in the area and does she also accept that unless affordable homes are provided we could well lose workers who may be forced to go elsewhere for employment opportunities?

Response from the Cabinet Member for Regulatory, Housing and Health:

The Council's policy on the delivery of affordable housing requires developments in Lichfield and Burntwood for 15 or more dwellings, or, on sites of 0.5 ha or more in size, for affordable housing to be delivered in line with our current viable level of affordable housing. Our Authority Monitoring Report (AMR) for 2019 sets the current viable level at 37%. Outside these two main urban areas, affordable housing will be required on housing developments in line with nationally set thresholds. It is however important to note that affordable housing contributions can only be sought on those sites which are in line with the thresholds set by national standards and local plan policy.

Policy H2 states that affordable housing may be in the form of social rent, affordable rent, intermediate or a mix of tenures. The Council normally requires at least 65% of the affordable housing on a site to be social rented managed by one of our approved Registered Providers (RPs). The exact percentages will be agreed on a scheme by scheme basis during the determination of the planning application and the Council's housing and wellbeing strategy team will examine available evidence on local housing needs to help determine these. On occasions where an applicant is not willing or unable to provide the percentage of affordable housing required in accordance with our policy, the economic viability of the scheme will be independently tested by the District Valuer.

Across the three years 2016-17 to 2018-19, 398 affordable dwellings were built and occupied of which 58% was delivered via developer contributions secured by s106 agreements and 42% was delivered directly by Registered Providers using their internal own funds and affordable homes funding from Homes England. These were delivered in Lichfield and

Burntwood and a number of our settlements such as Armitage with Handsacre, Alrewas and Fradley, Whittington and Streethay, Colton and the Ridwares, Bourne Vale and Curborough.

In addition to those affordable homes which have been delivered over these three years a significant number of affordable homes have gained planning permission and likely to come through to delivery in the coming years. The most recent AMR details there are a further 213 affordable dwellings permitted to be constructed in the next five years. Whilst this AMR is in the process of being updated further affordable homes have been permitted since the current one was published taking the total submitted supply to in excess of 600 affordable homes awaiting construction.

Full detail of further completions and supply will be set out within the next update to the AMR. The updated AMR, Five year supply paper and Strategic Housing Land Availability Assessment (SHLAA) will be presented to local plan sub-committee in due course. The reason for the delay in data collection has been due to the COVID-19 pandemic restricting the ability for Officers to get out and undertake site visits to confirm completions and starts.

As members will be aware the Local Plan is currently being reviewed and as part of this process work is being undertaken to assess viability across the district. This will help inform planning policy on housing provision and the suitability of allocations to meet identified need. It will also enable an appropriate affordable housing policy to be brought forward. When completed the work will be presented for consideration by the Local Plans sub-committee, part of the EGED Committee. The draft policy, informed by the above will also be presented to members as part of the subsequent draft Local Plan.

I know that my Cabinet colleague Councillor Eadie is encouraging growth of our other settlements beyond Lichfield and Burntwood as part of our emerging local plan review. This is intended to help these settlements be sustainable and also to give the opportunity for people to find homes in our rural settings, not just in Lichfield and Burntwood.

In terms of providing dwellings for key workers and first-time buyers, so that they stay in our District, we welcome the Government's First Home proposals and look forward to these coming forward once Government has reflected on the consultation it recently undertook on these.

Councillor Evans asked the following supplementary question:

I would like reassurance that we will stick to the percentage of affordable housing in future developments. I note that there are 600 affordable homes awaiting development and it is important we stick to the agreed percentage.

The Cabinet Member responded:

Different developments might have different percentages, I understand different sites have different agreements but I'm very cognisant of where we want to go on this and it is part of the development of the local plan to factor this issue in.

Q7. Question from Councillor Ball to the Cabinet Member for Regulatory, Housing & Health:

Although it is very early days for her with her new responsibility for housing, can the Cabinet Member, please, tell us what progress she has made in discussions to have adopted in Lichfield District the definition of affordable rents as promoted by the West Midlands Combined Authority (i.e. rents and mortgages at 35% or less than the average gross earnings of the lowest quarter of wage earners in a local area)?

Response from the Cabinet Member for Regulatory, Housing and Health:

I am aware that the WMCA has introduced its own localised definition of affordable rent, linked to people's income in the area rather than the WMCA property market. This is based on local people paying no more than 35% of their salary on mortgages or rent. LDC is not a member of WMCA and therefore we have not been involved in any discussions around setting such a 'local' definition that may work for this significantly smaller authority.

It is important that the definition of Affordable housing that we adopt in our emerging Local Plan is consistent with the National Planning Policy Framework (NPPF). When preparing planning policies we need to have regard to what is 'sound' and would be successful at examination; an essential element is that the definition would need to be consistent with national policy. Any proposed diversion from the definition in the NPPF will need to be evidence based. We cannot just adopt something from the WMCA which is designed for specific funding models linked to its own land acquisition and planning policy.

Councillor Ball asked the following supplementary question:

Does the Cabinet Member agree that the definition of affordability set out in the question represents a more reasonable definition than 80% of market rent that means many people need to take the course of universal credit and housing benefit to meet property costs which is most unreasonable?

The Cabinet Member responded:

I can't answer as to whether it is reasonable as the West Midlands Combined Authority definition is based on a calculation of their data across a large geographical area. We are in comparison a small district council and it isn't necessarily going to work for us. These are early days for the Combined Authority and the comments are noted.

Q8. Question from Councillor Ball to the Leader of the Council:

Will the Leader of the Council, please, tell us whether he will ask that Council Report templates now include the phrasing "Impact on addressing the Climate Change Emergency", rather than "Environmental Impact", and agree to add "Impact on Local Procurement" to future reports?

Response from the Leader of the Council:

The phrase "Environmental Impact" has been decided upon as it includes, amongst other things, our response to the Climate Change Emergency which we declared last year. This is a much wider definition than just climate change, although it necessarily includes it, and in my view is a better way of summarising our intent.

The Local Procurement policy will be a formally adopted policy of the Council, and will therefore be taken into account in all reports, without any need for inclusion on the template.

Councillor Ball asked the following supplementary question:

Will the Leader make sure there is consistency in the future since some reports talk about environmental issues, some about environmental impact and some have no reference at all. Most reports say no impact, we agreed there was a climate emergency and we need to have some action on it and need to see ways we are improving our performance. The reports require consistency.

The Leader responded:

Yes, conversations have already been held with the Chief Executive and we will ensure that rather than focusing on the words in the box we will have a formal and consistent approach across the Council to ensure good governance to ensure the required outcomes.

Q9. Question from Councillor Norman to the Cabinet Member for Visitor Economy and the Local Plan:

Can he confirm that the Planning Department has not had individual representations to the formal consultation on the Local Plan Review held between the 29th of November 2019 and the 24th of January 2020 from the Member of Parliament representing Burntwood or the Member of Parliament representing Mile Oak?

Response from the Cabinet Member for Visitor Economy and the Local Plan:

I can confirm that the Member for the Tamworth parliamentary constituency wrote to our Chief Executive on 21 January 2020 generically on behalf of the residents in Fazeley. He indicated he was not opposed to building and it was his belief that most residents recognised the need for good quality local housing. Mr Pincher asked us to review and give consideration to infrastructure, roads, green spaces and flooding in terms of any development. A response to his letter was provided on 11 February 2020.

I can confirm that the Member for the Lichfield parliamentary constituency wrote to our Chief Executive on 17 February 2020 regarding the concerns of a resident in Hanney Hay Road over a document that had been published by Harworth, relating to a proposal to create a new sustainable neighbourhood at land off Hospital Road. The letter was a follow on from a previous exchange on the same matter during the consultation period on which one of our officers had already provided a response and the resident makes reference to being associated with Burntwood Action Group. A response to Michael Fabricant's letter was provided on 26 February 2020.

Q10. Question from Councillor Norman to the Cabinet Member for Major Projects and Economic Development:

One of my constituents asked me why some of the very large coaches signs painted on the road surface at Lichfield Bus Station appeared to be upside down. I asked about this and after a reminder got the answer: "The tender drawings for the scheme, which the contractor has worked to, does indeed show the road signage to be upside down when viewed from a coach driver's position. This mistake by the architect was not picked up until the contractor had completed the lining."

This was an unfortunate mistake but when I reported back to my constituent they told me that they had in fact drawn this to the attention of the contractors when he saw them working there and was told that the Contractor had queried the signage before starting work and was told that the 'Planning Department' said that was how they wanted it.

Can he confirm that the Contractor did indeed query this with the Council as my constituent was told?

Response from the Cabinet Member for Major Projects and Economic Development:

Yes it was queried; it depends on where you stand whether it is upside down or not.

Councillor Norman asked the following supplementary question:

The signs are about 10 metres by 2 metres which is quite large and coach drivers drive sitting down not standing up, and I would ask if she is not surprised at least one Member from Hammerwich with Wall, voted against the Masterplan for which she is responsible?

The Cabinet Member responded:

It does in fact depend on whether you stand up. If you are kerbside you can read the signs if you are driving unfortunately you can't. We sought guidance from the architect on this and were advised either way was appropriate. We are in talks with the contractor and will decide whether to change the signs around.

Q11. Question from Councillor Norman to the Cabinet Member for Regulatory, Housing & Health:

Can she confirm that all members of the Planning Committee have attended training sessions to enable them to carry out their duties when considering Planning Applications despite evidence to the contrary as seen in the recording of the virtual Planning Committee Meeting held on the 1st of June 2020?

Response from the Cabinet Member for Regulatory, Housing & Health:

Regular Member training sessions take place. Generally four per year are set within the calendar on different planning topic areas. Before members join the Planning Committee they receive training on the planning system also, last undertaken when the composition of the Planning Committee changed. (May 2019- a session on an introduction to Development Management presented by our Planning Development Manager and Ashley Baldwin/the then Spatial Policy & Delivery Manager provided an introduction to his area of planning).

In addition, in the last 12 months, training has taken place for members on probity and predisposition (more than one session, including one presented by a Planning Solicitor, then our Monitoring Officer did another follow up session (Dec 2019)), and of course we had the recent virtual planning enforcement training session 21st May 2020 for all members who were able to attend.

Councillor Norman asked the following supplementary question:

Is the Cabinet Member happy that it took twenty minutes for the Chairman of the Planning Committee on 1 June to get Members to declare interests and took an hour and ten minutes to decide on a planning application that was actually permitted development and Members appeared to think the longer they lived in the ward the more expert advice they had over and above that of the Highways Officer who is professional. I think there does need to be more training?

The Cabinet Member responded:

Regarding Councillor Norman's comments about the way the meeting was conducted, I thank him for that. It is a difficult one, I would ask him in true honesty if at times he thinks he knows more about his Ward than those at the County Council and Highways. We have supplied the training, it was a virtual meeting, as Councillor Marshall has said, onwards and upwards.

Q12. Question from Councillor Norman to the Cabinet Member for Regulatory, Housing & Health:

Can she also confirm that where there is a possible breach of planning regulations planning enforcement officers can, and I quote, “invite an application or seek resolution without taking enforcement action”?

Response from the Cabinet Member for Regulatory, Housing & Health:

How we approach Planning Enforcement is set out in the adopted LDC Local Enforcement Plan which is on our website. Also, as set out in the National Planning Policy Framework, enforcement action is discretionary and it states all LPAs should act proportionately in responding to suspected breaches. Our Local Enforcement Plan follows these national guidelines.

Paragraphs 4.9 & 4.10 of the Enforcement Plan set out that:

- “4.9 In cases where there may be a technical breach of planning control but the harm caused is insufficient to warrant formal action, we will notify the complainant of the reason for not taking formal action and close the case;*
- 4.10 Negotiate with those responsible for any breach of planning control, allowing them the opportunity to resolve the matters of concern before serving a formal notice, unless the breach is so serious it warrants immediate action or where negotiations become protracted with no real likelihood of success.”*

Operational experience shows that taking formal enforcement action/serving Notices is not always the best or most effective way to resolve more minor issues. If it becomes necessary and proportionate to take enforcement action, before incurring costs, our rate payers would expect us to have tried to address the harm arising. That is the sensible approach to take. We do however look to prioritise cases- as set out in section 6 of the Enforcement Plan. If there is a serious breach then we will take enforcement action.

Councillor Norman asked the following supplementary question:

Referring to the last paragraph in the detailed reply I agree with the statement that ‘Operational experience shows that taking formal enforcement action/serving notices is not always the best or most effective way to resolve more minor issues.’ The application discussed on 1 June that took one hour and ten minutes was about a fence that had permitted planning development rights. This was obvious to anyone who had served on Planning Committee, I would like to ask if the Cabinet Member would support my request for the residents of 31 Yew Tree Avenue to have their money refunded for an application they did not need to submit if the Officer had taken five minutes to talk with the Highways Officer about whether an application was needed or not?

The Cabinet Member responded:

I don’t propose to have an inquest into a matter that has now been resolved.

Q.13 Question from Councillor Ho to the Cabinet Member for Community Engagement:

After reading Cllr Robertson’s comments on twitter can you tell me what involvement he had with the Homelessness and Rough Sleeping Strategy?

Response from the Cabinet Member for Community Engagement:

Cllr Robertson had no involvement. I checked with our officers and they confirmed he has had no contact with them or been on CHH Overview and Scrutiny.

I can only presume he was trying to congratulate the officers and me on the great work we have done.

Q.14 Question from Councillor Baker to the Cabinet Member for Regulatory, Housing & Health:

We do not want anyone rough sleeping, particularly during this pandemic. Can the Cabinet Member for Regulatory, Housing and Health confirm that all rough sleepers in the district have been offered accommodation?

Response from the Cabinet Member for Regulatory, Housing & Health:

All the rough sleepers that either ourselves or Spring, our outreach service for rough sleepers, have engaged with have been offered accommodation. We have had a few reports of rough sleepers where we have visited the sites and either seen no evidence of rough sleeping or seen evidence but no rough sleepers. Where there is evidence, Spring leave contact details. They also do follow up visits, even to sites where there is no evidence and speak to either those who reported seeing the rough sleeper or residents/business owners who live or work nearby and leave contact details with them too. We will continue to offer accommodation to all rough sleepers who choose to engage with us.

This was the situation at the start of the pandemic and continues to be the case. Going forward the initiative with Spring is to focus on getting rough sleepers into permanent accommodation where they feel safe and have appropriate and skilled support. Underpinning our strategy is very much LDC taking a long term approach on rough sleeping to achieve better outcomes.

Councillor Baker asked the following supplementary question:

I would like to get a better idea about the number of rough sleepers who are failing to engage with us and what if anything we can do about that?

The Cabinet Member responded:

Part of our partnering with Spring who are specialists in providing outreach, not only do we engage but we leave notes on visited sites and use a very proactive approach and that will continue. If rough sleepers choose to engage with us, sadly not all do, we will be able to offer them accommodation. The figures are provided to us weekly and we currently have one who chooses not to engage but that doesn't mean we give up on them and that is important as we move out of the pandemic and later in the year as we prepare for periods of bad weather.

Q15. Question from Councillor Baker to the Cabinet Member for Leisure, Parks and Waste:

We know that, nationally, bin collections have been thrown into disarray due to Covid 19 - Would the Cabinet member advise us how many, and where, bin collections were missed since "lock down" throughout the Lichfield District?

Response from the Cabinet Member for Leisure, Parks and Waste:

During lockdown, our Joint Waste Service has performed superbly and is a source of great pride to the Council. We are one of less than 10% of authorities that have retained a complete service, collecting residual waste, recycling, garden waste and bulky waste throughout the lockdown period, even managing to continue to deliver new bins.

In the period March to June there were missed 1,632 bins, compared to 1,338 in the same period in 2019. We of course strive to miss no bins and it's important to stress that we return to collect all reported missed bins within three working days. However this still represents the successful collection of 99.9% of all bins first-time and is a remarkable achievement given so many people were at home with more bins presented and waste volumes increased by up to 40%. I would like to congratulate the team and thank them for their work during these unprecedented and difficult times.

Councillor Baker asked the following supplementary question:

I'm really pleased to see the figures, well done the Operational Services team, particularly when the green tags were put on the black bins as well which was done speedily and went down well with residents. Were there any pockets where we missed bins?

The Cabinet Member responded:

I am not aware of any individual pockets or problems.

Q16. Question from Councillor Baker to the Cabinet Member for Major Projects and Economic Development:

The Lichfield District officers have been very diligent and worked extremely hard disseminating grants to business in a timely manner but I would ask the Cabinet member if he could summarise the numbers and types of businesses awarded grants and highlight those businesses that have unfortunately not been able to access grants?

Response from the Cabinet Member for Major Projects and Economic Development:

The Small Business Grant and Retail, Hospitality and Leisure Grant Schemes has been paid to 1,494 businesses, to the value of £18,120,000 (as of 10th July 2020), which is around 93% of the number of eligible businesses (1,604) identified at the start of the process. These grants were for the rate payer of eligible commercial properties trading on the 11th March 2020 and either received small business rate relief; or had a rateable value of between £15,001 to £51,000 and were within the retail, hospitality or leisure sector.

In terms of the discretionary grant aimed at small businesses who were not eligible for the two original grants, 64 grants have been awarded totalling £320,000. Four business types were outlined within the national guidance to prioritise: small businesses in shared offices or flexible workspaces, regular market traders with fixed building costs, B&Bs that pay council tax and certain charity properties in receipt of charitable business rates relief, all of whom must have suffered a significant loss of income due to covid 19 and have high ongoing fixed commercial property related costs.

The businesses who unfortunately are not able to access these grants administered by the local authorities:

- Homeworkers (with no fixed commercial premises)
- Businesses with a rateable value greater than £51,000
- None rate payers in a sole office, industrial or retail unit
- Businesses who aren't within the retail, hospitality or leisure sector with a rateable value of between £15,001 to £51,000.

Councillor Baker asked the following supplementary question:

We know we have done well in terms of providing grants, rates holidays etc. but I am aware of a number of businesses that fall outside the financial support network partly as a consequence of policy and partly because we are learning as Covid progresses how different businesses are affected, but I was wondering if we ought to be considering how we can identify and help support those businesses that are falling through the net and aren't currently provided for. I personally have received requests from businesses and wonder if we can look at the situation more strategically.

The Cabinet Member responded:

We recognise that there are certain areas that have not been able to get funding from the government hence we changed the discretionary grant criteria. Unfortunately we were not able to tweak the criteria for the first round of funding. We have been signposting businesses that are not eligible to the LEPs, County Council funding streams and any other appropriate sources. More businesses are eligible for the amended discretionary grant scheme. We are aware some businesses are falling through the gap and we are doing everything we can to provide support.

Q17. Question from Councillor Gwilt to the Cabinet Member for Visitor Economy and Local Plan:

Our District has a lot of visitors each year to the likes of the Cathedral, the food festival, Drayton Manor and the National Memorial Arboretum. What are we doing to get Government to give the help that is needed to get the visitors back that so many places and businesses are reliant on?

Response from the Cabinet Member for Visitor Economy and Local Plan:

Lichfield District Council participates in Lichfield Place Board along with Lichfield Cathedral, the National Memorial Arboretum, Drayton Manor Park, Webb Hotel Group, Swinfen Hall Hotel, Three Spires Shopping Centre, Lichfield Garrick, The Hub at St Marys, Lichfield BID, Lichfield Festival and representatives of the three tiers of local government.

On behalf of this collaborative group I have asked our MP Michael Fabricant to lobby Ministers on a number of occasions on issues such as the Coronavirus Job Retention Scheme that has been supporting those who have been unable to operate in the visitor economy since lockdown began. Michael has done so and responses have been received from Government. It has been welcome to see that the issues we have asked Government to respond to have been acted upon.

Visit Britain and Visit England have launched a free 'We're Good To Go' UK-wide industry standard and consumer mark to reassure visitors that businesses, attractions and destinations are safe to visit and that they are adhering to Government and public health guidance.

Michael Fabricant has agreed to join me on Friday 17 July to help raise awareness of a number of places and businesses in the District that have attained the 'We're Good To Go' mark. This will build upon the recent visit of Sir Patrick McLoughlin, chairman of the British Tourist Authority, who visited Drayton Manor to recognise it as one of the first businesses in the country to gain the 'We're Good To Go' industry standard.

Members will be aware that our MP also asked a question of the Prime Minister last week relating to the recent announcement on funding for theatres and the arts, seeking reassurance that our District will receive a fair share of the Government support. The Prime Minister responded this was being looked at with Arts Council England.

I welcome the Secretary for Digital, Culture, Media and Sport announcement on 9 July. This announcement by Government will help outdoor performances to get underway, whilst pilots are undertaken for indoor performances. This will be welcome news for our visitor attractions, as is the Chancellors support for our visitor economy with the reduction in VAT to 5% on food and non-alcoholic drinks served in restaurants, pubs, cafes and takeaways; as well as on accommodation and attractions until January 2021.

The Chancellor's "Eat out to help out" scheme offering a 50% discount for every diner, up to £10 a head, from Monday to Wednesday throughout August also indicates to me Government is giving help that is needed to get the visitors back that so many places and businesses are reliant on.

98 EXCLUSION OF PUBLIC AND PRESS

RESOLVED: That as publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted, the public and press be excluded from the meeting for the following items of business which would involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

IN PRIVATE

99 CONFIDENTIAL MINUTES OF LEISURE, PARKS & WASTE MANAGEMENT (OVERVIEW & SCRUTINY) COMMITTEE - 3 MARCH 2020

Councillor Matthews submitted the confidential Minutes of the Leisure, Parks and Waste Management (Overview & Scrutiny) Committee held on 3 March 2020.

(The Meeting closed at 8.00 pm)

CHAIRMAN

REPORT OF THE LEADER OF THE COUNCIL

CABINET DECISIONS – 8 SEPTEMBER 2020

1. Strategic Plan Outturn

- 1.1 The Cabinet noted the Council's performance against its delivery plan targets as of April 2020 as set out in Appendix 1 of the Cabinet report and available corporate indicators as set out in Appendix 2 of the report.

(Councillor Pullen declared an interest in any discussions relating to disabled facilities grants as an application had been made for a member of his family)

2. Money Matters 2020/21: Review of Financial Performance against the Financial Strategy

The Cabinet:

- 2.1 Noted the report and issues raised within and that Leadership Team with Cabinet Members will continue to closely monitor and manage the Medium Term Financial Strategy.
- 2.2 Noted the further grant provided by the Government in 2020/21 of (£140,417) and the projected support for income losses that will be used to offset additional spend and income reductions and approved an update to the Medium Term Financial Strategy.

3. Statement of Community Involvement

The Cabinet:

- 3.1 Approved the changes made in the updated Statement SCI (Statement of Community Involvement) at Appendix A of the Cabinet report which is in line with the temporary legislation in relation to Coronavirus (Covid-19), the associated Explanatory Memorandum to the Town and Country Planning Regulations and the updated government guidance and adoption statement.
- 3.2 Delegated authority to allow further minor changes to comply with statutory requirements to the SCI to be undertaken by the Head of Economic Growth & Development in consultation with the Cabinet member for Visitor Economy & Local Plan.

**DOUG PULLEN
LEADER OF THE COUNCIL**

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STRATEGIC (OVERVIEW AND SCRUTINY) COMMITTEE

1 SEPTEMBER 2020

PRESENT:

Councillors Spruce (Chairman), Gwilt (Vice-Chair), Norman (Vice-Chair), Ball, Checkland, Grange, Greatorex, A Little, Matthews, Warfield, Westwood and White.

(In accordance with Council Procedure Rule No.17 Councillors Cox, Eadie, Lax, E. Little, Pullen, Smith and Strachan attended the meeting).

42 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor S. Wilcox.

43 DECLARATIONS OF INTEREST

Councillor Grange declared a personal interest as a member of Friends of Friary Grange.

Councillor Checkland declared a personal interest as having dealings with Friary Grange Leisure Centre and Friary School in the past.

Councillor White declared a personal interest as a Member of Staffordshire County Council.

Councillor Greatorex declared a personal interest as a Member of Staffordshire County Council.

44 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting were circulated. It was asked if a press release had been released regarding the Council's commitment to minority group inclusivity and it was reported that due to a change in Head of Service and the appointment of a new Communications manager, this had not been completed yet but was still a priority.

It was also asked if the O&S Coordinating Group would meet before its next scheduled meeting in November to discuss O&S involvement in the Covid-19 recovery plan. It was reported that an earlier date was being sought.

RESOLVED: That the minutes be signed as a correct record.

45 WORK PROGRAMME

The work programme was considered by the Committee. It was requested that an item on LEP governance be added to the work programme however it was noted that this was on the programme for the Economic Growth, Environment & Development (Overview & Scrutiny) Committee (EGED O&S) to consider as part of their remit. Similar, an item on the Lichfield BID was requested but it was noted that it was the remit of the EGED O&S to consider however it was important to gather learning from the Lichfield BID experience to help benefit the upcoming Burntwood BID. It was noted that as the government had announced their Devolution White Paper, the situation may change and there may be a need for a joint O&S Committee and this could be discussed at the Coordinating Group. It was noted that the

Money Matter Financial Performance report would be a briefing papers sent to Members in the usual manner.

RESOLVED: That the work programme be noted and amended where required.

46 MEDIUM TERM FINANCIAL STRATEGY 2020-2025

The Committee received a report on the draft Medium Term Financial Strategy (MTFS) for 2020-2025 which took into account the all reports that had been approved at Cabinet and Council but refreshed to remove the previous financial year and add the new financial year of 2024/25 as well as refresh and update assumptions to reflect the latest information available. It was noted that this year, in addition to the inherent uncertainty related to the Local Government Financing Regime, there was added uncertainty related to COVID-19 and changes to the Planning system and the introduction of the Devolution and Local Recovery White Paper. It was also noted that the report showed a project plan to enable the start of budget consultation for 2021/22.

It was reported that the Covid-19 pandemic had created an environment of uncertainty however it had also changed how the Council had worked and approached its finances. It was noted that over £20m of support had been granted to businesses and residents and overcome the challenges to remote working and with minimal impact. The Cabinet Member wished to thank all Officers in the Finance, Revenues and Benefits and Economic Development teams for their continual hard work in this area. This was also echoed by the Committee.

It was reported that the guiding principles of the previous budget of still delivering value with a diminishing budget must remain and although the Fair Funding Review and Business Rates Review had been deferred, they had been replaced by the impact of the pandemic. It was reported that there had been a number of funding streams promised by the government to recover some of the losses experienced, it was on a cost sharing basis. It was noted that the full impact was unquantifiable as it would be governed by the recovery phase and what happens in the future however a best attempt had been made with a figure of between £1.3m and £4.3m estimated. It was reported that the transfer to General Reserves as reported in February would now be unlikely.

It was then reported that there would be a change to the MTFS given the changes to the Public Loans Board regime and the impact it had on the Property Investment Strategy, it was proposed to take out the £45m capital investment and debt as it did not give a true picture given the Strategy as envisaged could not now be implemented.

The Head of Finance and Procurement then gave a presentation giving updated information from the report as well as details of the uncertainty of the financial environment. It was reported that there would be another one year settlement for 2021/22 and so following years would be a judgment based using the best information available. It was reported that there were a number of government plans that could affect the MTFS including the Planning White Paper, Devolution and Local Recovery White Paper as well as a Draft Waste Management Plan. Some Committee members felt that these changes were not best timed by the government and there were concerns it could be change for change sake. The Committee thanked the Head of Finance and Performance for his presentation.

It was requested that wording in one of the Budget Principles be amended to state that reorganisation of staff be considered rather than growth or to look at the alternative approach of apprenticeships. It was asked given the pay award of 2.75% for 2020/21 whether the assumption made of 2% in later years was realistic. It was reported that the assumption would be held under review at this time to allow for relevant information such as the projected level of inflation to be identified. Regarding the Hardship Fund, the impact and potential loss of Council Tax income compared to support will always be greater however not all the hardship

funds had been taken up and so it was asked if there would be a request to pay back that underspend or whether it could be kept to mitigate the losses experienced. It was reported that a number of the grants were subject to claw backs however the application criteria had been changed where possible to ensure as many businesses and people could access that help and prevent having to give funds back to the government. It was asked if local MPs had been lobbied to ensure all leisure centre losses due to Covid-19 would be covered and all funding be available for those in need and it was reported that a letter had been sent from the Leader of the Council and the Cabinet Member to them on this matter.

It was asked if the Council would be reimbursed for the Business Rate and Council Tax Collection fund losses. There were three aspects to the losses, firstly any Business Rate reliefs to the leisure, hospitality and nursery sectors required by the Government would be fully reimbursed by Section 31 grant, secondly any reduction in collection would create a deficit in 2020/21 and the Government was going to allow this to be spread over a three year period rather than a single year and thirdly the Government had indicated that in the forthcoming Spending Review there would be support for Council Tax and Business Rate collection reductions.

Risk was then discussed especially cash flow and it was asked if there were any concerns and it was reported that there were none at this time due to the money market funds, level of reserves and help from government. The risk of Section 114 notice was discussed although noted that it was not a high risk for Lichfield District Council, it was asked how the Council was monitoring the risk over investments held in other Council's and it was reported that there were no immediate concerns as Arling Close do their own assessments and close monitoring of the press and Local Government media to pick up on those authorities that start to declare issues and the S114 Notice process now expects authorities to engage with the Ministry of Housing, Communities and Local Government at the earliest opportunity before a notice is required to identify all options available to prevent the issue of a S114 Notice.

It was asked if the funds on green energy were income or expenditure. It was reported that it was for moving the energy tariff to a green tariff and so was a cost. There was concern that the spending gap was increasing in future years and so it was questioned if the Property Investment Strategy was failing to generate any income. It was also noted there would be no Capital Programme budget for developing prosperity from 2021/22 onwards and it was again questioned if spending in this area could help decrease the funding gap. It was reported that even with the contribution from the Property Investment Strategy, the MTFS had a funding gap from 2021/22. It was highlighted that capital investment funded by debt focussed on 'Place Shaping' activities where a return was ancillary to the investment would still be able to be funded by borrowing provided by the PWLB and so discussions are underway on how to now address the situation.

RESOLVED: 1) That the contents of the Draft MTFS and the timetable for its further development be noted; and

2) That the views given by the Committee be considered as part of its development.

47 STRATEGIC PLAN OUTTURN 2016 TO 2020

The Committee received a report on the final outturn of the council's performance as at the end of March 2020, which was noted to be the end of year position and the final year of the previous strategic plan and had been delayed from summer due to difficulties in obtaining information on Corporate Indicators and some projects. It was reported by the Cabinet Member that in the future, it was proposed to use the Council's performance reporting systems to produce more up to date reports. He undertook to update the Committee on progress in bringing this in. The Committee welcomed this proposals as it would allow the

Committee to help provide input into targets and slippage for key projects. Officers were commended on their work delivering so many of the projects and it was noted that those that could not were mostly due to delays outside their control with a few relating to the pandemic response

There was some concern around affordable homes as it was mostly likely to be behind target. There was also concern that with the Planning White Paper and potential loss of quality homes.

It was asked for more information on those delayed projects which were not due to Covid-19 or other issues out of the Council's control and this was agreed to send this information to the Committee at a future meeting. It was noted however that the report did not cover the March and September 2020 period, except where expressly stated in the report, so there would be some items that will have progressed but officers may not have had capacity to provide that information yet due to other priority work. It was reported that the new Strategic Plan was now focused on the very high level actions that have a significant impact and although target dates may change throughout the life of the plan, there was a robust process to amend these dates and providing the information to Members on these decisions and outcomes. It was agreed that there was not an infinite resource so this more narrowed down priority list should help ensure there are completions and the key actions are prioritised.

RESOLVED: That the views expressed by the Committee are considered further where necessary by Officers and the Cabinet.

(The Meeting closed at 7.28 pm)

CHAIRMAN

**ECONOMIC GROWTH, ENVIRONMENT AND DEVELOPMENT
(OVERVIEW & SCRUTINY) COMMITTEE**

7 SEPTEMBER 2020

PRESENT:

Councillors Leytham (Chairman), Ball (Vice-Chair), Warburton (Vice-Chair), Binney, D Ennis, Gwilt, Ho, Parton-Hughes, Ray, Robertson and S Wilcox.

(In accordance with Council Procedure Rule No.17 Councillors Eadie and Lax attended the meeting).

7 APOLOGIES FOR ABSENCE

Apologies were received from Councillors Marshall and A. Little.

8 DECLARATIONS OF INTEREST

There were no declarations of interests.

9 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting were circulated and subject to the inclusion of the attending Cabinet members, were agreed as a correct record.

RESOLVED: That the minutes of the previous meeting be approved.

10 WORK PROGRAMME

The work programme for the Committee was circulated. It was noted that there had been a change of Chairman of the Committee since the last meeting and it was requested that the agreement to discuss possible joint working on the CIL Member Task Group with the Community, Housing & Health (Overview & Scrutiny) Committee Chairman be taken up. It was requested that an item be added to the work programme to consider the spend of the budget available mitigate the climate emergency. An update was given on the progress of the Events Policy and a special meeting may be required to consider it when ready.

RESOLVED: That the work programme be noted and updated as required.

11 PLANNING FOR THE FUTURE - PLANNING WHITE PAPER

The Committee received a report on the recently published government white paper called 'Planning for the future'. It was reported that the consultation document set out the government's proposals to reform the planning system in England with a range of proposals designed to 'streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed'. It was reported that the proposals related to plan-making, the determination of planning applications (decision-making), design of development and developer contributions. It was noted that the consultation period would end on the 29 October 2020 and the views of the Committee would be part of the District Council representation as approved by Cabinet.

The Committee discussed many aspects of the White Paper and agreed that overall, a simplification of the process was beneficial however there was a significant lack of detail.

It was reported that the proposals were to simplify the Local Plan process and denoting three areas, Growth, Renewal and Protected as well as make producing Local Plans easier and quicker than current. The Committee did not agree with the concept of zones and the idea of zones within other zones unless standards on quality and affordability were in law. Members also thought that the standardisation of calculating housing need would not work as the needs of a seaside town would differ greatly to those of a major city for example.

The proposals also envisioned a change in developer contributions and whether they should be a universal rate or area specific. The Committee felt that any national levy should be robust and of a similar if not more amount than currently received as a lack of supporting infrastructure is a constant concern following development. It was questioned whether the levy could be used as an incentive to encourage commencement of development and charge more if not started within a set time as it was recognised as a current issue. There were views however that it may help give a more even split of contributions across all areas of the district.

Design was reported as another aspect of the White Paper and a proposal for a national design guide. It was felt that this could lead to a loss in the quality in development as well as a drop in the standard and number of affordable housing. It was also requested that representations state that there should be a clear definition of affordable housing that it should be based on income not value of the property.

It was reported that the Development Management aspects of the proposals would require new IT systems and may need a change in resources which would be unknown until requirements to deliver the new ways of working were known. There would be training requirements and naturally some glitches until everything settled. It was noted that there would also be implications for Building Control.

There were further concerns that the proposals were a move to centralise the system and be a threat to localism.

It was felt that there would be a great environmental impact of the proposals including traffic if local decision making was lost. It was also noted that there could be an impact on the agreed and approved neighbourhood plans.

There were views expressed that the proposal were fully supported and welcomed as it was clear that there was not enough development to meet demand and there was a need to speed up the process to tackle this. Performance targets were also welcomed by some Members.

It was asked how residents who petition against development would be able to have their objections considered under the proposals.

It was agreed for Members to submit their views in full to the Overview & Scrutiny Officer to be passed to the Spatial Policy team for inclusion in the final response to the consultation.

RESOLVED: That the views of the Committee be taken and included in the Council's response to the Planning for the Future White Paper.

12 STATEMENT OF COMMUNITY INVOLVEMENT

The Committee received a report on the temporary legislative changes in light of the Coronavirus (Covid-19) pandemic and the need to review and update the Council's Statement of Community Involvement (SCI). It was reported that in respect of local plans the legislative amendments primarily involved changes to face to face interactions to be consistent with the latest guidance on social distancing, the need for the physical placing of consultation

documents for physical inspection becoming a non-statutory requirement, and the encouragement through guidance on increased innovative and creative online interaction being undertaken instead of physical meetings. It was reported that the council would seek to engage with groups. It was also reported that the approach taken would be kept under review.

The Committee welcomed the measures proposed and suggested further ideas including writing to all residents however it was noted that this would require a great amount of resources and cost. There was a further suggestion that mailshots be used in areas where there is a lower digital uptake as not all have access to the internet. It was noted that there had been success experienced in getting vital information to residents via stickers to waste/recycling bins and this could be done on a targeting basis.

The Committee also suggested communicating with schools and sixth forms as local planning would affect pupils in their later lives.

Some Members felt that the priority was to listen to residents when they have tried to engage especially by petition.

It was noted that the more traditional means of engagement would not be ruled out but due to the Covid-19 pandemic would have to be secure and safe for those attending.

Social media was discussed and it was noted that around 92% of UK adults have a Facebook profile but a big issue is whether people are contacting the Council when they need to so access may not be the problem but more educating on when they should.

RESOLVED: (1) That the changes made in the updated SCI in line with the temporary legislation relation to Coronavirus (Covid-19), the associated Explanatory Memorandum to the Town and Country Planning Regulations and the updated government guidance) and adoption statement be noted; and

(2) That the request to delegate authority to allow further minor changes to comply with statutory requirements to the SCI to be undertaken by the Head of Economic Growth & Development in consultation with the Cabinet member for Visitor Economy & Local Plan be noted.

13 LOCAL PLAN REVIEW UPDATE

The Committee received a report updating them on progress of the Local Plan Review and the next steps in the process. It was suggested that future reports when they are only to note progress, be submitted as briefing papers rather than reports and this was agreed by the Committee.

RESOLVED: That the update on progress of the local plan evidence base and the relevant steps being taken to prepare the regulation 19 publication version of the Local Plan be noted.

(The Meeting closed at 7.40 pm)

CHAIRMAN

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**COMMUNITY HOUSING AND HEALTH (OVERVIEW AND SCRUTINY)
COMMITTEE**

15 SEPTEMBER 2020

PRESENT:

Councillors Eagland (Chairman), Evans (Vice-Chair), S Wilcox (Vice-Chair), Baker, Ball, Birch, Leytham, Parton-Hughes, Silvester-Hall, Tapper and M Wilcox.

(In accordance with Council Procedure Rule No.17 Councillors Cox, Eadie, Lax and Pullen attended the meeting).

30 APOLOGIES FOR ABSENCE

Apologies were received from Councillors Binney and Humphreys

31 DECLARATIONS OF INTERESTS

There were no declarations of interests.

32 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting were circulated and subject to typographical amendments, were agreed as a correct record. It was asked if there had been any updates regarding the George Bryan Centre and it was noted that nothing had been received. It was also asked if there had been any progress regarding the poor communication between primary and secondary care. It was reported that these were matters that would be dealt with at County level at the Healthy Staffordshire Select Committee.

RESOLVED: That the minutes be signed as a correct record.

33 WORK PROGRAMME

The work programme was discussed and the Head of Regulatory Services, Housing & Wellbeing requested that an item be added on the Housing Assistance Policy that was due to be updated later in the year. It was noted that it had been agreed to consider an item on Stroke Pathways as the County Council had agreed for this to be dealt with at a local level and it was agreed for this to be investigated further and ask for the information from the County Council.

RESOLVED: That the work programme be noted and updated where required.

34 STANDING ITEMS

The Committee discussed the Healthy Staffordshire work programme and gave the District Council's representative, Councillor Leytham, requests for items to be raised and reported back.

The George Bryan centre and the uncertainty around its reopening was discussed and it was felt that the centre would be more vital as the mental health burden was increasing due to Covid-19. It was also felt that children were suffering more due to the effects of lockdown and now trying to return to school.

It was asked if updates on the changes to Samuel Johnson and Sir Robert Peel Community Hospitals could be requested as they too were vital for residents.

There were concerns that, due to the pandemic, there was a large backlog of hospital appointments for other treatments for example, asthma clinics, and there was concern there were no actions to change this. It was reported that GP surgeries were working a triage telephone service and seeing who needed to be seen. It was noted that Practice Nurses were doing all they could to reduce the backlog.

RESOLVED: That the items discussed be raised by the District Council representative at the Healthy Staffordshire Select Committee

35 DELIVERY OF DISABLED FACILITIES GRANTS (DFGS)

The Committee received a report updating them on the delivery of Disabled Facilities Grants (DFGs), performance and expenditure of the budget in 2019/2020 plus an overview of delivery during quarter one of 2020/2021 and the impact of the coronavirus pandemic. It also provided information on the work being done to drive performance and the improvements to date.

It was reported that Officers had been working with the countywide SILIS Partnership to ensure the contractor, Millbrook Healthcare Ltd delivered the service satisfactorily following a period of under-performance. It was noted that to help with performance management the Partnership commissioned the Director of Cherrywhite Consultancy Services as Project Manager to oversee the whole of the contract and support service improvement. It was also noted that Lichfield also retained Cherrywhite's services to continue to manage the cases and DFG delivery on its behalf, which means that cases could be closely monitored and any issues across the partnership can be escalated swiftly.

It was reported that Millbrook had brought in a number of improvement measures including a new IT case monitoring system which used by the majority of home improvement agencies as well as a staff restructure and revised complaints system.

There was a request to amend the first recommendation to reflect that the pandemic was still occurring and so suggested to be stated as 'ongoing challenges of the Covid-19 pandemic'. It was noted that it should reflect post-lockdown so was agreed to be amended to that. The Committee did feel that performance issues were being experienced before the pandemic and although a challenge, did not give just explanation for all the issues.

It was asked why performance figures showed LDC underperforming on larger grant applications and it was reported that it was dependant on who applied and for what. It was noted that the reporting of KPIs had not been completely accurate but it was hoped this would change with the new IT system. It was also reported that the grant process was more complex when applications are for larger home adaptations for children, such as extensions that often include additional works and are therefore more difficult to manage and contained elements outside of the contractor's control such as obtaining planning permission.

Members recognised the work Lichfield District Council had undertaken to try and improve performance and were also pleased that there was now a project manager overseeing the contract. When asked, it was confirmed that the cost of the project manager was being covered by the district council out of the grant funding from the Government to deliver DFGs. Some Members did not agree with this as it was not the fault of the District Council that performance was not as expected and felt it should be for Millbrook as well as Staffordshire County Council, who were party to the contract to bear the cost. It was confirmed that the Partnership had employed Cherrywhite to project manage the contract and the District Council had employed them further to manage the cases in Lichfield and the payment was not affecting the level of grants available. It was noted that there was no provision in the contract

to recover the costs. There was also the view that the project manager would be able to give quantifiable information and so would give value and was cost effective compared to continued low performance.

It was suggested that it would be useful for the Committee to better understand the whole process starting with the county council Front Door through to application and on to completion of work.

It was noted that, for adults, it was a stringent means test for DFGs so it was normal to get a high level of drop out of applications especially in affluent areas.

It was reported that both Millbrook have stated that they currently hope to be able to catch up with delivery to be able to commit the DFG budget this year.

There was a view expressed by a Committee Member that apologies should be received from the organisations that had shown poor performance and thorough questions asked before considering the contract again. There were also views that the Partnership should be investigating if there were any break clauses in the contract that could be enacted if clear performance outcomes were not met. It was noted that the Partnership had served Improvement Notices and that had instigated the measures put in place to date. It was felt that there should be an investigation as to why Millbrook did not action all audit recommendations before being served the Improvement Notice.

RESOLVED: (1) That views on the delivery of DFGs in 2019/20, the measures that the council and SILIS Partnership are taking to drive performance, and the improvements that have happened to date be noted; and

(2) That the challenges that Millbrook have encountered post lockdown, the high demand for the service and the volume of cases in the pipeline be noted.

(The Meeting closed at 7.15 pm)

CHAIRMAN

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**LEISURE, PARKS & WASTE MANAGEMENT (OVERVIEW AND SCRUTINY)
COMMITTEE**

16 JULY 2020

PRESENT:

Councillors Matthews (Chairman), Westwood (Vice-Chair), Silvester-Hall (Vice-Chair), Baker, Barnett, Banevicius L Ennis, Ray, Salter, Warfield, Westwood and M Wilcox.

(In accordance with Council Procedure Rule No.17 Councillors Cox, E. Little and J.Granger as Ward Councillor attended the meeting).

26 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Tapper.

27 DECLARATIONS OF INTERESTS

Councillor Baker declared a personal interest in item 3 as her husband was a user of the cardio rehab facility at Friary Grange Leisure Centre.

28 RE-OPENING OF LEISURE CENTRES

The Committee received a report on the planned re-opening of the leisure centres in the district following the government mandated closure due to the Covid-19 pandemic. It was reported that Leisure Centres had developed a model of operating that meant almost all their costs were met by the generated income, however with closure, all this income ceased. It was also reported that the Council was providing financial support to Freedom Leisure during closedown and for an initial period following re-opening. To manage these costs, Burntwood Leisure Centre (BLC) would re-open initially, with Friary Grange Leisure Centre (FGLC) remaining furloughed to the end of October 2020. It was reported that this phased re-opening would help monitor the confidence of users in returning to use facilities as well as give valuable lessons in operating in a difference climate.

It was reported that the opening of BLC first would cause inconvenience to users of FGLC but Officers would be working with those people and clubs to accommodate them as much as possible in the interim.

The longer term picture of how to re-establish leisure centres would become clearer in coming months and it was noted that scenarios had been modelled and were in the report and that any decision would be driven by how matters unfold.

Councillor Ray expressed some disappointment in the decision not to open FGLC at the outset as it meant a loss in leisure facilities for Lichfield City residents and there was concern that it raised the option to close the centre although it was believed this matter had been dealt with previously with a commitment made by the Council to keep it open.

It was requested that a further option of a partial re-opening be explored and a report on this be presented to the committee. It was requested that lane swimming be considered to aid the clubs in the area and help receive an income. It was also requested that opening the swimming pool be considered as it could help families undertake affordable activities during the summer holidays. There was concern some people may not be able to get to BLC.

There was also concern that assumptions had been made how people will use and by leisure facilities in the longer term when it was too soon to fully understand what views will be. It was felt that affordable leisure was key in tackling key society challenges like obesity, aging population and those living with long term chronic conditions.

Regarding the financial pressures, it was expressed that it should not be the only aspect to consider when re-opening the centres but also the views and needs of residents. It was felt that the difference was small between opening both and the phased approach.

In response to the points raised, it was reported that due to the layout of FGLC, and the need to observe social distancing rules, a partial re-opening could only occur for the swimming pool but this would still be difficult and although the swimming clubs were big users of the facility, they only account for 5%-10% of the budgeted income and it was noted that swimming lessons wouldn't begin until later in the year. It was reported that currently only lane swimming could commence and so there would not be any fun sessions as what would have been offered ordinarily. It was recognised that swimming was a key activity for health and wellbeing and this was why there was a desire to bring in the pool facilities at BLC and working with neighbouring facilities to help the swimming clubs find temporary alternative locations whilst there is the pause in opening FGLC. It was reported that there were still many unknowns including any financial help from government or takeup on usage. It was also reported that if income could not be achieved at FGLC, the now marginal difference in cost would be much worse and so managing risk was a big factor. It was also reported that there was currently opportunity to move furloughed FGLC staff to BLC.

When asked if there was risk to the contract with Freedom as it stated to operate both leisure centres, it was noted that as it was a mandated closure were considered a qualifying change in law and although this did not mean the contract was null and void, the Council needed to work with Freedom to find solutions.

Committee Members had further concerns on projected usage and it was asked if there had been any specific consideration from either current membership in entirety not just clubs. Outdoor gyms was also asked about and if there was any information on their takeup and if that could affect the centres. It was reported that Freedom had done some research regarding members on a sampling basis along with industry wide research which was showing a 60-70% return from an income perspective in the first 12 months with half that keen to return as soon as able. It was noted that stated intentions may be very different to what actually takes place.

Clarity was sought on the capacity and readiness of the opening of BLC as it was stated that it had seen 11.5k visitors a month and whether they could take any more from FGLC safely. There was concern in using BLC as a test and it was asked if there were plans to step in if required. It was reported that number at BLC would be managed by only using a pre-booking system for facilities and no drop-in option and this would also support track and trace. It was also noted that there would be a rigorous monitoring and evaluation system with Freedom to look at the physical operation as well as financials with meetings at least once a week to consider these matters.

It was asked if the refurb of FGLC could be completed quicker if the centre was closed and it was reported that a key aspect of the tender specification was that works could be done on a live site so there was no rush to start work and some of the scenarios did include the works not taking place. When asked for shorter term costs and not for the life of the Freedom contract, it was agreed to send these to the Committee.

Outdoor gyms were discussed and it was noted that more had been added and were being well used and there were opportunity to move some of the rehab facilities to these open air spaces which were safer from a covid-19 point of view. It was also reported that a programme was being developed to assist people using the gyms.

It was reported that it was essential that all reopening was done in a safe and visibly safe manner and it was reported that Freedom had been working hard to do this and was sharing all plans with the Council.

When asked about the income guarantee from the government, it was confirmed that no details of this scheme had been received. However there was no confirmation whether at arms length operators would be included.

It was requested that communication with residents and users remain open.

Councillor Ray felt that as a survey of the membership at FGLC had not been fully undertaken and this data analysed, he formally moved that an extra recommendation be added to request that partial re-opening of FGLC be considered by Officers and the Cabinet member and the result of this be reported back to the Committee as soon as possible. This was seconded by Councillor Westwood and agreed by the Committee.

Councillor Ray wished to have it recorded that he was not in agreement with the recommendations 2.1 and 2.2 of the report.

- RESOLVED:
- (1) That the actions taken to date to support the continued provision of indoor leisure services be endorsed;
 - (2) That the contents of the report be noted;
 - (3) That the Committee receive a further report in the autumn to update on the position of the leisure centres and wider context;
 - (4) That a partial re-opening of Friary Grange Leisure Centre be investigated and conclusions reported back as soon as possible.

(The Meeting closed at 7.20 pm)

CHAIRMAN

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LEISURE, PARKS & WASTE MANAGEMENT (OVERVIEW AND SCRUTINY) COMMITTEE

23 SEPTEMBER 2020

PRESENT:

Councillors Matthews (Chairman), Silvester-Hall (Vice-Chair), Baker, Banevicius, Barnett, L Ennis, Ray, Salter, Tapper, Warfield, M Wilcox and B Yeates.

(In accordance with Council Procedure Rule No.17 Councillors Cox, Eadie and E. Little and J. Grange as Ward Member attended the meeting).

29 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Westwood (Vice-Chairman)

30 DECLARATIONS OF INTERESTS

Councillor Baker declared a personal interest as her husband was a user of the Cardio rehabilitation service at Friary Grange Leisure Centre.

Councillor Ray declared a personal interest as he was a member of the Friends of Friary Grange.

31 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting were circulated and agreed as a correct record subject to the amendment of Councillor Westwood as Vice-Chairman.

RESOLVED: That the minutes of the previous meeting be signed as a correct record.

32 WORK PROGRAMME

The work programme was circulated and it was requested that an item be added or a briefing paper circulated on the usage of the outdoor gyms as there had been two new ones opened as well as the existing ones and they would play a vital role in getting people active. This was agreed by the Committee.

RESOLVED: That the work programme be agreed and amended where necessary.

33 NEW LICHFIELD LEISURE CENTRE PREFERRED SITE

The Committee received a report on the review of suitable sites around the City centre for the proposed new Leisure Centre. It was reported that there were eight potential sites and after evaluation, Stychbrook Park was deemed the most suitable as most likely to be delivered in the timeframe and as already Council owned land, more cost effective. It was reported that the Member Task Group, created to consider matters regarding the project, had also investigated the options and too were recommending the proposed site.

The members of the Task Group were thanked for their hard work to date on the new leisure centre project.

The Committee were overall in agreement with the proposed site however there were some concerns that it be removing some open space from the area and it was asked if it could be considered if other green open space could be created to mitigate this loss. It was noted that the wooded area would be protected and it would bring vital leisure provision to an area where it was most required. It was also noted that the site had good transport links and this could be increased further with cycle paths. It was also reported that the preferred site did allow for the ability to co-locate with other facilities and other sports if required.

It was also noted that further sites could still be considered if this preferred site was dismissed during site investigations. Further sites suggested included Beacon Park at the end of Greenhough Road although noted that was on Greenbelt land. The other was the BRS site although noted it was a constrained site and may be more costly to build due to being in the conservation area however it was felt it may help driving footfall to the city centre.

It was felt that it would be essential to include the community in steps of the project and requested that a meeting with key stakeholders take place to aid this. It was reported that this would be as part of the project plan.

RESOLVED: (1) That the report be noted;

(2) That the recommendation that Stychbrook Park as the preferred site for the new leisure centre be supported; and

(3) That the work of the New Leisure Centre Member Task Group in developing the site appraisal and bringing forward the recommended preferred site be acknowledged and noted.

34 LEISURE CENTRE RE-OPENING UPDATE

The Committee received a report giving an update to the re-opening of the leisure centres following the mandated closures due to Covid-19. It was reported that Burntwood Leisure Centre (BLC) had reopened on the 25 July 2020 and Friary Grange Leisure Centre (FGLC) would reopen at the end of October. It was reported that Freedom Leisure had designed and implemented a Covid-19 safe operating environment.

It was noted that performance of BLC following reopening had given mixed results with fitness participation remaining strong but swimming significantly reduced. It was also reported that costs had been higher and income lower than Freedom Leisure has estimated pre-reopening, however performance was in line with what officers predicted and as reported in the recent Money Matters report.

It was reported that new guidance stated that indoor sports were to be included in the rule of six however due to the measures put in place, activities such as group exercise, swimming and fitness should be greatly unaffected.

The Committee asked if figures from the same time last year could be sent to allow for comparison, it was identified that these were already presented in the report.

Members were pleased to note that FGLC would now be opened and were heartened by the usage numbers considering the pandemic climate.

It was asked what Freedom Leisure were doing to actively promoting leisure in the district as marketing would be required to communicate that both centres would be opened but also best utilise the financial support given by the Council and help prevent losses as much as possible. It was reported that funding support was based on Freedom's initial estimates so much of the

business risk of under-performance still sat with Freedom Leisure. It was also reported that the agreement was an open book and so all figures were known as a safeguard.

It was queried what central admin costs there were and if the additional costs were that from Freedom Leisure. It was noted that updates on all financial figures would be given when available and it was asked if this could also include usage. It was also asked if projections on income including school use and private swimming lessons were available and how that could affect matters going forward. It was reported that this would be difficult to do at this time. It was suggested that some market research on the likelihood of swimming take up in the future may be beneficial.

It was reported that Officers met with Freedom on a weekly basis including at senior level to discuss performance and it was noted that it was still early in the re-opening phase and already changes had been made.

It was reported that the Council was still lobbying MPs on the matter that outsourced leisure arrangements were not covered by government income guarantee funding.

RESOLVED: (1) That the report be noted; and

(2) That financial and usage information be reported to the Committee regularly through briefing papers or reports if required.

35 THE FUTURE PROVISION OF THE DRY RECYCLING SERVICE

The Committee received a report on the proposals for Dry Material Recycling (DMR) once the current contract the Joint Waste Service has as part of the six Waste Collection Authorities with Biffa when it expires in 2022.

It was reported that the market for DMR had changed recently with focus on quality of the materials and the nature of comingled collections were creating issues and Biffa had already expressed that to continue and be viable, they would require a dual-stream collection with separate fibre or costs would rise significantly.

It was then reported that the commodity market was currently volatile and with other factors including the pending National Resource and Waste Strategy, re-procurement of a DMR contact would be challenging.

The Committee were reminded that the collection of DMR was done on behalf of Staffordshire County Council (SCC) and so it was proposed to start a formal procurement process and invite bids for the contact and once completed evaluate them along with the option of returning the requirement back to SCC.

It was noted that it was frustrating as many materials were advertised as recyclable however the contractor would still not accept them as not economically viable so although residents may believe they are putting the right waste in the blue bin, it was still requiring sorting. It was felt that education and communication was vital. It was requested that information be given on where all the recycling went around the world once collected.

It was felt that a short term solution without getting tied into a contract until the government strategy was known. It was recognised that if the decision to go dual stream was taken now, there would be additional costs in supplying extra bags or bins and extra collection rounds. It was noted that there was an option to extend the current contract with Biffa to 2024. It was reported that meetings had taken place with Biffa to discuss options. It was reported that more would be know early in 2021.

It was noted that the government strategy should be released at the same time as the contract expires and there was concern whether a snap decision would be required. It was reported that the strategy may also hopefully bring good news with packaging and materials manufacturers covering some if not all of the cost of collection and disposal.

There was also concern that due to national financial impact Covid-19, government commitments to reimburse out of pocket cost may not materialise as hoped and local authorities may be left trying to pick up extra costs including implementing changes in recycling and waste collections.

RESOLVED: That the approach undertaken to determine the future of the Dry Recycling Service be endorsed.

(The Meeting closed at 7.31 pm)

CHAIRMAN

AUDIT AND MEMBER STANDARDS COMMITTEE

22 JULY 2020

PRESENT:

Councillors Greatorex (Chairman), Ho (Vice-Chair), Checkland, Grange, A Little, Norman, Robertson, Spruce and White

Observer: Councillor Strachan, Cabinet Member for Finance, Procurement, Customer Services and Revenues & Benefits

Officers in Attendance: Miss W Johnson, Ms Rebecca Neill, Mr Anthony Thomas and Ms Christie Tims

Also Present: Mr John Gregory (Grant Thornton UK LLP) (External Auditor) and Ms Laurelin Griffiths (Grant Thornton UK LLP) (External Auditor)

INTRODUCTION:

The Chairman welcomed everyone to the first Audit & Member Standards Committee Meeting to be held online and streamed live.

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

2 DECLARATIONS OF INTEREST

Councillors Greatorex, A Little and White all declared a personal interest in any discussion relating to Staffordshire County Council's Pension Plan actuarial valuation timetable as they are also Members of that Authority.

3 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 5 February 2020, as printed and previously circulated, were taken as read and approved as a correct record.

4 ANNUAL TREASURY MANAGEMENT REPORT

Mr Anthony Thomas (Head of Finance and Procurement) delivered a Presentation on the Annual Treasury Management Report and explained to the committee the reasons why the report is prepared:-

- The Constitution assigns responsibility for scrutiny of treasury management to this committee;
- Treasury management includes capital expenditure, funding, borrowing, investments and prudential indicators;
- There are three cyclical treasury management reports:-

- (1) Treasury Management Strategy – what we plan to do.
- (2) Mid-Year Treasury Management Report – how we are doing.
- (3) Annual Treasury Management Report – what we did.

Mr Thomas talked through the key points of the report focussing on:-

- Capital Expenditure – an underspend of £13.4m (85% of the approved budget) with the most significant item of £10.5m being due to no investment in property due to a PWLB consultation on debt for yield schemes and subsequent CIPFA advice to Chief Financial Officers.
- Balance Sheet – the impact on the balance sheet of the year end pension valuation of the long-term liability provided by the Pension Fund Actuary, £12.2m lower than budget and £10m lower than last year's valuation. This was due to changes in financial and demographics used by the Actuary in the valuation.
- Strategic Investments – as at 31 March 2020 the Council had invested £6m in property and diversified income funds with their valuation being £5.5m as at 31 March 2020 and £5.6m as at 10 July 2020. In June 2020 in line with the strategy and to take account of lower asset prices, the Council had invested a further £2m in a diversified income fund.
- Prudential Indicators – the Council was compliant with all indicators for 2019/20.

In terms of Covid-19 and treasury management, further information was provided:

- A report to Cabinet on 7 July 2020 had projected the financial impact for the Council (after grant) could range from £1.3m to £4.5m.
- In terms of managing the risk, the Council had £7m in confirmed general reserves, financial stress testing had been undertaken, enhanced financial monitoring of income streams was taking place, a further £0.14m of government grant had been received, a sales, fee and charges income loss sharing agreement had been announced and there was also going to be the ability to spread council tax and business rates collection fund losses over three years rather than one.
- The Council had not undertaken investment in property funded by borrowing and therefore was not exposed to additional financial risk.
- In terms of the risk of investments not being repaid, the Council's approach had always been to diversify investments to manage risk, no new investments were undertaken without firstly obtaining Arlingclose advice and there were no known problems with the Local Authorities where the Council had investments.

A query relating to the decision taken 3 years ago to borrow up to £45m was raised and it was asked if the Council had any plans to cancel this agreement. Mr Thomas said at this point a decision had not been made on the plans for the approved budget of £45m. He said the PWLB consultation was focussed on debt for yield schemes and from the Council's perspective this was high risk because the property investment strategy was overly commercial, however, it does not preclude borrowing from the PWLB to fund place-shaping or housing investment.

It was asked if an assurance could be given that this decision would be coming to the Strategic O&S committee as well as this committee before any changes are made. Mr Thomas said the £45m budget was part of the MTFs approved by Council on 18 February 2020 and in line with the budget framework, only Council can therefore approve changes to this budget. Therefore, the options for this budget would form part of the development of the MTFs that will be scrutinised by both the Strategic O&S committee and this committee prior to ultimate approval by Council. Councillor Strachan, Cabinet Member for Finance, Procurement, Customer Services and Revenues & Benefits, advised on the specific point that the Treasury's move, and, the subsequent advice from CIPFA was to address concerns around an emergent bubble in asset prices using easily accessible government funds to buy property but if the bubble was to burst this then becomes a large risk factor. Councillor Strachan said if we were to borrow to invest in building/housing we were still able to invest in these types of projects but he absolutely undertook that this would be part of the over-arching MTFs and assured all the committee members that any decision would go through the correct governance channels and this would be a Cabinet discussion in the future.

The Balance Sheet investments having increased £11.1m higher than the working capital and reserves was questioned and Mr Thomas explained that the level of working capital had increased with lower debtors in part due to the corporate debt team and higher creditor amounts including the surplus made on the collection fund that will be paid over in 2020/21. Usable reserves had also increased due to a variety of reasons such as lower capital and revenue spend in the year. He said these were likely to increase significantly this year to manage timing differences between the receipt and spend of grants to offset the impact of the pandemic.

In relation to the service investments particularly, the ICT Cloud one, it was queried that there was a variance of £39,000 costs more than was budgeted. It had been noted that it said it was a project change and Mr Thomas was asked to explain more.

Mr Thomas said that when this project was approved an approach based on a particular partner was envisaged, however, an alternative approach with an alternative partner had now been approved and, therefore, we are not going to generate the savings we had predicted and he confirmed it would be a budget pressure moving forward, Mr Thomas said it would be a key issue.

The Property Fund book value was discussed and it was asked how much of that was exposed to retail - were the reserves not covering the book loss? Mr Thomas was asked which direction this would take and he said the Council was not exposed to the level of some property funds as we were a low risk organisation who are in it for the longer term therefore less volatility. He said the CCLA do not invest in high street retail – they mainly invest in industrial/distribution as they believe it is not exposed to the level of some property funds. Moving forward Mr Thomas said it was a good question. One of the reasons for setting up the reserves in the first place was to manage the volatility. In addition, there is also a statutory override in place until 31 March 2023 that means any reductions in value do not have to be charged to revenue and Mr Thomas said he had already raised this point in Government Returns that this will need to be extended given the impact of the pandemic on investment values.

It was noted that looking at the numbers and figures in Appendix A, a great deal of capital projects had slipped back, investment in the property company especially, it was asked if there was a real chance that this may slip in to 2021/22 and how long we could allow the investment in the property company to slip back before it had an impact on the MTFS.

Mr Thomas said the investments in the property company consist of 2 elements: an equity investment of £225,000 that we undertook in May; and a £675,000 loan for up to 5 years. He said we have only built income from the loan into the approved MTFS i.e. £4,000 in 2020/21 and increasing to £22,000 in 2023/24. At this stage, no income from dividends from the company had been included in the MTFS. In terms of the investment in property budget, the MTFS assumes a contribution of £87,000 in 2020/21 increasing to £658,000 in 2023/24 and therefore if investment does not take place or result in income, then the funding gap will increase.

- RESOLVED:-** (1) The Report was reviewed and noted;
(2) The actual 2019/20 prudential indicators contained within the report were reviewed and noted.

5 RISK MANAGEMENT UPDATE

Ms Rebecca Neill (Internal Audit Manager) presented the Risk Management Update report which provided the Committee with their routine risk management update. She summarised the key points and reminded all that at the previous committee meeting it had been agreed to review the risk register to align it with the new strategic plan and also to incorporate the 3 lines of assurance model. She said this work had now been completed and was detailed at Appendix 1 of the report. She said that Covid-19 has had a significant impact on the Council's

risk management and this was reflected in the New Strategic Risk Register. She explained that the table at 3.6 illustrated the linkages between what were the previous corporate risks and what are the new strategic risks going forward.

Ms Neill said that following the leadership team's risk management workshop, 7 strategic risks had been identified and they are reflected at section 3.7 of the report. She said there were 2 risks currently outside of appetite at the moment – SR1 (non-achievement of the Council's key priorities due to availability of finance) and SR2 (resilience of teams to effectively respond to a further disruption to services). The Chairman stated with regards to SR2 that considering what has happened in terms of the pandemic, he personally thinks the District Council has responded well and although it is a negative report, in terms of that risk, how much worse could it get?

Ms Neill said that there was a feeling of fatigue amongst managers and the leadership team, who have had to deal with the Council's response to Covid-19. With this risk, it was felt that if there was to be a multi-layer disruption, for example, a second wave coupled with flooding or seasonal flu pressures and Brexit then this may strain the Council's resilience and response.

Councillor Grange stated that the way that the register was now presented was better and the 3 lines of assurance model was welcomed. However, she stated that some of the risks as described were not necessarily of a strategic nature i.e. SR1 – non-achievement of key priorities due to the availability of finance - she felt that there are other reasons that could result in non-delivery and SR2 picks up on this a little. She asked if broadening out these risks and making them less specific for the future could be considered. Also, she stated in terms of SR6 – failure to innovate and take the learning from the Covid-19 situation could be broadened to include any situation, not just Covid-19. This was noted.

The Committee asked in terms of SR1 and SR2 that these needed to be actively managed and the committee asked whether it was possible to get a high level brief on what was being done to manage these risks. Ms Neill explained that the actions were detailed within the actions column on Appendix 1. Mr Thomas, as risk owner of SR1, stated that Local Governments have been subject to significant financial planning uncertainty with the spending review, the move to 75% business rates retention, the fair funding review and the review of the new homes bonus and this had been exacerbated by the Covid-19 pandemic. Mr Thomas advised that all of these reviews had now been delayed by a further year until 1 April 2022 and a one year settlement was therefore being implemented for 2021/22. He said at the current time the impact that the Covid-19 pandemic has on the Council's financial position is very uncertain with the report to Cabinet on 7 July 2020 indicating a range of between £1.281m and £4.541m. However, since the report, the government has provided additional funding to the Council of £140,417, introduced an income "quarantee" sharing sales, fees and charges losses and enabled business rate and council tax collection fund deficits to be spread over 3 years rather than one.

Mr Thomas said as part of the development of the MTFs, we have commenced earlier than normal with an enhanced service and financial planning process where we have encouraged Heads of Service to consider the impact of ongoing funding reductions of c10% together with options for mitigating the impact.

RESOLVED: The Committee noted the risk management update and received assurance on actions taking place to manage the Council's most significant risks.

6 INFORMING THE AUDIT RISK ASSESSMENT - LDC

Mr John Gregory from Grant Thornton presented a report - Informing the Audit Risk Assessment Lichfield District Council 2019/20 which was a series of questions on particular areas e.g. arrangements re: fraud/laws and regulations/going concern/related parties/accounting estimates and the responses received from the Council's management

which is done annually. Mr Gregory said this had actually been written for the previous meeting which had had to be cancelled because of the pandemic so was really retrospective but the committee was asked to consider and comment.

No comments were received.

RESOLVED:- The Committee noted the Informing the Audit Risk Assessment report for Lichfield District Council 2019/20.

7 **AUDIT PLAN FOR LICHFIELD DISTRICT COUNCIL 2019/20 & ADDENDUM**

Mr John Gregory from Grant Thornton presented the External Audit Plan for the year ending 31 March 2020 which provided an overview of the planned scope and timing of the statutory audit of Lichfield District Council for those charged with governance. Members' attention was specifically drawn to the addendum which reflected the unprecedented global response to the Covid-19 pandemic. Mr Gregory highlighted the 3 significant risk areas and referred to the additional risk of Covid-19 in the addendum which had been prepared once the seriousness of Covid-19 had been realised.

In the Audit Plan the implementation of IRFS16 was discussed and Mr Gregory stated that this had now actually been deferred for a year so it was no longer a risk for us as specified in the Audit Plan.

Mr Gregory referred to the materiality page, which was in line with Grant Thornton's normal approach, a 2% benchmark is used for those authorities they consider to be well-run. He referred to the value for money page which says that risk assessment remains in progress as over taken by events and the impact of Covid-19 on the financial situation – so this may be labelled differently as "impact of Covid-19" moving forward.

Mr Gregory explained that the addendum showed the additional significant risk re: Covid-19 and he explained that this was initiated back in March because it was not known what impact Covid-19 would have on Lichfield District Council in producing the accounts nor Grant Thornton's ability to audit the accounts i.e. no one knew how much sickness would be incurred or how remote working would work and what the actual impact of Covid-19 would be on the accounts. Mr Gregory referred to the impact valuations of land and buildings for example – valuations done on a market basis which took a hit towards the end of the year. It is then an additional significant risk for a number of reasons.

It was questioned what arrangements had been put in place bearing in mind this year is going to be even harder to make sure the pension valuation would not be revised and updated very late in the day like last year. Also, it was noted that it seemed likely that the valuation would be significant different. Mr Gregory said there were 2 aspects to this, it was partly about the timing of when the actuaries do their assessment and whether they do a second review and also the timing of the assurance work done for us by the auditors of the Staffordshire Pension Fund. He said that McCloud was the main issue last year and also the difference between the estimated asset values and the actuals a couple of months later. He said he was hoping McCloud would not be an issue this year but said there is a potential "fly in the ointment" in that the government is now consulting on the actual remedy. The fact that asset values become so volatile at year end is causing problems and means that the accounts will need to reflect the actual asset values as opposed to ones estimated 3 months in advance. He said in terms of getting the assurance of the auditors at Staffordshire Pension Fund, Grant Thornton had been in touch for that assurance but the County Fund Managers have said the delivery of the assurance is not going to be early – September is the expected date as it is dangerous to give assurance on the pension fund before that time.

Mr Thomas said that the big issue last year for Staffordshire was that the investment returns were different at the end of the financial year compared to the date the valuation took place

which was an estimated value (in December). In that period there was a material difference in the return so the valuation changed. He said it was being managed now by delaying the valuation report to take this into account. He said the Staffordshire County Council Auditors, EY, had advised him they hoped to have this done by the end of August which would mean September/October we could finalise our accounts and approve but we were currently in the lap of the Staffordshire Pension Fund and Auditors unfortunately.

Mr Gregory said it was a complicating factor where pension funds have significant property assets the valuers will be valuing them with a material uncertainty and we may need to consider whether there is a material uncertainty as to asset values in the accounts as well – this will need to be dealt with going forward.

The Chairman agreed that McCloud was and is a real issue – equalisation of member benefits is the issue to be valued and recipients have been given 2 options. There has been no ruling from judges yet, which would affect how this valuation is going to go and so it was so very difficult for the County Treasurers/Local Authorities & Staffordshire Pension Fund and their Auditors.

A query was received on the statement in relation to the housing benefit fee about self-interest. Confirmation was sought that there was no issue there for Lichfield District Council because of the small nature of the fee. Mr Gregory responded and said self-interest is one of the 6 threats identified in the Auditor's Ethical Standards and is one of the ways you can judge whether an auditor is likely to be independent. He explained the circumstances in which self-interest could be a problem – for example, if non-audit service fees were much higher than the basic audit fee. Mr Thomas reminded the committee that they had gone through the options available for this specific audit previously and agreed and took the decision that to have the same auditor covering housing benefit work as well as the main audit as this would be less problematic and saved costs.

RESOLVED:- The Committee noted the External Audit Plan for Lichfield District Council 2019/20 & Addendum for year ending 31 March 2020.

8 ANNUAL AUDIT FEE LETTER

A letter setting out a variation to the external audit fee for 2019/20 was presented by Mr Gregory of Grant Thornton. He referred to the fact that the letter had been written in January and had already been discussed with Mr Thomas but he explained the reasons for the increase over and above the fees original prescribed. Mr Gregory referred to the additional fees which had been charged in previous years for the McCloud case and additional work around PPE. He advised that there had been a lot of feedback received from Local Authorities regarding the additional fees and requests had been made that these should be agreed up front this year and, so, following discussions with PSAA (who is their fee setting body) they had done so.

In summary, the costs have gone up because of the increased depth of external audit work now involved around pensions and PPE, following FRC feedback. There was also a change in how the FRC determines what is an acceptable standard for an audit. It used to be that it would only fail an audit at the initial stage but now it can be considered to be a fail at either of the 2 lower stages. The FRC can apply sanctions to the auditors, if they see fit, and understandably this has made them more cautious and focussed.

Mr Thomas advised the committee that he had already agreed the fee to enable Grant Thornton to achieve the financial reporting standards expected accepting that the environment has changed for all external auditors.

There was just one query received regarding the justification for the fee increase relating to the IRFS16 standard now this had been delayed and it was asked if this would show as a saving of £1500 on the balance sheet in these new circumstances. Mr Gregory said there was no plan to do so at the moment as Grant Thornton were waiting to see what the impacts of Covid-19 were rather than withdrawing the £1500 - it was expected that this £1500 would probably be transferred to the Covid-19 related additional work instead. However, this was noted.

RESOLVED:- The Committee noted the Annual Audit Fee Letter 2019/20 for Lichfield District Council.

9 WORK PROGRAMME

The Work Programme for the Audit & Member Standards Committee 2020/21 was discussed. The Chairman explained that the additional list of reports at the end of the Work Programme had already been pre-circulated to all members of the committee from the individual officers and published in a supplementary agenda as those reports were for noting and endorsement only.

Members acknowledged receipt of the additional reports and it was appreciated and useful as any queries or questions were dealt with on receipt direct with the Officer/Author of the report. Congratulations were passed on to all Officers involved in the pre-circulation.

Item 1 – Chair of the Audit Committee’s Annual Report to Council – Noted and Endorsed

Item 2 – Annual Report for Internal Audit (including year-end progress report) – Noted and Endorsed

Item 3 – Internal Audit Plan, Charter & Protocol 2020/21 – Noted and Endorsed

Item 4 – Quality Assurance and Improvement Programme/Public Sector Internal Audit Standards – Noted and Endorsed

Item 5 – RIPA Reports Policy & Monitoring – Noted and Endorsed

Item 6 – Annual Governance Statement – Noted and Endorsed

The Chairman asked for any additions/alterations to the Work Programme to be forwarded to him and stated that there may be a need for an additional meeting late September time to accept the Statement of Accounts and this was agreed.

Mr Thomas stated that the pension fund was the key issue on the timing of the accounts and it looked like the earliest we could approve the accounts would be late September and the latest would be November. He noted that there was already a scheduled Audit & Member Standards meeting set for 12 November but because of there being a lot of agenda items for that meeting on the Work Programme, it may be beneficial to hold an additional meeting for the signing of the Statement of Accounts and it would be an opportunity to move some items forward. This will be reviewed and communicated to all members of the committee.

(The Meeting closed at 7.10 pm)

CHAIRMAN

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PLANNING COMMITTEE

27 JULY 2020

PRESENT:

Councillors Marshall (Chairman), Baker (Vice-Chair), Anketell, Barnett, Birch, Checkland, Cox, Eagland, Evans, Humphreys, Leytham and Matthews

INTRODUCTION:

The Chairman welcomed everyone to the Planning Committee Meeting to be held online and streamed live.

1 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Ho.

2 DECLARATIONS OF INTEREST

The Chairman, Councillor Marshall, reiterated what had been recorded on his Register of Members Interests form in respect of application nos. 19/00753/OUTMEI & 19/01341/OUT; he is a Member on Armitage with Handsacre Parish Council.

Councillor Checkland declared a personal interest in application no. 20/00587/FUH as the Applicant's neighbours are known to him.

Councillor Cox confirmed that he had been a Member on Armitage with Handsacre Parish Council when the original consultation had taken place regarding application no. 19/00753/OUTMEI but he has now resigned and is no longer a Member on the Parish Council.

Councillor Matthews declared a personal interest in application no. 19/00753/OUTMEI as he has a relative on the Hawksyard Estate.

3 MINUTES OF PREVIOUS MEETING

The Minutes of the Meeting held on 1 June 2020 previously circulated were taken as read, approved as a correct record and signed by the Chairman.

4 PLANNING APPLICATIONS

Applications for permission for development were considered with the recommendations of the Head of Economic Growth and Development and any letters of representation and petitions of observations/representations together with the supplementary report of observations /representations received since the publication of the agenda in association with Planning Applications 19/00753/OUTMEI, 19/01015/OUTM, 20/00587/FUH & 19/01341/OUT

19/00753/OUTMEI – OUTLINE PLANNING APPLICATION FOR THE CREATION OF DEVELOPMENT PLATFORM AND THE DEMOLITION OF EXISTING OFFICE BUILDING, ENVIRONMENTAL CENTRE, AND SECURITY GATEHOUSE, SITE CLEARANCE, REMEDIATION AND PHASED MIXED-USE DEVELOPMENT COMPRISING UP TO 2,300 NEW DWELLINGS AND RESIDENTIAL UNITS (USE CLASSES C3 AND C2), UP TO 1.2 HA OF MIXED-USE (USE CLASSES A1, A2, A3, A4, A5, C1, C2,

C3, D1 AND D2), UP TO 5 HA OF EMPLOYMENT (USE CLASSES B1A, B, C AND B2), A SCHOOL (ALL THROUGH SCHOOL OR 1 NO. 2 FORM ENTRY PRIMARY SCHOOL (USE CLASS D1)), FORMAL AND INFORMAL PUBLICLY ACCESSIBLE OPEN SPACE, KEY INFRASTRUCTURE INCLUDING NEW ADOPTABLE ROADS WITHIN THE SITE AND THE PROVISION OF A NEW PRIMARY ACCESS JUNCTION ON TO THE A513, GROUND AND ROOF MOUNTED SOLAR PANELS AND 2 NO. EXISTING ELECTRICITY SUBSTATIONS (132 KV AND 400 KV) RETAINED (ALL MATTERS RESERVED EXCEPT ACCESS) RUGELEY POWER STATION, ARMITAGE ROAD, ARMITAGE, RUGELEY FOR RUGELEY POWER LIMITED

RESOLVED:- That this application be approved subject to the conditions (including those amended within the supplementary report) outlined in the report of the Head of Economic Growth and Development but subject to the owners/applicants first entering into a Section 106 Legal Agreement under the Town and Country Planning Act (as amended) to secure contributions/ planning obligations towards:-

1. On-site affordable housing provision;
2. On-site sports provision (including changing facilities and management) and off-site cricket contribution;
3. On-site Public Open Space provision (including delivery of the waterside park, retained and new allotments and public art);
4. Education provision, including on-site delivery of either a 2 form entry primary school with off-site secondary school contribution or an on-site all through school;
5. Highways and transport contributions (comprising off-site highway works (junction improvements), canal towpath improvements, public transport service enhancement sum and Trent Valley Station improvements);
6. Travel plan monitoring sum;
7. Cannock Chase SAC air quality mitigation scheme; and
8. On-site community building.

Also, subject to the completion of a separate Unilateral Undertaking Agreement relating to the payment of £178.60 per CIL exempt dwelling for recreational mitigation for the Cannock Chase SAC.

If the S106 legal agreement and Unilateral Undertaking are not signed /completed by the 2nd November 2020 or the expiration of any further agreed extension of time, then powers to be delegated to officers to refuse planning permission, based on the unacceptability of the development, without the required contributions and undertakings, as outlined in the report.

(Prior to consideration of the application, representations were made by Mr Mark Sitch, Barton Willmore (Applicant's Agent)).

19/01015/OUTM

OUTLINE APPLICATION FOR THE ERECTION OF UP TO 200 RESIDENTIAL DWELLINGS FOR PHASE 2 OF THE STREETHAY STRATEGIC DEVELOPMENT ALLOCATION (SITE REFERENCE LC1) INCLUDING COMPREHENSIVE GREEN INFRASTRUCTURE, FOOTPATHS, OPEN SPACE, CHILDREN'S PLAY AREA, SURFACE AND FOUL WATER DRAINAGE INCLUDING ATTENUATION POND, AND OTHER ANCILLARY INFRASTRUCTURE AND WORKS. ALL MATTERS RESERVED EXCEPT FOR POINTS OF ACCESS, WHICH INCLUDES TWO POINTS OF ACCESS CONNECTING INTO THE WESTERN EDGE OF THE PHASE 1 STREETHAY DEVELOPMENT. AFFECTS FOOTPATH 'FRADLEY AND STREETHAY 1'.

LAND AT STREETHAY, BURTON ROAD, STREETHAY, LICHFIELD FOR MILLER HOMES

RESOLVED:- That this application be approved subject to the conditions outlined in the report of the Head of Economic Growth and Development and the change referred to in the supplementary report to ensure provision of on-site public open space as part of the S106 Agreement

but subject to the owners/applicants first entering into a Section 106 Legal Agreement under the Town and Country Planning Act (as amended) to secure contributions/planning obligations towards:

1. 35% Affordable Housing;
2. Education Contribution for Primary School Places;
3. Offsite highways improvements scheme
4. Travel Plan Contribution;
5. The formation of a maintenance management company to maintain the Open Space; and
6. On-site Public Open Space.

If the S106 legal agreement is not signed/completed by the 31 March 2021 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions and undertakings as outlined in the report.

(Prior to consideration of the application, representations were made by Ms Helen Dawkins, Miller Homes (Applicant)).

20/00587/FUH
SINGLE STOREY EXTENSION TO REAR AND ENLARGEMENT OF FIRST FLOOR SECTION
22 GAIAFIELDS ROAD, LICHFIELD, STAFFORDSHIRE, WS13 7LT
FOR MR S ARMSTRONG

RESOLVED:- That this application be approved subject to the conditions outlined in the report of the Head of Economic Growth and Development.

(Prior to consideration of the application, representations were made by Mr Frank Horsfall (Objector) and Councillor Paul Ray (Ward Councillor)).

19/01341/OUT
OUTLINE APPLICATION FOR THE ERECTION OF 3 NO DWELLINGS, INCLUDING DEMOLITION OF OUTBUILDINGS (ACCESS & LAYOUT)
THE MOUNT, PIKE LANE, ARMITAGE, RUGELEY
FOR MR & MRS A & R STANLEY

RESOLVED:- That this application be approved subject to the conditions outlined in the report of the Head of Economic Growth and Development; an additional condition to remove permitted development rights (to read as below), and subject to the owners/applicants first entering into a Unilateral Undertaking under the Town and Country Planning Act (as amended), to secure contributions towards the Cannock Chase Special Area of Conservation; and that,

If the Unilateral Undertaking is not signed/completed by the 1st October 2020 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions and undertakings as outlined in the report.

Additional condition wording to read:-

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order 2015 (as amended), (or any Order revoking and re-enacting the Order with or without modification) the dwellings hereby approved shall not be enlarged or extended and neither shall any outbuildings, enclosures or other structures required for a purpose incidental to the enjoyment of the dwelling house be erected within their curtilages without the prior written permission, on application, to the Local Planning Authority.

(Prior to consideration of the application, representations were made by Ms Chloe Arden (Objector) and Ms Debbie Glancy. Architect at Alrewas Architecture Ltd (Applicant's Agent)).

The Meeting closed at 9.47pm

CHAIRMAN

PLANNING COMMITTEE

24 AUGUST 2020

PRESENT:

Councillors Marshall (Chairman), Baker (Vice-Chair), Anketell, Barnett, Birch, Checkland, Cox, Eagland, Evans, Humphreys, Leytham, Matthews and Tapper

5 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Ho.

6 DECLARATIONS OF INTEREST

Councillor Eagland declared a personal interest in Agenda Item 4 (Item C) as she is the Staffordshire County Council Ward Division Member for Lichfield Rural North including Alrewas.

Councillor Leytham declared a personal interest in Agenda Item 4 (Application no – 20/00332/FUL) as he is the Ward Councillor for the area and had heard from residents. He wished to have it recorded that he would determine the application based on the information given at the meeting only.

Councillor Barnett declared a non-disclosable pecuniary interest in Agenda Item 4 (Application no 20/00674/FUL) as she wished to speak as Ward Councillor. She noted that she would not debate or vote on the application.

7 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on Monday 27 July 2020 previously circulated were taken as read, approved as a correct record and signed by the Chairman.

8 PLANNING APPLICATIONS

Applications for permission for development were considered with the recommendations of the Head of Economic Growth and Development and any letters of representation and petitions of observations/representations together with the supplementary report of observations /representations received since the publication of the agenda in association with Planning Applications 20/00332/FUL, 20/00674/FUL & Staffordshire County Council Consultation (L.20/03/867 M) our ref: 20/00722/SCC

20/00332/FUL – Erection of a replacement dwelling Spion Kop, Lichfield Road, Hopwas, Tamworth

For: Mr P Gray & Mrs S Foley

RESOLVED: That the planning application be approved subject to conditions contained in the report of the Head of Economic Growth and Development.

(Prior to consideration of the application, representations were made by Mr Clive Chapman (Objector) and Mr Karl Grace (Applicant's Agent)).

20/00674/FUL – Erection of a detached 4 bedroom dwelling with associated works
8 Blythe View, Lichfield Road, Hamstall Ridware, Rugeley
For: Mr J Greenway

RESOLVED: That the planning application be **REFUSED** on grounds of design and its subsequent detrimental impact upon the prevailing character of the surrounding area and the street scene.

(Prior to consideration of the application, representations were made by Mr Chris Poole (Objector) and Councillor Shirley Barnett (Ward Councillor)).

Staffordshire County Council Consultation (L.20/03/867 M)

Our ref: 20/00722/SCC - Proposed sand and gravel extraction, the erection of associated plant and infrastructure and creation of new access, in order to supply the HS2 project with ready mix concrete with exportation of surplus sand and gravel

Land South of the A513, Orgreave, Alrewas, Burton Upon Trent, Staffordshire

The Committee debated the consultation of a Staffordshire County Council application for development within the District area. The committee heard and noted the concerns of the Ward Councillor and largely agreed with them. They felt that there were material issues with the application namely that it did not comply with the District's Local Plan and that the site was not allocated for employment as well as not complying with the County Minerals Local Plan by not ensuring existing sites (especially Manor Park and Saddleshaw) had been completed and restored.

There was further concern that the need for the application was to aid HS2 as reports had been given that HS2 had not appointed any contractors as yet or had any dealings with the applicant. Concerns around highways and flooding were also expressed by Members as well as the veracity of the site only being operational for four years.

The Committee had concerns on the environmental impact and destruction on the habitat in the area and that the effects of this would be experienced for a lot longer than the life of the quarry.

It was agreed that a stronger and more succinct representation should be submitted by the District Council objecting to the application for the reasons stated.

RESOLVED: That the representations as submitted be withdrawn and a revised consultation response be sent to Staffordshire County Council.

(Prior to consideration of the application, representations were made by Councillor M Wilcox (Ward Councillor)).

(The Meeting closed at 8.25pm)

CHAIRMAN

REGULATORY AND LICENSING SPECIAL COMMITTEE

30 JULY 2020

PRESENT:

Councillors

B Yeates (Chairman), Anketell, Eagland, D Ennis, L Ennis, Evans, Leytham, Parton - Hughes Salter, Spruce and Warfield

APOLOGIES FOR ABSENCE

Apologies were received from Councillor Binney

DECLARATIONS OF INTEREST

Councillor Evans declared being a blue badge holder

BUSINESS & PLANNING ACT 2020

The Committee received a report on the provisions on the Business and Planning Act 2020 which came into force on 22nd July 2020. The Act allows temporary changes to alcohol laws to meet social distance guidance including tables and chairs on the highway. The Act allows for businesses to apply for a pavement licence. There is a 7 day consultation period which allows opportunity for residents and statutory consultees and after 7 days LDC will grant or refuse permission. If after 7 days LDC have not determined the application is deemed as granted. It is noted that there is no right of appeal if application if the application is refused.

The Business and Planning Act 2020 ("the Act) came into force on 22 July 2020. The purpose of the pavement licence provisions in the Act make it easier for premises in England which serve food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

Throughout the discussions the Members enquired how many applications would be received and the Committee were told that early indication was relatively low as many premises in the City Centre already have permission through Planning Regulations. However they may apply to extend or change the seating area outside, so there are no numbers at this stage on the amount of applications to be submitted.

The Committee were asked to authorise the delegation of all the functions, powers and duties of the Council set out in the Business and Planning Act 2020 in respect of pavement licences to the Head of Regulatory Services, Housing and Wellbeing.

After the discussion a vote was undertaken and the Committee were all in agreement that:

RESOLVED: Authorisation given for the delegation of all the functions, powers and duties of the Council set out in the Business and Planning Act 2020 in respect of pavement licences to the Head of Regulatory Services, Housing and Wellbeing.

The Committee were asked to waive the recommended application fee of £100. The aim of waiving the fee is to support local business to increase customers during this difficult time.

RESOLVED: That the application fee of £100 be waived in order to support local businesses at this difficult time.

The Committee were asked to authorise a condition that the granted pavement licence area would be a non- smoking area. The Committee agreed to a condition being imposed.

RESOLVED: The approved area to be non- smoking.

(The meeting closed at 6:28 p.m.)

REGULATORY AND LICENSING COMMITTEE

28 SEPTEMBER 2020

PRESENT:

Councillors B Yeates (Chairman), Anketell, Binney, Eagland, D Ennis, L Ennis, Evans, Leytham, Salter, Spruce and Warfield

4 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Parton-Hughes

5 DECLARATIONS OF INTEREST

There were no declarations of interest received.

6 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous Special meeting held Thursday 30th July 2020 were approved.

7 WORK PROGRAMME

The work programme was considered and it was agreed to add:-

- Report on the use of Park Rangers for enforcement duties - 25 February 2021
- Verbal updates on the impact of Covid on the performance of the Food and Health and safety service delivery plan should be added - End of year report to be provided.
- Verbal update on the pavement policy – 25 February 2021

8 ENVIRONMENTAL HEALTH ENFORCEMENT POLICY UPDATE

The Committee received a report on the Environmental Health Enforcement Policy, which dates back to 2015 and reviewed in October 2017, when the Housing Civil Penalties Annexe was added. The report follows a review of the Enforcement Policy. The Housing Civil Penalties Annexe has been changed to show a move to the Nottingham model which has been shown to be robust in Tribunals.

Members were informed that the Enforcement Policy guides officers businesses and the public on the Councils enforcement practices. There were two strands of the report and within the first strand the update on the regulatory services policy minimal changes were made including an update on the service name.

The second part is the update on the annexe on the Housing Civil Penalties, which is more of a change, to follow the Nottingham City model instead of the Staffordshire model for use in tribunals. Permission has been gained to use their policy.

Members were asked to recommend the policy to be adopted at Council for Council to give delegated authority for this Committee to allow any future amendments and updates.

After the Discussion a vote was undertaken and the Committee were all in agreement that:-

RESOLVED

- (1) That the Committee agreed the updated Regulatory Services, Housing and Wellbeing Enforcement Policy including the Annexe on Housing Civil Penalties is adopted at Council.
- (2) The Committee agreed that Council gives delegated authority to the Regulatory and Licensing Committee to make any required amendments to this policy in the future.

9 LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

The Committee received a verbal report updating on the Licensing Act 2003.

The Licensing Act 2003 provides a unified system for regulating the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. These activities are referred in the Act as licensable activities. Section 5 of the Licensing Act 2003 requires that the District Council as the Licensing Authority prepare and publish a Statement of Licensing Policy at least every five years. During the five year period the policy must be kept under review and the licensing authority may make any appropriate revisions to it.

Section 5 of the Licensing Act 2003 requires that the District Council as the Licensing Authority prepare and publish a Statement of Licensing Policy at least every five years. During the five year period the policy must be kept under review and the licensing authority may make any appropriate revisions to it. This year the licensing Authority was due to prepare and consult on a revised statement of licensing policy for 2021 – 2026. Due to the current emergency position this authority was concerned about its ability to carry out an effective review due to not being able to fully engage with the local trade and residents. The Saturation Policy, which forms part of the Licensing policy, needs to be reviewed. The Saturation Policy addresses the impact of premises licensed and covers Bird Street (up to the junction with Swan Road, Lichfield and Market Street (from its junction with Bird Street to its junction with the Market place, Lichfield.

This policy provides a decision making framework for applications in the area covered by the policy and requires the authority to consider the impact a new licensed premises would have within the special saturation area. At this current time it is difficult to determine whether this policy needs to be retained going forward. In the event of any closures of premises in the saturation area then the policy may no longer be justified and currently it is impossible to forecast this position.

The Committee were asked to authorise the retention of the existing policy with a view to conduct a detailed review within the next 5 year cycle.

Resolved: To submit a report to full council to re adopt the existing policy for a further 5 years.

10 IMPACT OF COVID ON THE IMPLEMENTATION OF THE FOOD AND HEALTH & SAFETY SERVICE DELIVERY PLANS

The new service delivery plan was agreed earlier this year for 2020-2022. This included the aim to complete 418 programmed food safety inspections and inspect approximately 100 new food businesses. During Mid-March to August there has been a suspension of routine food safety inspections, resulting in a back log of approximately 270 overdue inspections. During this period the team have been undertaking remote assessments and providing advice and guidance for new businesses that registered with the Authority, previously known poorly

compliant premises and businesses that changed the nature of their activities such as providing takeaways.

Additionally the service undertook the emergency shopping service and support for vulnerable/ shielding residents, the enforcement of Covid restrictions on businesses, support to businesses to reopen with adequate Covid controls and assisted with the planning and implementation of the Staffordshire outbreak plan. Progress has been slow in reinstating the food inspection.

In summary the food and health and safety programme for this financial year is unlikely to be completed.

THANKS

The thanks of the Committee to the Commercial Team Environmental Health for their work during the last 7 months is recorded.

(The Meeting closed at 6:30 pm)

CHAIRMAN

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Environmental Health Enforcement Policy Update

Angela Lax, Cabinet Member for Legal & Regulatory Services

Date: 13th October 2020

Agenda Item: 16

Contact Officer: Jack Twomey

Tel Number: 01543 308734

Email: jack.twomey@lichfielddc.gov.uk

Key Decision? YES

Local Ward

Members Affects all Wards



COUNCIL

1. Executive Summary

- 1.1 The Enforcement Policy currently in place for Regulatory Services dates back to 2015.
- 1.2 It was reviewed in October 2017, at which point the Housing Civil Penalties Annexe was added. This enables the Authority to apply a Financial Civil Penalty of up to £30,000 due to Housing related offences, as an alternative to Court action.
- 1.3 This report follows a further review of the Enforcement Policy, the bulk of which remains broadly unchanged. What has been changed to a much greater degree is the Housing Civil Penalties Annexe. This follows experience gained in Housing Tribunals across the Midlands and a move to the Nottingham model which has been shown to be robust in Tribunals.
- 1.4 The updated Enforcement Policy and Housing Civil Penalties Annexe were considered and supported by the Regulatory and Licensing Committee at its meeting on 28th September 2020 which recommended that these be adopted by Council and that delegated authority be given to the Regulatory and Licensing Committee to make any required amendments to this policy in the future.

2. Recommendations

- 2.1 That Council adopts the updated Regulatory Services, Housing and Wellbeing Enforcement Policy including the Annexe on Housing Civil Penalties.
- 2.2 That Council gives delegated authority to the Regulatory and Licensing Committee to make any required amendments to this policy in the future.

3. Background

- 3.1 Regulatory Services Housing and Wellbeing (RSHW) is one of the Council's sections with a range of regulatory powers. Having an enforcement policy in place ensures that we enforce these regulations in a fair, consistent and transparent way.
- 3.3 The policy provides guidance to officers, businesses and the general public on the range of options that are available to achieve compliance with legislation enforced by RSHW or anyone authorised to act on their behalf.

- 3.4 The current Enforcement Policy is considered concise and remains generally appropriate for the future, with simple minor alterations to take account of restructures and legislative changes or guidance updates.
- 3.5 In 2017 a new Annexe to the Enforcement Policy was added to take account of the new Housing and Planning Act 2016, from which a range of new powers had come into force. One of these powers was the ability for the Council to issue a Civil Financial Penalty on landlords as an alternative to Court prosecution in relation to certain offences. The new Annexe followed the same route as most other Staffordshire Authorities in terms of our policy on Civil Penalties.

4. Comparisons with other Local Authorities

- 4.1 Since the introduction of Civil Penalties, a number of authorities have had the robustness of their policies tested in Tribunals. This has included Staffordshire authorities who follow the same basic policy on Civil Penalties as this Council currently does.
- 4.2 Unfortunately it seems that in Tribunals the Staffordshire model has been found to be less persuasive than other authorities' policies. In one case, for example, a Civil Penalty of £7000 was reduced to £700 by the Tribunal.
- 4.3 By comparison, Nottingham City Council's Civil Penalty Policy has stood up to scrutiny and they have a highly successful record in Tribunals with their Policy. So much so in fact, that they have started training other Authorities on their Policy and permitting them to use the same Policy wording throughout. Of particular note is the flexibility of Nottingham's Policy, which allows penalties to be lowered to take account of actions by the landlord. This is not something which was originally included in the Staffordshire model.

5. Proposals

- 5.1 It is proposed only to make minor alterations to the main Enforcement Policy.
- 5.2 It is, however, proposed to replace the Housing Civil Penalties Annexe with the Policy wording of Nottingham City Council's, following agreement from them. It is hoped that this will provide a better footing for defending any Tribunals which the Council may be brought to in the future.
- 5.3 The proposed amended Regulatory Services Enforcement Policy is in Appendix A.
- 5.4 The proposed re-written Civil Penalty Annexe to the Enforcement Policy is in Appendix B.

Alternative Options

1. Keep the Enforcement Policy and Civil Penalties Policy as it currently is. Whilst the Enforcement Policy remains broadly the same, it references a Department which no longer exists. The Council's current Civil Penalties Policy has been found wanting at Tribunals and it's considered appropriate to move to a policy which has been well tried and tested and shown to be robust.

Consultation

1. The Regulatory and Licensing Committee recommend on the 28th September 2020 that the Policy and Annexe be adopted at Council.
2. No public consultation has been undertaken but the Enforcement Policy is and will continue to be placed on our website for public viewing.

	3. The same Housing Civil Penalties Policy has been in place at Nottingham since 2017 and has proven robust at Tribunals.
Financial Implications	1. The new Civil Penalties Policy can generate income for use within Private Sector Housing. By comparison with the original Policy it seems likely to better stand up to scrutiny at Tribunal and be less likely to lead to any penalties being reduced or overruled.
Contribution to the Delivery of the Strategic Plan	1. Shaping Place: to keep it clean, green and safe.
Equality, Diversity and Human Rights Implications	1. The Enforcement Policy and Annexe relate to all the work of RSHW and are not envisaged to have any negative implications in terms of equality, diversity and human rights. On the contrary, the policy is in part designed to ensure fairness in all these aspects.
Crime & Safety Issues	1. It is considered that the proposals will positively impact on our duty to prevent crime and disorder within the District. 2. In particular, it is envisaged that the changes to the Civil Penalties Policy will improve our position should we be challenged in a Housing Tribunal.
GDPR/Privacy Impact Assessment	1. Not considered necessary.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Ability to carry out enforcement duties	Maintain an up to date and relevant Policy in place at all times to ensure enforcement can take place	Likelihood: Green Impact: Yellow Severity of Risk: Green
B	Legal	Ensure that the Policy is legally robust	Likelihood: Green Impact: Yellow Severity of Risk: Green
C			
D			
E			

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APPENDIX A



Regulatory Services, Housing and Wellbeing

Enforcement Policy

What you can expect when dealing with an Officer from Regulatory Services, Housing and Wellbeing

September 2020

Contents

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7	The Evidential Stage
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8	Liaison with other Regulatory Bodies and Enforcement Agencies
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	Review of Enforcement Policy
Annexe A	Private Sector Housing Civil Penalties Enforcement Policy and Guidance
Annexe B	Enforcement Policy leaflet

Introduction

This enforcement policy is designed to:

- Help you understand our objectives and methods for achieving compliance.
- Outline the criteria we consider when deciding what the most appropriate response is to a breach of legislation.

Lichfield District Council is committed to the principles of the Regulators' Code (Department for Business Innovation and Skills, April 2014).

The Regulators' Code states:-

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
3. Regulators should base their regulatory activities on risk.
4. Regulators should share information about compliance and risk.
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
6. Regulators should ensure that their approach to their regulatory activities is transparent.

In certain instances we may conclude that the provision of the Regulators' Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence, and documented.

Lichfield District Council has signed both the Greater Birmingham and Solihull Local Enterprise Partnership Regulators' Charter and the Stoke-On-Trent and Staffordshire Local Enterprise Partnership Regulatory Charter. We are committed to the principles of both of these documents.

When undertaking enforcement action we will also have regard for:

- Requirements in guidance published by Government and the relevant professional bodies.
- The Human Rights Act 1998
- The Code for Crown Prosecutors 2018.

Our primary enforcement objective is to achieve regulatory compliance. There are a wide range of tools available to us to achieve compliance. Where

enforcement action is deemed appropriate we will choose an enforcement method that is relevant and proportionate to the offence or contravention.

Activities Covered by the Policy

Page 1

This document covers all enforcement activities carried out by Regulatory Services, Housing and Wellbeing staff and / or authorised under the delegated authority granted by Lichfield District Council.

'Enforcement' includes all actions taken by officers aimed at ensuring legal compliance. This is not limited to formal enforcement actions such as prosecution.

This policy applies to all legislation authorised for enforcement by Regulatory Services, Housing and Wellbeing. Delegated Authority to use these powers can be seen in Lichfield District Council's Constitution. The Constitution is available on the Council's website www.lichfielddc.gov.uk.

All officers carry authorisation cards with them that detail the legislation they are authorised to enforce, these are known as 'instrument of appointment' cards.

All officers are required to comply with this Enforcement Policy in full. Any proposed variation must be referred to the Head of Regulatory Services in the first instance or to the Chief Executive where the matter cannot be determined under existing terms of delegation.

Notification of policy

A copy of this policy is available on the Council's website, as well as an Enforcement Action Summary Leaflet. Enforcement Action Summary Leaflets may be distributed with formal letters and notices (Appendix A).

General Principles

Each case is unique and will be considered on its own facts and merits.

In arriving at a decision to recommend formal action officers will be fair, independent, and objective. They will not let any personal views about ethnic or national origin, sex, age, religious beliefs, political views, or sexual orientation of the suspect, victim or witness influence their decisions. They will not be affected by improper or undue influence from any source.

Officers will comply with the relevant codes of the Police and Criminal Evidence Act 1984. This Act applies to all enforcement bodies, including Local Authority enforcement teams.

Deciding what level of enforcement action is appropriate

Page 2

There are a range of potential enforcement outcomes. The option chosen varies from no action through to proceedings in Court. Examples of the main types of action that can be considered are shown below:

- No action
- Informal Action
- Simple Caution
- Fixed Penalty Notices
- Formal Notice / Orders
- Seizure of goods / equipment
- Refusals / suspension/ revocation of a licence
- Prosecution
- Injunctive Actions

Informal Action

For minor breaches of the law we may give verbal or written advice. Officers will clearly identify those matters that are contraventions of the law and those that are simply recommendations. Persons receiving an informal action will be given the opportunity to discuss the requirements with the investigating officer. Regular contact with the investigating officer to assist the person or business as the works progress will be encouraged. Failure to comply could result in an enforcement action.

Criteria for Adopting Formal Action

The use of enforcement action will at all times be consistent with the principles set out in the Regulators' Code. In coming to a decision officers will have regard to:

- The seriousness of the offence
- The individual's or company's past history in terms of compliance
- Confidence in management
- The consequences of non-compliance in terms of risk and harm to people, property, or the environment
- The likely effectiveness of the various enforcement options, and
- The risk to public health.

Other factors that will be considered, where relevant, include:

- Case law
- The overall record of the company
- The significance of the proposed action in national terms, and

- The application of any legislative requirements, statutory guidance, codes of practice and guidance published by relevant professional bodies to the matter in question.
- Primary Authority advice

Fixed Penalty Notice

Page 3

Certain offences are subject to Fixed Penalty Notices (FPNs) where permitted in legislation. FPNs are recognised as a low level enforcement tool. Paying fixed penalty notices within the permitted timescale gives the offender the opportunity to discharge the offence committed and does not result in a criminal conviction. Failure to discharge liability for the offence by payment of the fixed penalty notices may result in a prosecution.

Formal Notices

Certain legislation allows notices to be served requiring offenders to take specific action or cease certain activities. The time period stated on the notice will be reasonable.

Certain types of notice allow works in default to be carried out. This means if the notice is not complied with (known as a breach of notice) we may carry out the necessary works to satisfy the requirements of the notice ourselves. Where the law allows, we will normally recover our costs from the person / business served with the notice, through the Courts if necessary. Sometimes costs are recovered via a charge on the property. Every formal notice will be issued with clear guidance on your rights of appeal.

Seizure

Certain legislation enables authorised officers to seize goods, equipment or documents. We can also seize goods that may be required as evidence for possible future court proceedings. If we seize goods we will give the person / business from whom the goods are taken a receipt.

Refusal, Suspension and Revocation of a licence

Certain individuals, premises, and / or businesses require a licence to operate legally. Licences may be refused, suspended or revoked following consideration with authorised supervisors / management. We will follow appropriate procedures and consideration of all relevant evidence and have regard to relevant guidance.

Simple Caution

The 'Simple Caution', may be used as an alternative to Prosecution. It is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

The aims of a simple caution are:

- To offer a proportionate response to low level offending where the offender has admitted the offence;
- To deliver swift, simple, and effective justice that carries a deterrent effect.
- To record an individual's offences for reference in future formal action.
- To reduce the likelihood of re-offending;
- To increase the amount of time officers spend dealing with more serious offences and reduce the amount of time officers spend completing paperwork and attending court, whilst simultaneously reducing the burden on the courts.

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For a Simple Caution to be issued a number of criteria must be satisfied:

- Sufficient evidence must be available to prove the case
- The offender must admit the offence
- It must be in the public interest to use a Simple Caution
- The offender must be 18 years old or over

The offender should not have received a simple caution for a similar offence within the last 2 years.

The investigating officer in agreement with the delegated departmental manager or supervisor will determine if a Simple Caution is the most appropriate form of sanction having regard to the recommendations from the case meeting. The individual or company concerned will be advised of the decision and requested to confirm acceptance. The 'cautioning officer' for offences will be the delegated Senior staff member.

A record of the Simple Caution will be kept on file for 2 years. If the offender commits a further offence, the Simple Caution may influence our decision to proceed to prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales the caution may be cited in the court, and this may influence the severity of the sentence that the court imposes.

Prosecution

When considering whether or not to prosecute we will determine if there is sufficient evidence to prove the case and whether the intended action is 'in the public interest'.

The final decision to initiate Court proceedings will be taken by the appropriately delegated service manager following a case review.

Prosecution action is taken on the behalf of the public at large and not just in the interest of any particular individual or group. However, when considering the public interest test, the consequences to those affected by the offence,

and any views expressed by those affected will, where appropriate, be taken into account when making enforcement decisions.

As soon as the decision to prosecute has been made the investigating officer will instruct the Council's appointed Solicitors to commence proceedings.

Court Injunction

Page 5

In certain circumstances, for example where offenders are repeatedly found guilty of similar offences, injunctions may be used as an enforcement measure to deal with offenders or dangerous circumstances.

Proceeds of Crime Applications

Applications may be made under the Proceeds of Crime Act for confiscation of assets in serious cases. Their purpose is to recover the financial benefit that the offender has obtained from the criminal conduct. Proceedings are conducted according to the civil standard of proof. Applications are made after a conviction has been secured.

Determining whether a Prosecution or Simple Caution is viable and appropriate

We apply the Full Code Test to determine whether a Prosecution or Simple Caution is viable and appropriate. We follow guidance set by the Crown Prosecution Service when applying the tests:

- The **Evidential Stage-**

There must be enough evidence to provide a 'realistic prospect of conviction' against each defendant on charge.

- The **Public Interest Stage-**

There may be public interest factors which are in favour of, or are against prosecutions. These have to be weighed-up before such enforcement action is taken.

A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

The Evidential Stage

The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defence and any other information that the offender has put forward or on which he or she may rely. It means that an objective, impartial, and reasonable jury or bench of magistrates or judge hearing a case alone properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.

When deciding whether there is enough evidence to prosecute, the Investigating Officer(s), along with the service Managers must consider the following questions:

- Can the evidence be used in Court?
- Is the evidence reliable?
- Is the evidence credible?

The Public Interest Stage

In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.

When deciding the public interest, prosecutors should consider each of the following questions:

- How serious is the offence committed?
- What is the level of culpability of the suspect?
- What are the circumstances of and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is the prosecution a proportionate response?

The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will vary according to the facts and merits of each case.

It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and those factors put to the court for consideration when sentence is passed.

Liaison with other regulatory bodies and enforcement agencies

Where appropriate, enforcement activities will be coordinate with those of other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

Juveniles

Juveniles are anybody under 18 years old. Where prosecution action takes place against a juvenile defendant the case is taken to the Youth Court. When dealing with a case involving a juvenile we will:

- Take appropriate and fair action.
- Liaise with the relevant youth offending body.
- We will comply with the relevant Government guidance.

Review of Enforcement Policy

This Policy will be reviewed following significant changes to relevant legislation or Government guidance.

APPENDIX B

*Annexe A to the Regulatory Services, Housing and Wellbeing Enforcement Policy 2020

PRIVATE SECTOR HOUSING CIVIL PENALTIES ENFORCEMENT POLICY AND GUIDANCE

This annexe document should be read in conjunction with the Regulatory Services, Housing and Wellbeing Enforcement Policy which sets out the broad objectives and methods adopted by the Council to achieve regulatory compliance. The annexe provides guidance on the powers introduced by the Housing and Planning Act 2016, which includes the power to impose financial penalties for specified offences under the Housing Act 2004 and the use of Rent Repayment orders for an extended range of offences.

Civil Penalties Enforcement Policy & Guidance Housing and Planning Act 2016
LDC Version 2.0

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Section 1

Introduction & Overview

1.1 Introduction

This document contains both policy and guidance: Section 2 is policy and should be read as such but all other sections are guidance only. Section 2 was created in accordance with Section 3.5 of the 'Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities' ("the DCLG Guidance"), published by the Department for Communities and Local Government.

In this document, the term "landlord" will be used to refer to the "owner", "person having control", "person managing" or "licence holder", as defined under the Housing Act 2004 ("the 2004 Act"). The term "Landlord" will also be used to refer to tenants of houses in multiple occupation who have committed offences under section 234 of the Housing Act 2004. The term "the Council" will be used to refer to Lichfield District Council in its capacity as a Local Housing Authority.

1.2 What is a civil penalty?

A civil penalty is a financial penalty of up to £30,000 which can be imposed on a landlord as an alternative to prosecution for specific offences under the 2004 Act. The amount of penalty is determined by the Council in each case; section 2 sets out how the Council will determine the appropriate level of civil penalty.

The Council considers that the most likely recipients of civil penalty notices will be those persons who are involved in the owning or managing private rented properties. However, the Council does have the power to impose them on tenants of Houses in Multiple Occupation, for offences under section 234 of the Housing Act 2004, and will consider doing so where it is deemed appropriate.

1.3 What offences can civil penalties be imposed for?

A civil penalty can be considered as an alternative to prosecution for any of the following offences under the 2004 Act:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of HMOs (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Contravention of an overcrowding notice (section 139);
- Failure to comply with management regulations in respect of HMOs (section 234).

1.4 What is the legal basis for imposing a civil penalty?

Section 126 and Schedule 9 of the Housing and Planning Act 2016 (“the 2016 Act”) enables the Council to impose a civil penalty as an alternative to prosecution for specific offences under the 2004 Act

1.5 What is the burden of proof for a civil penalty?

The same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before a civil penalty can be imposed, the Council must be satisfied beyond reasonable doubt that the landlord committed the offence(s) and that if the matter were to be prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.

In determining whether there is sufficient evidence to secure a conviction, the Council will have regard to the Regulatory Services, Housing and Wellbeing Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions. The finding that there is a realistic prospect of conviction is based on an objective assessment of the evidence, including whether the evidence is admissible, reliable and credible and the impact of any defence.

See appendix III for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Evidential Stage of the Full Code Test for criminal prosecutions.

1.6 What must be done before a Civil Penalty can be considered?

The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be properly served by imposing a civil penalty. The following questions should be considered:

- Does the Council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a Civil Penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by the appropriate senior colleague at the Council?
- Has the evidence been reviewed by the Council’s legal services?
- Are there any reasons why a prosecution may be more appropriate than a civil penalty? I.e. the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.

See appendix II for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Public Interest Stage of the Full Code Test for criminal prosecutions.

1.7 When will the Council consider civil penalties an enforcement option?

The Council will consider Civil Penalties for all landlords that are in breach of one or more of the sections of the 2004 Act listed in section 1.3. Enforcement action will be considered on a case-by-case basis in line with the Regulatory Services, Housing and Wellbeing Enforcement Policy.

1.8 The Totality Principle

Where a landlord has committed multiple offences, and a civil penalty could be imposed for each one, consideration should be given to whether it is just and proportionate to impose a penalty for each offence.

When calculating the penalty amounts for multiple offences, there will inevitably be a cumulative effect and care should be taken to ensure that the total amount being imposed is just and proportionate to the offences involved.

The landlord may also have committed multiple similar offences or offences which arose from the same incident. In these cases, consideration should be given to whether it would be more appropriate to only impose penalties for the more serious offences being considered and to prevent any double-counting.

Having regard to the above considerations, a decision should be made about whether a civil penalty should be imposed for each offence and, if not, which offences should be pursued. Where a single more serious offence can be considered to encompass several other less serious offences, this is the offence that will normally be considered for the civil penalty. Deciding not to impose a civil penalty for some of the offences does not mean that other enforcement options, such as issuing a simple caution, cannot be pursued for those offences.

Section 2

Determining the Civil Penalty Amount

2.1 Overview

The Council has the power to impose a civil penalty of up to £30,000; this section sets out how the Council will determine the appropriate level of civil penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's income and track record.

The civil penalty will be made up of two distinct components. The first is the penalty calculation; this is where the severity of the offence, the landlord's track record and the landlord's income are considered. The second considers the amount of financial benefit, if any, which the landlord obtained from committing the offence. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

This process is broken down into four main stages:

- **Stage 1** determines the penalty band for the offence. Each penalty band has a starting amount and a maximum amount.
- **Stage 2** determines how much will be added to the penalty amount as a result of the landlord's income and track record.
- **Stage 3** is where the figures from stage 2 are added to the penalty band from stage 1. The total amount at this stage cannot go above the maximum amount for the particular penalty band.
- **Stage 4** considers any financial benefit that the landlord may have obtained from committing the offence. This amount will be added to the figure from stage 3.

Stage 1

Determining the Penalty Band

2.2 Stage 1 Overview

This stage considers the landlord's culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are four steps to this process and each step is set out below.

2.3 Step 1: Culpability

Table 1 sets out the four levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

Table 1 - Levels of Culpability

Very high	<ul style="list-style-type: none">• Deliberate breach of or flagrant disregard for the law
High	<ul style="list-style-type: none">• Offender fell far short of their legal duties; for example, by:<ul style="list-style-type: none">- failing to put in place measures that are recognised legal requirements or regulations;- ignoring warnings raised by the local Council, tenants or others;- failing to make appropriate changes after being made aware of risks, breaches or offences;- allowing risks, breaches or offences to continue over a long period of time.• Serious and/or systemic failure by the person or organisation to comply with legal duties.
Medium	<ul style="list-style-type: none">• Offender fell short of their legal duties in a manner that falls between descriptions in 'high' and 'low' culpability categories.• Systems were in place to manage risk or comply with legal duties but these were not sufficiently adhered to or implemented.
Low	<ul style="list-style-type: none">• Offender did not fall far short of their legal duties; for example, because:<ul style="list-style-type: none">- significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion;- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.• Failings were minor and occurred as an isolated incident

2.4 Assessing a landlord's culpability

When assessing culpability, consider all of the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to the assessment of culpability.

Aggravating factors could include:

- Previous convictions for similar offence/s, having regard to the time elapsed since the conviction
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation i.e. record of having to take enforcement action previously whether complied with or not
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash
- Evidence of threatening behaviour/harassment of the tenant.

Section 2.12 below provides further guidance regarding when it is appropriate to consider past enforcement action taken against the landlord.

Mitigating factors could include:

- Cooperation with the investigation e.g. turns up for the PACE interview
- Voluntary steps taken to address issues e.g. submits a prompt licence application
- Willingness to undertake training
- Level of tenant culpability
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- Vulnerable individual(s) (owners not tenants) where there vulnerability is linked to the commission of the offence
- Good character i.e. no previous convictions and/or exemplary conduct

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord's behaviour falls within; where a landlord's behaviour could meet more than one of the categories, choose the highest one of those met.

2.5 Step 2: Seriousness of Harm Risked

Table 2 separates the seriousness of harm risked into three levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.

The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.

When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

Table 2 - Seriousness of Harm Risked

Level A	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System ¹ .
Level B	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the 'Housing Health and Safety Rating System' ³ .
Level C	All other cases not falling within Level A or Level B (e.g. where an offence occurred but the level of harm to the tenants or visitors does not meet the descriptions for Level A or Level B).

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

2.6 Step 3: Penalty Levels

Using the already determined level of culpability and the seriousness of harm risked, find the appropriate penalty level (1 – 5+) in Table 3.

Table 3 - Penalty Levels

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

¹ Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

2.7 Step 4: Penalty Bands

Table 4 - Penalty Bands

Penalty Level	Penalty Band
1	£600 - £1200
2	£1200 - £3000
3	£3000 - £6000
4	£6000 - £15,000
5 / 5+	£15,000 - £30,000

Compare the penalty level from Step 3 to table 4 and this will give the penalty band for the offence. This penalty band determines both the starting amount and the upper limit for the penalty calculation.

Stage 2

Considering the landlord's income and track record

2.8 Stage 2 Overview

There are two elements to consider in stage 2: the landlord's income and the landlord's track record. Each of these will affect the penalty calculation and further details are set out below.

2.9 The landlord's Finances

Although the Council is permitted to consider all of a landlord's income and assets when calculating a civil penalty, full financial investigations will normally only be considered for the more serious offences.

For penalties that fall within bands 5 and 5+, a financial investigation of the landlord will be usually carried out and all sources of income received by the landlord can be considered as 'relevant income' for the purpose calculating the civil penalty. Specifically, the average weekly income of the landlord for the 12 months preceding the date of the offence will be used.

For penalties that fall within bands 1 to 4, the landlord's income will still be considered but the 'relevant income' will normally be limited to the income that the landlord received in relation to the property where the offence occurred.

For property owners, this will be the weekly rental income, as declared on the tenancy agreements, for the property where offence occurred and at the time the offence occurred.

For property agents, the relevant income will be any fees they received for the management of the property, as stated on the management contract between the agent and the other parties to the contract. Where the fees include VAT or any other charges, the gross amount of the fees will be used.

IMPORTANT: although the Council will not normally consider carrying out a full financial investigation where the offence falls within penalty bands 1 to 4, the Council does reserve the right to do so where it considers it reasonable and proportionate to the circumstances.

2.10 How is the increase as a result of the landlord's income calculated?

This is a two-step process with step 1 determining what counts as relevant weekly income and step 2 determining what percentage of this relevant weekly income should be added to the penalty amount. These steps are set out in more detail below.

Table 5 - Defining relevant weekly income

Penalty Level	Relevant Weekly Income
1	Gross rental income or management fees for the property where the offence occurred
2	
3	
4	
5 / 5+	All income for the offender (carry out a financial assessment)

Step 1 - take the penalty band, as determined in Stage 1, and compare it to Table 5: this will state what can be considered as relevant weekly income for the offence.

Table 6 - % of relevant weekly income

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income
5+	600% of relevant weekly income

Step 2 - take the penalty band, as determined in Stage 1, and compare it to Table 6. This will give the percentage of the landlord's relevant weekly income will be added to the civil penalty.

2.11 What if tenancy agreements or management contracts are not available?

Tenancy agreements and property management contracts can be requested using the Council's existing powers and this should be done where copies are not already available.

In cases where the landlord is not forthcoming with this information or documentation, an estimate of the average weekly income will be used instead and it will be for the landlord to make representations against this estimated figure if they deem it to be too high.

Representations against estimated incomes will only be accepted where sufficient evidence of the landlord's income is provided to support these claims. Estimates of average weekly income will be calculated on a case by case basis but they will generally be based on an assessment of similar sized rental properties in the same area as the property to which the offence relates.

IMPORTANT – the Council will not normally consider a landlord's assets but does reserve the right to consider assets in any cases where the Council considers it reasonable and proportionate to do so. Each of these cases will be dealt with on a case by case basis.

2.12 The Landlord's track record

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations; as such, the track record of the landlord will be an important factor in determining the final amount of the civil penalty that is imposed. Below are questions that must be asked for each landlord that will receive a civil penalty.

- 1) *Has the landlord had any relevant¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years? If so, how many times have they been subject to such enforcement action in that timeframe?*
- 2) *Has the landlord had any civil penalties imposed on them in the last 2 years? If so, how many civil penalties have been imposed on them in that timeframe?*
- 3) *Has the landlord accepted any cautions for relevant¹ offences in the last 2 years? If so, how many cautions for relevant offences¹ have they accepted in that timeframe?*
- 4) *Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a 'straight to enforcement action' approach?*
- 5) *Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?*
- 6) *Has the landlord breached any relevant² notices, which resulted in works in default being carried out, in the last 2 years? If so, how many times have works in default been carried out under such circumstances in that timeframe?*
- 7) *Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?*
- 8) *Has the landlord been prosecuted for any relevant³ offences in the last 2 years? If so, how many times have such prosecutions taken place in that timeframe?*
- 9) *Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?*
- 10) *Has the Landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?*

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

IMPORTANT – question 1 refers to all relevant notices served during the two years: this means that where the offence is failure to comply with an improvement notice, that notice should also be included in the answer to the question.

2.13 How is the increase as a result of the Landlord’s track record calculated?

Table 7 - Weightings

Category	Weighting
Category 1 (<i>Least serious</i>)	1
Category 2 (<i>Moderately Serious</i>)	5
Category 3 (<i>Very Serious</i>)	10
Category 4 (<i>Most serious</i>)	20

Each of the questions will be placed into one of four categories, based on the seriousness of the offence or enforcement action to which the question refers. Each category of question is given a weighting that increases with the seriousness of the category. Table 7

shows the four categories and the weighting which is applied to each one.

Any questions where the answer is ‘no’ will have a weighting of zero but ‘yes’ answers will accrue the weighting for that particular question. E.g. the weighting for a question is 10 and the answer to that question is ‘yes’ so the score for that particular question will be 10.

For those questions where the number of occasions is relevant, the total weighting for a ‘yes’ answer will be the weighting for that question multiplied by the number of occasions. E.g. if a question has a weighting of 5 and the landlord has committed the offence 3 times, this will give a total score of 15 for the question. Table 8 shows the category which each of the questions falls within and the subsequent weighting that is applied as a result.

Table 8 - Questions & Weightings

Questions	Weighting for a ‘Yes’ answer	Multiplied by the number of occasions?
Has the landlord had any relevant ¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years?	1	Yes
Has the landlord had any civil penalties imposed on them in the last 2 years?	5	Yes
Has the landlord accepted any cautions for relevant ¹ offences in the last 2 years?	10	Yes
Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a ‘straight to enforcement action’ approach?	5	No
Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last	5	No

2 years?		
Has the landlord breached any relevant ² notices, which resulted in works in default being carried out, in the last 2 years?	10	Yes
Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?	10	No
Has the landlord been prosecuted for any relevant ³ offences in the last 2 years?	20	Yes
Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?	20	No
Has the landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?	20	No

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

Table 9 - % Increase

Score	%	Score	%
0	0%	21	55%
1	5%	23	60%
3	10%	25	65%
5	15%	27	70%
7	20%	29	75%
9	25%	31	80%
11	30%	33	85%
13	35%	35	90%
15	40%	37	95%
17	45%	39+	100%

Once all the questions have been answered, the weighting for each is totalled and compared to Table 9: this gives the percentage increase that will be applied to the penalty amount. The increase will be a percentage of the starting amount for the penalty band that the offence falls within. E.g. the total score for the questions is 23 and so the corresponding percentage increase in Table 9 will be 60%.

IMPORTANT - the penalty calculation will never be increased past the upper limit of the penalty band: however, where the landlord has a history of non-compliance, it is appropriate to factor this into your assessment of their overall culpability. This could affect your initial assessment of the appropriate penalty level and lead to a higher penalty band being used as the starting point.

Stage 3

Adding Income and Track Records Amounts to the Penalty Band

2.14 Stage 3 Overview

Stage 1 gives the penalty band for the offence and this determines the starting amount and the upper limit for the penalty calculation. Stage 2 gives the amount that should be added as a result of the landlord's income and the amount that should be added as a result of the landlord's track record.

2.15 How are the figures from stage 1 and stage 2 combined?

To get the amount of the penalty calculation, the two figures from Stage 2 should be added to the starting amount for the penalty band. E.g. if the increase for income is £500 and the increase due to the landlord's track record is £1000, these two figures are added to the starting amount for the penalty to get the penalty calculation amount.

If the amount calculated, by adding the figures for the landlord's income and track record, is less than the upper limit for the penalty band, then this is the amount that will be used. However, if the amount calculated is greater than the upper limit for the penalty band, then the upper limit will be used instead.

Stage 4

Financial benefit obtained from committing the offence

2.16 Stage 4 Overview

A guiding principle of civil penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the civil penalty imposed should never be less than it would have reasonably cost the landlord to comply in the first place.

2.17 How is the financial benefit determined?

Calculating the amount of financial benefit obtained will need to be done on a case by case basis but the table below gives some examples of potential financial benefit for each of the offences.

Offence	Examples of potential financial benefit
Failure to comply with an Improvement Notice (section 30)	The cost of any works that were required to comply with the improvement notice but which have not been removed by works in default.
Offences in relation to licensing of HMOs (section 72)	Rental income whilst the HMO was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offences in relation to licensing of houses under Part 3 of the Act (section 95)	Rental income whilst the property was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offence of contravention of an overcrowding notice (section 139)	Rental income whilst the property is being occupied in contravention of the overcrowding notice.
Failure to comply with management regulations in respect of HMOs (section 234)	The cost of any works that are required to avoid breaching the regulations.

2.18 How is financial benefit added to the penalty amount?

The Council will need to be able to prove that financial benefit was obtained before it can be included in the civil penalty calculation. However, where it can be proven, the amount obtained should be added to the penalty calculation amount from Stage 3 and this will give the final civil penalty amount that will be imposed on the landlord.

IMPORTANT – where the landlord has obtained financial benefit in the form of rental income and this full amount has been added to the total penalty, it will be appropriate to take this into consideration when deciding whether or not to pursue a Rent Repayment Order.

Section 3

Imposing a Civil Penalty

3.1 Where is the process for civil penalties set out?

Schedule 9 of the Housing and Planning Act 2016 sets out the process which must be followed when imposing a civil penalty.

3.2 Notice of Intent

Before imposing a civil penalty on a landlord, the Council must serve a 'notice of intent' on the landlord in question. This notice must be served within 6 months of the last day on which the Council has evidence of the offence occurring. This notice must contain the following information:

- The amount of the proposed civil penalty;
- The reasons for proposing to impose a civil penalty, and;
- Information about the Landlord's right to make representations to the Council.

3.3 Representations

Any landlord who is in receipt of a notice of intent has the right to make representations against that notice within 28 days of the date on which the notice was given. Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague.

Where a landlord challenges the amount of the civil penalty, it will be for the landlord to provide documentary evidence (e.g. tenancy agreements etc.) to show that the calculation of the penalty amount is incorrect. Where no such supporting evidence is provided, the representation against the amount will not be accepted.

Written responses will be provided to all representations made by the recipients of a notice of intent. No other parties have an automatic right to make representations but if any are received, they will be considered on a case by case basis and responded to where the Council considers it necessary.

3.4 Final Notice

Once the representation period has ended, the Council must decide, taking into consideration any representations that were made, whether to impose a civil penalty and the final amount of the civil penalty. The final amount of a civil penalty can be a

lower amount than was proposed in the notice of intent but it cannot be a greater amount.

The imposing of a civil penalty involves serving a final notice and this notice must contain the following information:

- The amount of the financial penalty;
- The reasons for imposing the penalty;
- Information about how to pay the penalty;
- The period for payment of the penalty;
- Information about rights of appeal, and;
- The consequences of failure to comply with the notice.

The period of payment for the civil penalty must be 28 days beginning with the day after that on which the notice was given.

3.5 Withdrawing or Amending Notices

At any time, the Council may withdraw a notice of intent or a final notice or reduce the amount of a civil penalty. This is done by giving notice in writing to the person on whom the notice was served.

Where a civil penalty has been withdrawn, and there is a public interest in doing so, the Council can still pursue a prosecution against the landlord for the conduct for which the penalty was originally imposed. Each case will be considered on a case by case basis.

3.6 Appeals to the Tribunal

If a civil penalty is imposed on a landlord, that Landlord can appeal to the First-tier Tribunal (“the Tribunal”) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the Council, or to cancel the civil penalty. Where an appeal has been made, this suspends the civil penalty until the appeal is determined or withdrawn.

3.7 Payment of a Civil Penalty

A civil penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the final notice.

3.8 Other consequences of having a Civil Penalty imposed

Where a civil penalty has been imposed on a landlord, this will form a part of our consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Housing Act 2004.

Whilst a civil penalty will not automatically preclude us from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered.

Where a landlord has two civil penalties imposed on them in a 12 month period, each for a banning order offence, the Council will include their details on the Database of Rogue Landlords and Property Agents.

“Banning order offence” means an offence of a description specified in regulations made by the Secretary of State under Section 14(3) of the Housing and Planning Act 2016.

3.9 Recovering an unpaid Civil Penalty

It is the policy of the Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the county courts. Some of the orders available to the Council through the county courts are as follows:

- A Warrant of Control for amounts up to £5000;
- A Third Party Debt Order;
- A Charging Order, and;
- Bankruptcy or insolvency.

A certificate, signed by the Chief Finance Officer for the Council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where a Charging Order has been made, and the amount of the order is over £1000, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the Landlord and not just the property to which the offence relates.

Where the civil penalty was appealed and the Council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court.

Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

3.10 Income from Civil Penalties

Any income from Civil Penalties is retained by the Local Housing Council which imposed the penalty. The Council must spend any income from Civil Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

Section 4

Worked Examples

4.1 Worked Example 1

Landlord A owns and operates an unlicensed HMO. Landlord A has been made aware of the need to apply for an HMO licence but has failed to do so and has continued to operate unlicensed for the past 6 months. The rental income received by Landlord A during this 6 month period is £7500. This is not the first time that Landlord A has been the subject of enforcement action, having previously been cautioned for operating another unlicensed HMO a year ago and being served improvement notices on two separate occasions in the last 12 months. Both notices were complied with.

Offence: Operating an unlicensed HMO

Culpability: 'Very High' (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord A is aware of requirement to licence the property and the consequences of not doing so but has chosen not to comply anyway.

Seriousness of harm risked: 'Level C'

(All other cases not falling within Level A or Level B)

Justification: the specific offence of operating an unlicensed HMO does not implicitly mean that there are any defects or deficiencies in the property. As such, the seriousness of harm risked would not meet the descriptions of 'Level A' or 'Level B'.

Penalty band: 4 - £6000 to £15,000 ('Very High' culpability and 'Level C' harm)

Increase due to the landlord's track record: £1800 (30% of the starting point for the penalty)

Justification: in the last two years, Landlord A has accepted 1 caution for a relevant offence and has been served 2 relevant notices, under Part 1 of the Housing Act 2004. This gives us a score of 12 and an increase of 30% of the penalty amount. This is an increase of £1800.

Increase due to the landlord's income: £721.15
(250% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is 4 and Landlord A is the owner of the property where the offence occurred. As such, the relevant income for consideration is the weekly rental income for the property and 250% of this will be added to the penalty amount. In this case, the relevant weekly income is £288.46 and so £721.15 will be added.

Penalty calculation amount: £8521.15 ($£6000 + £1800 + £721.15 = £8521.15$)

Financial benefit obtained from committing the offence: £7500

Justification: Landlord A has received £7500 in rental income from the property during the time that it has been unlicensed and so this can be considered the financial benefit received from committing the offence.

Final amount of the civil penalty: £16021.15 ($£8521.15 + £7500 = £16021.15$)

4.2 Worked Example 2

Landlord B owns and manages a single family dwelling. During an inspection, a category 1 hazard (falls on stairs) and multiple category 2 hazards were identified at the property. The stairs were in an extremely dangerous condition but could be made safe fairly easily. An improvement notice was served on Landlord B and some of the works to reduce the category 2 hazards were carried out but the remainder of the works on the notice were not. Works in default were carried out at the property with a total cost of £2000. Landlord B was also prosecuted 18 months ago for failing to comply with an improvement notice. A financial investigation into Landlord B found that they have received an annual income of £50,000.

Offence: Failing to comply with an improvement notice.

Culpability: 'Very High' (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord B was aware of the need to comply with the Improvement Notice as some of the works were completed. Landlord B is also aware of the consequences of failing to comply with the notice as previous enforcement action has been taken against them for this reason.

Seriousness of harm risked: 'Level A'

Justification: The condition of the staircase creates a Category 1 hazard and if someone were to trip or fall on the stairs, they could reasonably end up with harm outcomes that meet the descriptions of Class 1 and Class 2 harm outcomes under the Housing Health & Safety Rating System. This means that the seriousness of harm risked meets the description of 'Level A'.

Penalty band: 5+ - £15,000 to £30,000 (*'Very High' culpability and 'Level A' harm*)

Increase due to the landlord's track record: £12,000 (80%
of the starting point for the penalty)

Justification: in the last two years, Landlord B has been prosecuted for a relevant offence, has been served 1 relevant notice under Part 1 of the Housing Act 2004, and has been subject to works in default. This gives us a score of 31 for his track record and an increase of 80% of the penalty amount. This is an increase of £12,000.

Increase due to the landlord's income: £5769.23 (600% of the Landlord's average weekly income)

Justification: the penalty band is 5+ and so a financial investigation was carried out to identify all of Landlord B's income. The investigation found they received a total annual income of £50,000 and 600% of their average weekly income will be added to the penalty amount. In this case, the average weekly income is £961.54 and so £5769.23 will be added.

Penalty calculation amount: £30,000 ($£15000 + £12000 + £5769.23 = £32,769.23$)

Financial benefit obtained from committing the offence: None

Justification: works in default were carried out at the property and the cost of these works, plus an administration fee, were charged to Landlord B. As such, it cannot be said that Landlord B obtained financial benefit from committing the offence.

Final amount of the civil penalty: £30,000

($£15000 + £12000 + £5769.23 = £32,769.23$ - civil penalties are capped at £30,000)

4.3 Worked Example 3

Landlord C is the appointed manager of a three bedroom licenced HMO. The company is paid £90 per month to manage the property on behalf of the owner. During a compliance inspection, it was found that they had neglected to display any of the manager's details anywhere in the property. They were warned about this one year ago and stated that they were aware of the requirement but an oversight meant that they missed this property when displaying details. They have not been the subject of any formal enforcement action in the last 2 years and the property was otherwise in a satisfactory condition.

Offence: Failure to comply with management regulations in respect of Houses in Multiple Occupation.

Culpability: 'Low' (Failings were minor and occurred as an isolated incident)

Justification: the company does not have a history of non-compliance and the breach was fairly minor and easily rectified.

Seriousness of harm risked: 'Level C'

(All other cases not falling within Level A or Level B)

Justification: The seriousness of harm risked to the tenants was low and so it would not meet the descriptions of harm found in 'Level A' or 'Level B'.

Penalty band: 1 - £600 to £1200 ('Low' culpability and 'Level C' harm)

Increase due to the landlord's track record: None

Justification: in the last two years, Landlord C has not been the subject of any formal enforcement action and so there is no increase in the penalty amount due to their track record.

Increase due to the landlord's income: £10.39 (50% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is 1 and Landlord C is the manager of the property where the offence occurred. As such, the relevant income for consideration is the weekly management fees received for the property and 50% of this will be added to the penalty amount. In this case, the relevant weekly income is £20.77 and so £10.39 will be added.

Initial penalty calculation amount: £610.39 ($£600 + £10.39 = £610.39$)

Financial benefit obtained from committing the offence: None

Justification: the cost of displaying Landlord C's management details would be negligible and so it would not be reasonable to claim that financial benefit was obtained from committing the offence.

Final amount of the civil penalty: £610.39 ($£600.00 + £10.39 = £610.39$)

Appendix I – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

“Examples for the Four HHSRS Classes of Harm

C1 The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.

C2 Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.

C3 The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.

Class I

This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.

Class II

This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.

Class III

This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.

Class IV

This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: 1 Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”

Appendix II – Public Interest Stage of the Full Code Test

The following is an extract from pages 7-10 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Public Interest Stage

- 4.7 *In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.*
- 4.8 *It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.*
- 4.9 *When deciding the public interest, prosecutors should consider each of the questions set out below in paragraphs 4.12 a) to g) so as to identify and determine the relevant public interest factors tending for and against prosecution. These factors, together with any public interest factors set out in relevant guidance or policy issued by the DPP, should enable prosecutors to form an overall assessment of the public interest.*
- 4.10 *The explanatory text below each question in paragraphs 4.12 a) to g) provides guidance to prosecutors when addressing each particular question and determining whether it identifies public interest factors for or against prosecution. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.*
- 4.11 *It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and those factors put to the court for consideration when sentence is passed.*
- 4.12 *Prosecutors should consider each of the following questions:*

a) How serious is the offence committed?

The more serious the offence, the more likely it is that a prosecution is required. When deciding the level of seriousness of the offence committed, prosecutors should include amongst the factors for consideration the suspect's culpability and the harm to the victim by asking themselves the questions at b) and c).

b) What is the level of culpability of the suspect?

The greater the suspect's level of culpability, the more likely it is that a prosecution is required.

Culpability is likely to be determined by the suspect's level of involvement; the extent to which the offending was premeditated and/or planned; whether they have previous criminal convictions and/or out-of-court disposals and any offending whilst on bail or

whilst subject to a court order; whether the offending was or is likely to be continued, repeated or escalated; and the suspect's age or maturity (see paragraph d) below for suspects under 18).

Prosecutors should also have regard when considering culpability as to whether the suspect is, or was at the time of the offence, suffering from any significant mental or physical ill health as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care to such persons.

c) What are the circumstances of and the harm caused to the victim?

The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim.

A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public.

Prosecutors must also have regard to whether the offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family.

Prosecutors also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence. If there is evidence that prosecution is likely to have an adverse impact on the victim's health it may make a prosecution less likely, taking into account the victim's views.

However, the CPS does not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

d) Was the suspect under the age of 18 at the time of the offence?

The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending. Prosecutors must have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child. As a starting point, the younger the suspect, the less likely it is that a prosecution is required.

However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

e) What is the impact on the community?

The greater the impact of the offending on the community, the more likely it is that a prosecution is required. In considering this question, prosecutors should have regard to how community is an inclusive term and is not restricted to communities defined by location.

f) Is prosecution a proportionate response?

Prosecutors should also consider whether prosecution is proportionate to the likely outcome, and in so doing the following may be relevant to the case under consideration:

The cost to the CPS and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty. (Prosecutors should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs 4.12 a) to g), but cost is a relevant factor when making an overall assessment of the public interest.)

Cases should be capable of being prosecuted in a way that is consistent with principles of effective case management. For example, in a case involving multiple suspects, prosecution might be reserved for the main participants in order to avoid excessively long and complex proceedings.

g) Do sources of information require protecting?

In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

Appendix III – The Evidential Stage of the Full Code Test

The following is an extract from pages 6-7 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Evidential Stage

- 4.4 *Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.*
- 4.5 *The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which he or she might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.*
- 4.6 *When deciding whether there is sufficient evidence to prosecute, prosecutors should ask themselves the following:*

Can the evidence be used in court?

Prosecutors should consider whether there is any question over the admissibility of certain evidence. In doing so, prosecutors should assess:

- a) the likelihood of that evidence being held as inadmissible by the court; and*
- b) the importance of that evidence in relation to the evidence as a whole.*

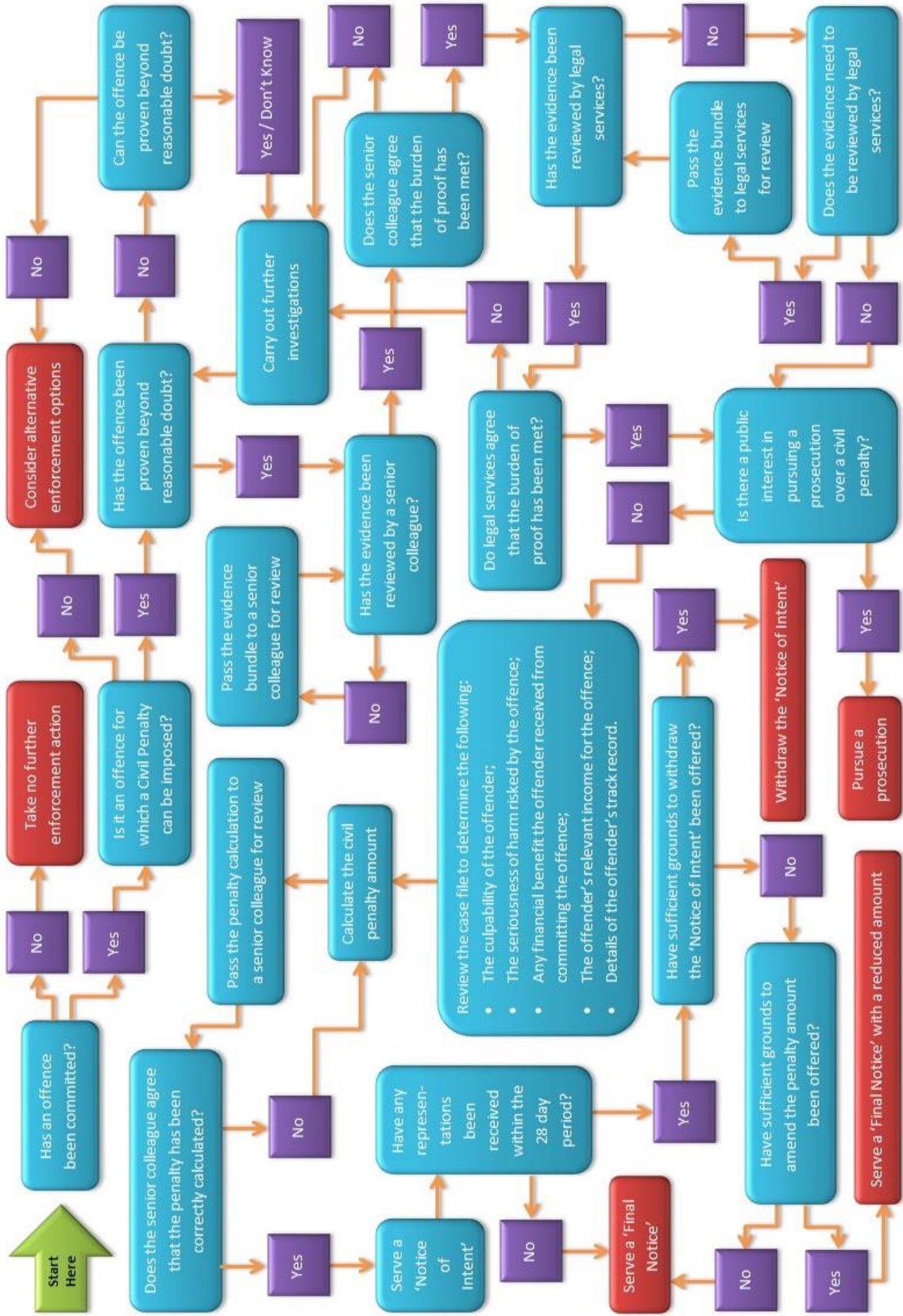
Is the evidence reliable?

Prosecutors should consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

Prosecutors should consider whether there are any reasons to doubt the credibility of the evidence.

Appendix IV – Process flow chart



Civil Penalties Enforcement Policy &
Guidance Housing and Planning Act 2016
LDC Version 2.0

Adapted with
permission of:
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STRATEGIC ASSET MANAGEMENT – CHANGE TO POLITICAL MANAGEMENT STRUCTURE

Cabinet Member for Innovation, Commercialism and Corporate Services

Date:	13 October 2020
Agenda Item:	17
Contact Officer:	Kim Rennie – Interim Head of Corporate Services
Tel Number:	07929 835481
Email:	Kim.Rennie@lichfielddc.gov.uk
Key Decision?	NO
Local Ward Members	ALL

COUNCIL

1. Executive Summary

- 1.1 The Council currently has a Strategic Asset Management Committee within its political management structure and it is considered that a separate committee to oversee this area of work is no longer needed.
- 1.2 Senior members and members of the committee were consulted over the summer on a proposal to remove this committee from the Constitution, with oversight and any decisions in this area being undertaken through existing mechanisms.
- 1.3 Some support and no objections were received in relation to this proposal and consequently formal approval to this change is now being sought.

2. Recommendations

- 2.1 That Council agree to remove the Strategic Asset Management Committee and that the Head of Governance and Performance be given delegated authority to update the Constitution to reflect this change.

3. Background

- 3.1 Members will be aware that in 2018 the Council agreed a property investment strategy and created the Strategic Asset Management Committee to oversee this work. The terms of reference of the committee were agreed as follows:
 - To provide advice and support on the development and implementation of strategic plans and policies in relation to strategic assets.
 - To monitor the financial and operational performance of strategic assets to ensure they meet the strategic ambitions and operational requirements of the Council.
 - To provide advice and guidance in regards to the potential acquisition, disposal and development of strategic assets, including community asset transfers.
 - To provide assurance as to the effective and efficient use and governance of our strategic assets.
 - To act as Shareholder Committee for any and all Local Authority Development and Housing Companies.

3.2 However, earlier this year the Government issued new guidance for Councils, and this combined with Public Works Loan Board lending terms and CIPFA advice, directly impacted on the Council's plan to invest up to £45 million in property funded by borrowing. As a result a decision was made to redirect this borrowing capacity, with responsibility for future projects sitting in the Cabinet Member for Major Project's portfolio. The Council's commercial property portfolio will as a result remain relatively small, with limited scope for, and decisions in relation to, acquiring new properties, which reduces the workload for the Strategic Asset Management Committee significantly. Indeed the workload of the Committee has been much lighter than originally envisaged over recent months.

3.3 Given this change in workload, and to make the best use of member and officer time, it is suggested that the Strategic Asset Management Committee be removed from the political management structure, with oversight, scrutiny and decisions on any residual matters being handled through existing mechanisms e.g. individual Portfolio Holder decision making, Cabinet, Strategic Overview and Scrutiny Committee and Council as appropriate. In this regard the Strategic Overview and Scrutiny Committee would have a key role to play in scrutinizing work and decisions in this area, including Local Authority Company activities.

Alternative Options	1. Retaining the committee was considered, however, this would not make the best use of member and officer time.
Consultation	1. Senior members and members of the committee have been consulted.
Financial Implications	1. There are no direct financial implications.
Contribution to the Delivery of the Strategic Plan	1. The change will enable more time to be spent on other activities within the District Council's Strategic Plan.
Equality, Diversity and Human Rights Implications	1. There are no perceived negative Equality, Diversity and Human Rights Implications.
Crime & Safety Issues	1. There are no perceived negative Crime & Safety Implications.
Environmental Impact	1. There are no perceived negative Environmental Impacts.
GDPR/Privacy Impact Assessment	1. There are no perceived negative GDPR/Privacy Impact Assessment Implications.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Failure to make the changes proposed are likely to result in the duplication of work	The proposals mitigate this	Green (likelihood-low; impact-medium)

Background documents

None.

Relevant web links

None.

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