



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 11 February 2020
6.00 pm
Pittville Room - Municipal Offices

Membership	
Councillors:	Steve Jordan, Flo Clucas, Chris Coleman, Rowena Hay, Alex Hegenbarth, Peter Jeffries and Andrew McKinlay

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING Minutes of the last meeting on 21 st January 2020.	(Pages 3 - 10)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	REALLOCATION OF FUNDS TO SUPPORT HIGH STREET IMPROVEMENT PHASE 2 Report of the Cabinet Member Finance	(Pages 11 - 16)

6.		PROPOSED COMPULSORY PURCHASE ACTION TO SUPPORT DELIVERY OF THE PROPOSED WEST CHELTENHAM DEVELOPMENT SCHEME Report of the Leader of the Council	(Pages 17 - 30)
7.		ADOPTION OF REVISED SEXUAL ENTERTAINMENT VENUE POLICY Report of the Cabinet Member Development and Safety	(Pages 31 - 90)
8.		ADOPTION OF REVISED STREET TRADING POLICY Report of the Cabinet Member Development and Safety	(Pages 91 - 128)
9.		REGULATION OF INVESTIGATORY POWERS ACT 2000 DIRECTED SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCE POLICY/INVESTIGATORY POWERS ACT 2016 ACQUISITION OF COMMUNICATIONS DATA POLICY Report of the Cabinet Member Corporate Services	(Pages 129 - 180)
10.		APPROVAL TO CONSULT ON REVISED HOMESSEEKER PLUS POLICY Report of the Cabinet Member Housing	(Pages 181 - 256)
11.		QUARTERLY BUDGET MONITORING REPORT OCTOBER 2019 - DECEMBER 2020 Report of the Cabinet Member Finance	(Pages 257 - 272)
12.		FINAL GENERAL FUND REVENUE AND CAPITAL BUDGET PROPOSALS 2021 Report of the Cabinet Member Finance to follow	
13.		FINAL HOUSING REVENUE ACCOUNT (HRA) 2021 - REVISED BUDGET 2020 Report of the Cabinet Member Finance to follow	
		SECTION 6 : BRIEFING SESSION <ul style="list-style-type: none"> • Leader and Cabinet Members 	
14.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	

Contact Officer: Bev Thomas, Democratic Services Team Leader, 01242 264246
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Cabinet

**Tuesday, 21st January, 2020
6.00 - 6.40 pm**

Attendees	
Councillors:	Steve Jordan (Leader of the Council), Chris Coleman (Cabinet Member Clean and Green Environment), Rowena Hay (Cabinet Member Finance), Peter Jeffries (Cabinet Member Housing) and Andrew McKinlay (Cabinet Member Development and Safety)

Minutes

1. APOLOGIES

Apologies were received from Councillors Clucas and Hegenbarth.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting on 17th December 2019 were approved and signed as a correct record.

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

Public questions

1.	Question from Tabitha Joy to the Cabinet Member Development and Safety, Councillor Andrew McKinlay
	The most recent data shows that town centre pollution, and traffic volumes, are either actually increasing or staying the same. Does the council therefore accept that the AQAP has been ineffective?
	Response from Cabinet Member
	The current AQMA (and resultant action plan) covers the entire borough. Taken across the whole borough, the results do suggest a slow reduction in NO2 levels. The area highlighted has seen less improvement, although there is no method of assessing what levels would be without the current AQAP. The revised AQMA, to be followed by a new AQAP, will focus on securing improvements in pollution levels in precisely this area.
	Supplementary question from Tabitha Joy
	Oxford City Council has achieved a 39% reduction in CO2 levels in recent years. Why has Cheltenham failed to achieve a similar reduction?

	Response from Cabinet Member
	Oxford City Council has been able to implement radical solutions to greatly reduce the amount of traffic in its town centre over that period. Cheltenham Borough Council has been unable to implement similarly radical solutions, with one example being the decision to reopen Boots Corner, which will have a material effect on CBC's ability to reduce CO2.
2.	Question from Peter Frings to the Cabinet Member Development and Safety, Councillor Andrew McKinlay
	Is the council aware that a recent dispersion modelling study by another consultancy firm, (Air Quality Consultants, hired by GCC, regarding the proposed Leckhampton School) challenges the results given in the Bureau Veritas report? Given that this highlights how unreliable the modelling process used by both consultants is, how can the council base such a major decision on such dubious methodology?
	Response from Cabinet Member
	There is a degree of uncertainty in all models. The detailed model prepared by Bureau Veritas used data from across the town, rather than a very limited area around a proposed development, and used different source data, so unsurprisingly their results are different. The boundaries of the AQMA are based on modelling and monitoring results obtained over a number of years.
	Supplementary question from Peter Frings
	The questioner reiterated that the Leckhampton study used the exact same model and followed the same verification process. CBC's figures indicate a dubious and unreliable approach, which is contradicted by the Leckhampton study. The model and reality do not align, with an error of 14.3%. When this adjusted figure is applied, the end result is very different.
	Response from Cabinet Member
	The Cabinet Member Development and Safety acknowledged that he is not an expert on air quality monitoring, and will pass the query on to more specialised officers. He reminded members that different data is collected for different reasons. The methodology used by CBC is that approved by DEFRA. He added that the Leckhampton data is being collected for other reasons, not least to justify the development of a school on that site, though he acknowledged that this is speculation. The Leader of the Council added that technical officers will be able to give a more specific answer.
3.	Question from Peter Frings to the Cabinet Member Development and Safety, Councillor Andrew McKinlay
	The modelling by Bureau Veritas predicts NO ₂ exceedances at 4 locations. Why is the council proposing that the new AQMA only covers

	one of these?
	Response from Cabinet Member
	In section 5.1 The Detailed Model predicts exceedance or <i>near exceedance</i> of the NO ₂ limit at 4 locations. Monitoring is being carried out to further define the boundaries of any areas of exceedance. Of the locations identified, the junction of Gloucester Road/Princess Elizabeth Way is of most concern, and where monitoring resources will be concentrated. This approach is in accordance with the recommendations in section 6.3. . If our monitoring indicates failures of any limits then further AQMAs will be declared but at this stage due to the relative uncertainty associated with models we do not feel it appropriate to declare AQMA's based on this model alone.
	Supplementary question from Peter Frings
	The Bureau Veritas report says that based on their modelling there are four sites within the margin of error. As this data could be unreliable, more detailed investigation should be carried out. The Cabinet Member's initial response states that due to the relative uncertainty of these models, further investigation will not be carried out. However, in the report, a key recommendation refers to the very same model. Is there a double standard as to whether the data is reliable?
	Response from Cabinet Member
	The other three areas, including the Princess Elizabeth Way/Tewkesbury Road junction, have not been significantly scrutinised before but invariably will be due to the West Cheltenham development. Other sites, while previously high, are now on a downward trend, partly due to phases 1-3 of Cheltenham Transport Plan. The council is focusing on the area of most significance. The change in area has been approved by DEFRA, and fits their criteria.
4.	Question from Adrian Becker to the Cabinet Member Development and Safety, Councillor Andrew McKinlay
	Does the Council accept that in the light of the government's Clean Air Strategy (May 2019), it must include a monitoring programme and action plan for tackling PM _{2.5} particulate pollution in its proposed new AQAP?
	Response from Cabinet Member
	Monitoring of PM _{2.5} is being introduced from January 2020 at 9 locations across the town. Results from this monitoring will be used to inform future actions, which will be included in a new AQAP, and could include declaration of further AQMAs.
	Supplementary question from Adrian Becker
	Can the locations of the council's particulate monitoring be recorded in

	the supplementary answer? Will the council consider introducing low-cost particulate monitoring? This could be rolled out to many more locations than the current nine, while engaging the help of parish councils and residents' groups.
	Response from Cabinet Member
	The nine locations for particulate monitoring are recorded in Appendix B of the report. A further 27 locations using NOx tubes are also recorded in the same place.
5.	Question from Adrian Becker to the Cabinet Member Development and Safety, Councillor Andrew McKinlay
	Initial evidence from monitoring of PM _{2.5} particulate pollution by Leckhampton with Warden Hill Parish Council shows that air quality in Leckhampton is in breach of the WHO guidelines that the DEFRA Clean Air Strategy is committed to achieving. Does the council therefore accept that it makes no sense to restrict the AQMA just to a tiny area of the town centre?
	Response from Cabinet Member
	The boundaries of the revised AQMA are based on data obtained over a number of years from monitoring NO ₂ across the town. The AQMA is focussed on dealing with the area of worst air pollution in the Borough. This approach has received the approval of DEFRA. Monitoring of PM _{2.5} is being introduced from January 2020 and will be used to inform future actions.
	Supplementary question from Adrian Becker
	At a time of increasing concern about particulate pollution, can the council give any examples of other councils which have AQMAs of only a few hundred yards?
	Response from Cabinet Member
	Before 2011, CBC's AQMA was much smaller, and was deliberately expanded after 2011. The reduction in size recommended in this report was approved by DEFRA.

Member questions

1.	Question from Councillor David Willingham to Cabinet Member Clean & Green Environment, Councillor Chris Coleman
	Q) The Clean Air Act gives the council powers to designate Smoke Control Areas. The council's online mapping suggests that only some parts of the town are covered. Given

	issues around pollution (in this case PM10 and PM2.5 as well as climate change) can the council consider whether it would be beneficial for all of the urban and proposed urban extension parts of the town to be subject to these controls?
	Response from Cabinet Member Clean & Green Environment
	The government has consulted on repealing the Clean Air Act, as part of a wider review of AQ powers. A final decision has not been made. The Act makes it an offence to emit smoke from a chimney of residential premises, unless using an approved fuel or appliance. To take any formal action you have to see the smoke and know what fuel is being burnt, and on what appliance. There may be other controls that can be applied to new developments through the planning process that are more appropriate.
	Supplementary question
	The current system of smoke control zones is clearly incomplete, with examples including particular roads where one side is controlled while the other is not. Should the council not take the smoke control system further, considering its declaration of a climate emergency?
	Response from Cabinet Member
	The Cabinet Member indicated a willingness to take this further, and offered to discuss it with officers.
2.	Question from Councillor David Willingham to Cabinet Member Clean & Green Environment, Councillor Chris Coleman
	<p>Q) I am concerned about the following two locations: B4633 Gloucester Road outside Gloucester Road Primary School and Alstone Lane close to level crossing. If there are monitoring resources, getting a year's worth of data would seem worthwhile. As far as I can establish from the council's Air Quality mapping data, those two locations in St Peter's ward have not had any monitoring in the period 2013-2018. The reason for my concerns are details below for each location:</p> <p>There is frequently queuing traffic heading westbound on Gloucester Road outside Gloucester Road Primary School. These traffic queues feed directly into the proposed shrunken AQMA. I understand that studies have shown that air pollution has a worse effect on children, so prior to the AQMA being shrunk, could I please request that consideration is given to having air quality monitoring equipment installed outside Gloucester Road Primary School?</p>
	Response from Cabinet Member Clean & Green Environment
	There will be monitoring outside Gloucester Road School, starting in early 2020 We will have a NOx tube there from the first changeover of 2020 We will have a Mesh pod installed as soon as they are back from being serviced, updated, and calibrated.
	Supplementary question

	As a ward councillor, I see huge queues outside Gloucester Road Primary School. I am keen to ensure that we don't just monitor NOx but also particulates. CBC is responsible for air quality, but the key contributor to pollution is highways. This is overseen by the county council, which hasn't shown serious commitment to combatting pollution. Can we ensure that any strategy considers primary schools as a priority when seeking to improve air quality?
	Response from Cabinet Member
	The Cabinet Member noted the concerns raised and agreed to consult officers.
3.	Question from Councillor David Willingham to Cabinet Member Clean & Green Environment, Councillor Chris Coleman
	Q) In light of the considerable traffic queues caused by long barrier down times at the level crossing and idling diesel trains in the sidings, could I request that air quality monitoring is established in close proximity to Alstone Lane level crossing?
	Response from Cabinet Member Clean & Green Environment
	Alstone Lane is not on our plan for 2020. The modelled levels from the Detailed Modelling Assessment we commissioned last year are published here: https://www.cheltenham.gov.uk/downloads/file/7829/detailed_modelling_assessment_2019 That shows the nearest modelled NO2 levels at the junction of Gloucester Rd / St Georges Rd / Alstone Lane as 24.9 & 29.8 ug/m3 at St Georges Gate and The Kings Arms, respectively. These levels are considerably below the annual limit, and levels on approach roads to that junction (even in proximity to the level crossing) will be lower. We only have a limited budget for equipment, which is being deployed to areas of concern where we need more data on pollutant levels.
	Supplementary question
	There is a level crossing in my ward which seems to be a particularly special case. There are signs asking people to switch off their engine, but you can physically taste diesel in the air. This is a remarkably bad situation which CBC seems to have missed, and requires extra attention.
	Response from Cabinet Member
	The Cabinet Member agreed to look further into the issue and consult officers.

- 5. REVISION TO CHELTENHAM AIR QUALITY MANAGEMENT AREA**
The Cabinet Member Development and Safety presented the report. He acknowledged that the report had already been explored to some degree during the public and member questions. He reported that the council declared a borough wide AQMA in 2011, as part of the broader context of the Transport Plan. Specific goals included ending the ring-road around the centre of Cheltenham, which was successful. This followed all the relevant legal

standards, and led to a steady reduction in the town centre's level of air pollution.

He explained that the formally monitored area is to be reduced from the whole town to an area on the A4019, from the Gloucester Road junction through Poole Way to St George's Street. This is an area of continuing exceedances that requires extra attention. The junction of Princess Elizabeth Way and Tewkesbury Road also requires extra care. He stressed that the report is not an excuse to remove air quality monitoring equipment from the town, and reminded members that more monitoring will be done in the town centre than previously. The AQMA is being reduced in line with DEFRA regulations. Air quality monitoring data must be used to inform future decisions.

The Leader referred to air quality issues in his ward, and said he was pleased that pollution levels have decreased. He added that reducing the AQMA does not mean reduced monitoring. The overall issue of air quality is a major one, but progress so far is good.

RESOLVED THAT:

- 1. The existing borough-wide AQMA be revoked;**
- 2. A new AQMA be declared in the area identified as having the worst air pollution levels;**
- 3. The redeployment of existing equipment be approved to monitor those sites which are closest to exceeding the legal limit.**

6. PROSECUTION OF HOUSING AND TENANCY FRAUD ON BEHALF OF SOCIAL HOUSING PROVIDERS

In the absence of the Cabinet Member Corporate Services, the Cabinet Member Housing presented the report.

RESOLVED THAT:

- 1. the contents of the report be noted;**
- 2. the use of appropriate enforcement powers and those powers set out in the Prevention of Social Housing Fraud Act 2013 be endorsed;**
- 3. the prosecution (where appropriate) of housing and tenancy fraud offences committed in relation to properties owned by the Authority or Social Housing providers within the Borough be supported.**

7. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Clean and Green Environment thanked Ubico for their work over the Christmas period, ensuring that there were very few complaints about collections despite difficult weather conditions. He reported that a brief suspension of brown bins has been taken on board by customers, and the service will be restarted very shortly.

The Leader placed on record his concerns about the planned closure of Jack Wills on the Promenade. This follows a national trend of branches closing. He noted that the company as a whole has been bought by one of Mike Ashley's companies. It is important that the Promenade remains economically buoyant, and we have seen increased footfall in the town centre in the last six months. There is also a branch of House of Fraser in Cavendish House – House of Fraser having also been taken over by Mike Ashley's companies. The Leader reported that he has written to Mike Ashley's company suggesting that they work together to ensure a positive future. This aligns with the work of the Business Improvement District, demonstrating close cooperation with businesses.

The Cabinet Member Finance outlined her decision to award a new contract to CIVICA for the existing Revenues and Benefits System. She noted that there are limited applications that can be done online, which becomes an increasing issue as the population increases. CIVICA offers 24-7 support, which will improve customer satisfaction.

The Cabinet Member Housing outlined his decision to formally amend a bid to Homes England. The bid previously submitted in December 2019 related to 22 affordable rented dwellings, and has now been amended to 22 social rented dwellings. The total grant request will therefore increase from £1.05m to £2,122,328.

The Leader outlined his decision to approve a written resolution relating to Ubico Limited, in his position as a shareholder. The resolution refers to the new articles of association, which revise the board composition.

Chairman

Cheltenham Borough Council Cabinet – 11th February 2020

Reallocation of Funds to Support High Street Improvement Phase2

Accountable members	Councillor Rowena Hay, Cabinet Member Finance
Accountable officers	Tracey Crews – Director of Planning
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>In the budget outturn report that was considered by Council on 22nd July 2019, the Council made an “in principle” decision that £400,000 be reallocated to the High Street fund to support delivery of phase 2 of the Cheltenham High Street improvement plans, subject to the production of this report.</p> <p>This report outlines the current situation with regard to a portion of the Midwinter capital receipt retained by the Council in 2012 to make provision for additional allotments, and allotment improvements following the sale of former allotment land at Midwinter. It summarises the current situation with regard to allotment demand, and outlines what improvements need to be made to existing sites in line with the Small Holdings and Allotment Act 1908 in order to reallocate the remaining funds.</p>
Recommendations	<p>1. To approve the spending of £161,402 on the allotment improvement works identified in this report. To reallocate the remaining £400,000 towards the Cheltenham High Street phase 2 improvements.</p>

Financial implications	<p>The report sets out the change in capital funding that is now set out in the budget for 2020/21. The council need to be aware that should the demand for allotments increase in the future then we will be required to provide adequate provision. This should be covered by the monies set aside for allotment improvements within section 4.1 on this report.</p> <p>Contact officer: Andrew Knott</p> <p>Andrew.knott@publicagroup.uk, Tel: 01242 264121</p>
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<p>Legal implications</p>	<p>The duties of the Authority regarding the use of expenditure of a capital receipt from the sale of statutory allotment land and the duty to provide sufficient allotments is contained in S32(7) and S23(1) of the Small Holdings and Allotments Act 1908, a summary of which is set out in section 2 of this report. Provided that the Authority is satisfied that it has discharged its duties, the Authority may use the remaining capital receipt for matters on which capital money may be spent.</p> <p>Should the demand for allotments increase, the Council will be required to provide adequate provision.</p> <p>Contact officer: Donna Ruck donna.ruck@tewkesbury.gov.uk 01684 272696</p>
<p>HR implications (including learning and organisational development)</p>	<p>None</p> <p>Contact officer: julie.mccarthy@publicagroup.uk 01242 264355</p>
<p>Key risks</p>	<p>See appendix 1 of this report.</p>
<p>Corporate and community plan Implications</p>	<p>Reallocation of funds will directly contribute towards the Council's Key Priority: "Continuing the revitalisation and improvement of our vibrant town centre and public spaces."</p>
<p>Environmental and climate change implications</p>	<p>Regeneration of the town centre will contribute towards the Council's travel Plan, and "Habitat Cheltenham" objectives by enhancing biodiversity and creating wildlife corridors.</p>
<p>Property/Asset Implications</p>	<p>Allotment site improvement works identified in this report would be scheduled to take place in financial year 2020/2021</p> <p>Contact officer: dominic.stead@cheltenham.gov.uk 01242 264151</p>

1. Background

- 1.1 In 2012 the Council ring-fenced £600,000 from the proceeds of the Midwinter sale for the provision of new allotments to meet potential future demand. Elmfield Playing Field, situated next to Midwinter Allotment site, was identified as the location where new allotments would be created if demand led to the need for additional allotment provision within the Borough.
- 1.2 The use of allotments is monitored; allotment demand has been met comfortably by proactive management by the Green Spaces Team together with upgrading parts of the existing Midwinter site and bringing them back into active cultivation. Monitoring demonstrates that since the decision in 2012, the demand for allotments has not led to the need for new allotments to be provided
- 1.3 In 2014 Cabinet agreed to the spending of up to £50,000 of the ring-fenced money on improvements to the Midwinter allotment site which included the installation of compost toilets and other site improvements. The total now stands at £561,402.
- 1.4 In the intervening years Elmfield Playing Field has increased in prominence as a local community green space seeing investment through the “Big Local” to create a valuable play space, with further projects planned in partnership with the local community. Given these circumstances it is unlikely that either the Council or the wider community would wish to develop all or part of the playing field as allotments in the foreseeable future. Continued monitoring will take place and a review of alternative sites, should a demand for allotments arise is underway.

2. Legal Duties

- 2.1 The Authority is under a duty to spend the capital receipt in accordance with Section 32(7) of the Small Holdings and Allotments Act 1908 as follows:
 - either by way of a sinking fund or otherwise, the debts and liabilities of the Authority in respect of the land acquired by the Authority for allotments, or
 - in acquiring, adapting, and improving other land for allotments and
 - any surplus remaining may be applied for any purpose for which capital money may be applied,
 - the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable.
- 2.2 The Authority is under a duty under Section 23(1) of the Small Holdings and Allotments Act 1908 in non-parished areas to provide a sufficient number of allotments for residents of their area. It also lays down the rule that if six parliamentary electors resident in the borough or parish consider there is an ill met demand for allotments, they can require the Authority to consider the matter formally.

3. A Summary of Allotment Demand in Cheltenham

- 3.1 Allotment demand follows longer-term trends and is also subject to more immediate short-term stimuli.
- 3.2 In 2005, there were 85 applications for a Cheltenham Borough Council allotment, after which demand steadily increased, reaching a peak in 2008 with 312 applications. Demand remained high for several years and waiting lists grew.
- 3.3 Over the last 10 years, the number of applications has ranged from 147 to 210, with 193 applications received in both 2017 and 2018. With these rates of application, given plot turnover and take-up rates, the waiting lists have been slowly shrinking and by the end of 2018, there was

the prospect of several sites not having a waiting list at all. (This is a problem because the vacant plots become overgrown with weeds and problematic for other tenants.)

3.4 In 2019, there were 252 applications. It remains to be seen if this increased application rate was a response to a particular set of circumstances (concerns about Brexit and food supplies) or if it is the start of a more sustained period of increased demand.

3.5 The Midwinter site is the largest of the Cheltenham Borough Council allotment sites, with over 200 plots, of which about 40 change hands each year. The waiting list is quite short (generally a wait for a plot of 6 months or less) and stable, indicating that the number of plots available is broadly appropriate to meet current demand in the area.

4. Proposals

4.1 Given the legal duties and demand for allotments outlined in this report, the following is proposed:

- That the sum of £161,402 is allocated to undertake improvements to existing sites; namely path improvements at Midwinter, and modifications to water supplies at all Borough Council sites to ensure compliance with the Water Regulations Act.
- That £400,000 is reallocated to the Cheltenham High Street fund to support delivery of phase 2 improvement works.

5. Alternative options considered

5.1 None.

6. Consultation and feedback

6.1 In the budget outturn report that went to full Council on 22nd July 2019, the authority made an “in principle” decision that £400,000 be reallocated to the High Street fund to support delivery of phase 2, subject to the production of this report.

6.2 Full regard has been had to the council’s monitoring data on allotments; this has formed to basis of engagement with lead Cabinet portfolio holders.

Report author	Contact officer: Green Space Manager adam.reynolds@cheltenham.gov.uk
Appendices	1. Risk register
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council does not improve allotment land with the proceeds of the sale of Midwinter then it could be demonstrated that it has not performed it's duty under the small holdings and allotment act 1908	Director of Planning	06/01/2020	3	1	3	Reduce	Cabinet approves allocating portion of Midwinter capital receipt to undertake site improvements detailed in this report.	11/2/20	Head of Property and Asset Management Green Space Development Manager	
	If the Council does not allocate alternative land for allotments for future demand then it may be unable to exercise its duties for the provision of allotments	Director of Planning	06/01/2020	2	3	6	Reduce	Monitoring and review of alternative sites	11/2/20	Head of Planning Green Space Development Manager	
	If the Council does not reallocate part of the Midwinter capital receipt to an alternative scheme then the Council may not be able to achieve the desired outcome of phase 2 of the High Street	Director of Planning	06/01/2020	4	4	16	Reduce	Cabinet approves reallocation of funding as outlined in this report.	11/2/20	Townscape Manager	
	If the Council does not undertake	Director of Planning	06/01/2020	4	1	4	Reduce	Cabinet approves spending of funds	11/2/20	Head of Property and	

	modifications to its allotment water supplies then it may not be complying with the Water Regulations Act 1999							on allotment site improvements as outlined in this report.		Asset Management Green Space Development Manager	
	If the demand for allotments increases once the remainder of the Midwinter capital receipt is spent, the Council will have to allocate the funding from other resources.	Chief Accountant	27/01/2020	2	3	6	Reduce	Ongoing monitoring and active management of allotment sites	ongoing	Managing Director – Place and Growth	

Cheltenham Borough Council

11th February 2020

Proposed Compulsory Purchase action to support delivery of the proposed West Cheltenham Development Scheme

Accountable member	Cllr Steve Jordan, Leader of the Council
Accountable officer	Tracey Crews, Director of Planning
Ward(s) affected	Hesters Way, Springbank, St Marks , St Peters
Key/Significant Decision	No
Executive summary	<p>The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) allocates land at West Cheltenham (Policy A7) for approximately 1,100 new homes and approximately 45 hectares of employment land to be focussed upon a cyber security hub. Since adoption of the JCS in December 2017 the following progress has been made in moving towards comprehensive delivery of development;</p> <ul style="list-style-type: none"> • £22m for infrastructure support via Gfirst LEP Growth Deal 3 • Joint commissioning by the local planning authorities of Cheltenham and Tewkesbury of consultants to prepare a masterplan Supplementary Planning Document (SPD) for West Cheltenham (see Cyber Central Garden Community – Draft Supplementary Planning Document – Cabinet Paper 17th December 2019) • Cheltenham Borough Council purchased c.112 acres of land within the strategic allocation (see West Cheltenham, Property Acquisition – Cabinet Paper 14th May 2019) • Award of Garden Communities status to West Cheltenham by Ministry Housing Communities and Local Government (June 2019) <p>To ensure progress to deliver comprehensive development at West Cheltenham, this report considers whether compulsory purchase powers (CPO) could potentially be used, if necessary, to support delivery.</p> <p>At this stage of the process, the decision to use CPO would be an "in-principle" decision that would enable the Council to gather relevant information, carry out surveys, investigate land ownership and prepare, if appropriate CPO statement of reasons. Should this information gathering lead to the view that a CPO would be necessary and in the public interest, then this would be subject of a further report to Cabinet. It should however be stressed that using CPO powers is very much a matter of 'last resort'.</p> <p>Based upon the policy requirement and desire for a comprehensive development, the red outline plan (see appendix 2) covers the West Cheltenham strategic allocation as defined in the JCS and includes the</p>

related safeguarded land at West Cheltenham. This mirrors the area included within the Draft SPD.

It is important to note that the red outline plan contains the area allocated in the Joint Core Strategy and the Safeguarded land which includes the Hayden operational sewerage treatment works. It should be noted that this works, operated by Severn Trent Water, comprises operational land of the statutory undertaker and is afforded special protection under the Acquisition of Land Act 1981. Section 16 of the Acquisition of Land Act 1981 gives special protection to land held by statutory undertakers such as Severn Trent Water. A CPO will not be confirmed so as to affect Severn Trent's sewerage treatment works if it would cause serious detriment to the carrying on of the undertaking (unless replacement land is available for the undertaking thereby avoiding any serious detriment). The Council will therefore need to work closely with Severn Trent to ensure there would be no serious detriment, and would need to investigate any mitigation measures that might be required. In addition, this land lies wholly within the administrative area of Tewkesbury Borough.

The administrative boundary between Tewkesbury and Cheltenham Borough Councils runs through the West Cheltenham strategic allocation north to south. The land in Tewkesbury's area is subject to a separate report seeking a similar resolution. This report seeks authority only for the land within Cheltenham's administrative area. There has been full engagement between the two councils in the drafting of these reports.

In view of the risk that it may not be possible to acquire all necessary land by agreement, it is prudent for the Council to now take investigative and preparatory steps towards making a CPO to support the comprehensive development of the site.

This Council will work with Tewkesbury Borough Council to ensure a coordinated approach in the use of CPO, if deemed necessary to progress.

Recommendations

Cabinet is recommended to:

- 1. Agree in-principle, for the reasons set out in this report, that the Councils may need to use compulsory purchase powers to acquire the land shown edged red on the plan, attached at appendix 2 of this report, in order to achieve the following:**
 - (a) Secure the delivery of the West Cheltenham development, its housing and job-creation objectives together with contributing to the promotion and improvement of the economic, social and environmental well-being of Cheltenham and Tewkesbury Boroughs in line with the emerging Cyber Central Garden Community Supplementary Planning Document,**
 - (b) Facilitate the development of the site by assembling the land interests within a reasonable timeframe and at a reasonable cost.**
- 2. Authorise the Director of Planning to undertake the investigative and preparatory work required for the compulsory purchase process in collaboration with Tewkesbury Borough Council. Cabinet notes that as an outcome of this recommendation, if it is necessary and appropriate, for one or more compulsory purchase**

orders to be made, that a further report will be brought to Cabinet seeking approval to the making of an Order.

3. **Accept that costs of up to £100,000 may be incurred. This cost is to be split equally between the two authorities (£50,000 contribution from Tewkesbury Borough Council).**

Financial implications	<p>At this stage, an in-principle decision to use CPO powers is being requested. Costs associated with this report are estimated to be under £100,000 (equally shared with Tewkesbury Borough Council). Cheltenham's portion can be met from the budget already allocated by Full Council for the delivery of Cyber Central. In the event however of additional allocation being required to complete this stage of the CPO process, a further report will be brought to Cabinet.</p> <p>If following conclusion of the investigatory steps referred to in this report it is considered that one or more CPO's are necessary to facilitate the comprehensive development of the whole site, a further cabinet resolution would be required.</p> <p>Contact officer:</p> <p>paul.jones@cheltenham.gov.uk</p>
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<p>Legal implications</p>	<p>The making and confirmation of a CPO would enable the Council to compulsorily acquire third party land interests. Persons who are affected by a compulsory purchase order are entitled to compensation to make good the loss, calculated in accordance with the Statutory Compensation Code.</p> <p>The exercise of a confirmed CPO should be considered a matter of last resort in the event that attempts to acquire land by agreement fail. However, guidance issued by The Ministry of Housing Communities and Local Government titled “Guidance on Compulsory Purchase and the Crichel Down Rules” (July 2019) states that it may be sensible to initiate the formal compulsory purchase procedures in parallel with such negotiations.</p> <p>The most appropriate CPO enabling legislation in this case is likely to be Section 226(1)(a) of the Town & Country Planning Act 1990 (TCPA 1990) under which an Acquiring Authority has a general power to make a CPO for the acquisition of any land in their area in order to facilitate the carrying out of development, redevelopment or improvement in relation to the land. In order to exercise the powers under section 226 of the TCPA 1990 the Acquiring Authority must demonstrate that the proposed development/improvement is likely to contribute towards any of the following objects, namely the promotion or improvement of the economic or social or environmental well-being of their area. As stated in the Guidance compulsory purchase is “intended to provide a positive tool to help Acquiring Authorities with planning powers to assemble land where this is necessary to implement their community strategies and Local Development documents”.</p> <p>If the Council decided to make a compulsory purchase order, the order would not take effect unless it is confirmed by the Secretary of State. Where there are objections to a compulsory purchase order the Secretary of State will hold an inquiry in order to consider whether there is a compelling case in the public interest for the compulsory order. Objectors will have the right to be heard and challenge the Council’s case. The Council will also be able to present its case and respond to objections in such inquiry.</p> <p>In deciding whether to make a compulsory purchase order (and in deciding whether to confirm it) the decision maker must be satisfied that the purposes for which it makes a CPO sufficiently justify interfering with the human rights of those with interests in the land affected. Regard must be had to the protocols to the European Convention on Human Rights and the Human Rights Act 1998 and the Public Sector Equality Duty. The Inspector will independently consider the case for the CPO and report to the Secretary of State with a recommendation. For schemes of local rather than national importance the CPO is likely to be confirmed by the Inspector on behalf of the Secretary of State.</p> <p>Legal advice has been obtained from Trowers LLP</p>
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<p>HR implications (including learning and organisational development)</p>	<p>There are no HR implications arising from the recommendations in this report at this time. Should the CPO progress then there will be an impact on resources within the relevant teams, in appointing and managing external consultants.</p> <p>Contact officer:</p> <p>julie.mccarthy@publicagroup.uk</p>
<p>Key risks</p>	<p>If the Council does not act to help facilitate the release of this land then the ambitions for the government backed Cyber Central development and overall West Cheltenham vision have the potential to be hindered or not achieved with negative economic and social impacts for the town and wider region.</p> <p>To mitigate the risk of a land parcel within the site not being available to come forward for development in-line with the remainder of the strategic allocation/safe-guarded land, it is recommended that the compulsory purchase order process is started and at the same time negotiations continue with all land owners as per Government guidance. It must however be recognised that initiating later stages of the process will be a matter of last resort in line with the Guidance.</p> <p>There is a risk of judicial review and/or objection to the CPO process. The latter may trigger a Public Inquiry with consequential implications for staff time and resources.</p>
<p>Corporate and community plan Implications</p>	<p>The Cyber Central vision is a key priority of the Corporate Plan together with delivery of Policy A7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. Land acquisition will support the achievement of key corporate plan priorities including making Cheltenham the Cyber capital of the UK and increasing the supply of housing to build resilient communities together with wider community planning and delivery of the Cheltenham Place Vision.</p>
<p>Environmental and climate change implications</p>	<p>West Cheltenham has been allocated for development by the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. Any emerging developments will be considered under the context of the Joint Core Strategy and the Cheltenham Plan which collectively form the statutory development plan for Cheltenham. These plans, together with the national Planning Policy framework incorporate policies that encourage sustainable development, economic growth and promote health, wellbeing and biodiversity.</p> <p>The site has now obtained 'Garden Communities' status which highlights the government support and the requirement for a comprehensive development creating a sustainable community with attractive green space and public realm. A Supplementary Planning Document to support the delivery of the Cyber Central Garden Community is well advanced and scheduled for adoption by Council April 2020.</p>

Property/Asset Implications	There are no CBC property portfolio implications arising from the recommendations in this report. Contact officer: harry.lea@cheltenham.gov.uk
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1. Introduction

- 1.1 To ensure the comprehensive and timely development of the strategic allocation and safe-guarded land at West Cheltenham (Cyber Central), it is necessary to initiate the compulsory purchase order (CPO) process. This utilises the Council's powers to acquire land necessary to deliver the local plan and the initial step, an in-principle resolution, will start the process to evaluate which, if any land parcels are required.
- 1.2 In line with the Guidance, at the same time as starting the CPO process, negotiation continues with all landowners in the site area with the objective of acquiring any land by agreement rather than utilise the CPO process.

2. Background

- 2.1 The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) was adopted by the three JCS Councils December 2017. Policy A7 formally designates land at West Cheltenham for approximately 1,100 new homes and approximately 45 hectares of employment land to be focussed upon a cyber security hub, high technology and other high GVA generating development.
- 2.2 The safe-guarded land at West Cheltenham is being considered for development as part of the JCS Review and was put forward as supporting documentation within the Issues and Options consultation November 2018 – January 2019. For this reason the red line associated with this report includes the safeguarded land identified in the JCS and the Issues and Options consultation. The Council notes the protections afforded to the statutory undertaker under section 16 of the Acquisition of Land Act 1981.
- 2.3 The following progress has been made in moving towards comprehensive delivery of development;
 - Joint commissioning by the local planning authorities of Cheltenham and Tewkesbury of consultants to prepare a masterplan Supplementary Planning Document (SPD) for West Cheltenham (see Cyber Central Garden Community – Draft Supplementary Planning Document – Cabinet Paper 17th December 2019). The preparation of this SPD is now well advanced. Early engagement with stakeholders and local communities took place at the end of 2019; statutory consultation began on 13th January 2020 and will continue for 5 weeks. A final SPD will be presented to Council for adoption April 2020.
 - Cheltenham Borough Council purchased c.112 acres of land within the strategic allocation (see West Cheltenham, Property Acquisition – Cabinet Paper 14th May 2019)
 - Award of Garden Communities status to West Cheltenham by Ministry Housing Communities and Local Government (June 2019). This highlights the government support for the site and the need for a comprehensive development creating a sustainable community with attractive green space and public realm.
 - The Cyber Park concept has significant central government backing, having secured £22m for infrastructure support via Gfirst LEP Growth Deal 3 with the Department for Transport. This investment will deliver transport improvements to the A40 corridor (anticipated start on site summer 2020), with improved walking and cycling linkages to the train station.
- 2.4 Cyber Central has the potential to support up to 2m ft² of development and can accommodate up to 7,000 jobs and is the single largest employment site being developed in Gloucestershire and has significance both for Cheltenham and the wider region. Work to date is engendering widespread interest from commercial and academic organisations.

- 2.5** To ensure the comprehensive, sustainable development of West Cheltenham, it is in the interest of Cheltenham and Tewkesbury Councils that there is certainty in each of the required land parcels coming forward for development. Although negotiations are taking place with landowners, there is no certainty all interests will be acquired by agreement within the necessary timeframe. Therefore to ensure that the overall timing of land availability accords with the wider plan, it is recommended to initiate work to support the making of a compulsory purchase order (CPO).
- 2.6** The area of land subject of this report is that as defined within the Cyber Central Garden Community SPD (appendix 2). It is important to note that the red outline plan contains the area allocated in the Joint Core Strategy and the Safeguarded land which includes the Hayden operational sewerage treatment works.
- 2.7** The Hayden sewerage treatment works operated by Severn Trent Water lies wholly within the administrative area of Tewkesbury Borough. It comprises operational land of the statutory undertaker and is afforded special protection under the Acquisition of Land Act 1981. Section 16 of the Acquisition of Land Act 1981 gives special protection to land held by statutory undertakers such as Severn Trent Water. The Council is in close collaboration with Severn Trent Water with an open dialogue around the opportunities and constraints of the current facility. The Council will continue to work closely with Severn Trent Water together with Tewkesbury Borough Council. A CPO will not be confirmed so as to affect Severn Trent's sewerage treatment works if it would cause serious detriment to the carrying on of the undertaking (unless replacement land is available for the undertaking thereby avoiding any serious detriment).
- 2.8** This report seeks authority only for the land within Cheltenham's administrative area. Should Cheltenham Borough Council decide to make a CPO in the future, this would only authorise the compulsory purchase of land within the administrative area of Cheltenham Borough Council. All land in Tewkesbury's administrative area falling within the red outline plan is subject to a separate report seeking a similar resolution by Tewkesbury Borough Council.
- 2.9** The investigative and any preparatory work that may be carried out should the Cabinet approve this report may include the following:
- Investigating land ownership and preparing a schedule of land interests,
 - Producing a property cost estimate (estimate market values of property within the defined scheme) so that the costs of delivering the scheme can be assessed;
 - Further developing the planning strategy for the site;
 - Refining the precise boundaries of the land that may need to be compulsorily acquired;
 - Working on a statement of reasons which would set out the full justifications for the use of CPO;
 - Preparing a draft order and statutory notices;
 - Developing an acquisition and delivery strategy and continuing with private treaty negotiations in conjunction with partners.

3. Reasons for recommendations

- 3.1** Work to date has highlighted that landowners have varied opinions concerning their land release and there is therefore a risk that some land may not come forward at a reasonable cost or within a reasonable timeframe, which has the potential to cause delays to the delivery of the strategic allocation.

- 3.2** In order for the authorities to meet their policy, corporate, and place making aspirations, it is paramount that West Cheltenham comes forward as a comprehensive, sustainable development – therefore the ability to utilise compulsory purchase powers may be required to assemble land in a reasonable timescales to achieve the overall vision of a comprehensive development. The Council will continue to seek to acquire all necessary interests by agreement prior to and in parallel with any CPO process
- 3.3** The recommendations of this report authorises the Council to initiate the investigative and preparatory work to progress with a CPO. This will include obtaining access onto the land for ground investigations and undertaking surveys, obtaining detailed and up to date information relating to land ownership, and preparing the legal documentation that would be required in order to make a compulsory purchase order. It is key that contractors have the ability to access land for necessary surveys to ensure there are no delays to the development programme. Therefore the ability to utilise CPO may be required to assemble land in a reasonable timescales.
- 3.4** If it is deemed necessary to make a CPO, a further report will be brought to Cabinet for approval. This report will need to set out the necessary funding information for such a land acquisition and will clarify whether this be by a 3rd party, Government funding support or other means.
- 3.5** It is considered that in light of the planning policy framework and the complex land assembly challenges faced by the project together with the need to deliver a comprehensive development, there are compelling justifications in the public interest to pursue a compulsory purchase order.

4. Alternative options considered

- 4.1** The alternative option is for the Council not to prepare for the use of CPO. If the Council did not proceed with the making of a resolution in principle to CPO, it would have less control in the development of the West Cheltenham strategic allocation and the ambition for the delivery of Cyber Central.
- 4.2** Should the Council not utilise its powers it runs the risk of significant delay to the project programme and/or budget, which could ultimately frustrate the comprehensive development of the site.

5. Communication, consultation and feedback

- 5.1** Lead members have been fully consulted in the drafting of this report. Full engagement has taken place with Tewkesbury Borough Council. Further to this approval on-going and appropriate consultation will be required to continue this process as well as under the Guidance, discussions continue with the relevant landowners. The rationale behind the recommendation meets the views of members as highlighted in previous decisions made on West Cheltenham.
- 5.2** Negotiations are on-going with key landowners and their advisers through the council's property team. During negotiations these landowners have been made aware of the likelihood of the Councils to seek CPO if agreement is not reached.
- 5.3** The Director of Planning wrote to all landowners within the administrative boundary of Cheltenham directly affected by this report on 17th January 2020. There are a total of 6 landowners. The letter summarised the recommendations in this report and encouraged them to engage in the consultation of the SPD.
- 5.4** At this stage, it is not possible to define the precise extent of the scheme or land interests which may be included in any CPO. This resolution will allow the necessary investigatory and preparatory work to be undertaken to enable refining and definition of any CPO boundary based on survey work and legal due diligence. To that extent some parcels have been included in this resolution where it may only be necessary to seek rights or parcels which ultimately may not be

included within any CPO. All landowners identified within the resolution boundary have been written to and afforded the opportunity to discuss this further.

6. Performance management – monitoring and review

6.1 Officers will continue to work in conjunction with legal representatives and real estate consultants to undertake the investigative and preparatory stages in the process.

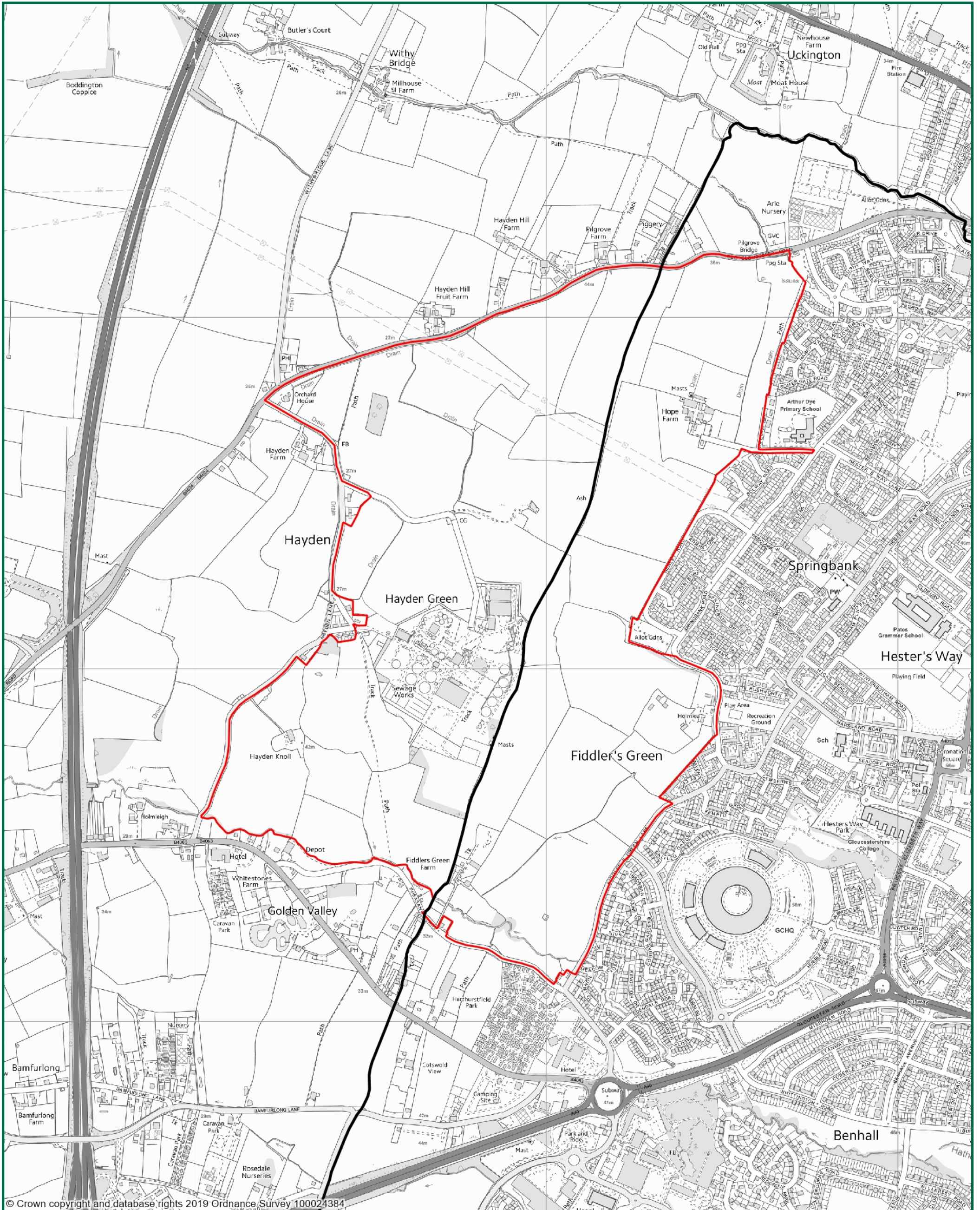
Report author	Contact officer: David Oakhill David.Oakhill@cheltenham.gov.uk
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Red – outline plan

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the Council does not act to help facilitate land release there is a risk that the full potential of the West Cheltenham strategic allocation will not be realised, as well as delays in delivery timescales.	Tracey Crews	16/01/20	5	4	20	Reduce	Obtain a 'resolution in principle' to CPO.	February 2020	David Oakhill	Cyber Central programme risk register
2	On the making of a 'resolution in principle' to CPO there is likely to be queries raised by associated land owners.	Tracey Crews	16/01/20	2	4	8	Accept	Communications strategy in place to manage.	February 2020	David Oakhill	Cyber Central programme risk register


3	If preparatory stages of CPO start it is likely to be a strain on internal resource.	Tracey Crews	16/01/20	3	4	12	Accept	Real Estate Consultants will be appointed to assist officers.	February 2020	David Oakhill	Cyber Central programme risk register
4	There is a risk of judicial review and/or objection to the CPO process. The latter may trigger a public inquiry with consequential implications for staff time and resources.	Tracey Crews	16/01/20	3	4	12	Accept	Legal support will be appointed to lead this process	Spring / Summer 2020	David Oakhill	Cyber Central programme risk register



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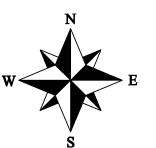


 Cheltenham Borough/Tewkesbury Borough Boundary

 Red Outline Boundary

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07 January 2020



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Cheltenham Borough Council Cabinet – 11 February 2020

Adoption of revised Sexual Entertainment Venue Policy

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>The council has adopted a sexual entertainment venue licensing policy. The current policy was adopted by Council in October 2014.</p> <p>A review of the current policy has been undertaken and the Cabinet Member Development and Safety has approved consultation on a revised policy.</p> <p>Consultation has been undertaken and Cabinet is asked to consider feedback, approve the draft policy and recommend adoption to Council.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the consultation feedback; 2. Approve the revised policy document attached at Appendix 5; and 3. Recommend to Council adoption of the revised policy document attached at Appendix 5.
Financial implications	<p>There are no financial implications to this paper.</p> <p>Contact officer: Andrew Knott, Andrew.Knott@publicagroup.uk, 01242 264121</p>

Legal implications	<p>The Licensing Authority is required to prepare, publish and keep under review, a statement of the principles it proposes to apply when exercising its functions in licensing Sexual Entertainment Venues.</p> <p>Section 27 of the Policing and Crime Act 2009 came into force on 6 April 2010. This amended Schedule 3 of the 1982 Act and created a new category of sex establishment, namely a sexual entertainment venue. This category added to the existing categories of sex establishment, namely, sex shops and sex cinemas.</p> <p>Whereas the actual determination of an application for a Licence under the Local Government (Miscellaneous Provisions) Act 1982 is a Council function, the function of formulating and adopting a Licensing Policy in relation to this type of licensing is a Cabinet function because neither the Act nor the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 preclude Cabinet from approving such a Policy.</p> <p>Contact officer: Vikki.Fennell@tewkesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>No direct HR implications arising from this report.</p> <p>Contact officer: Clare Jones, Clare.Jones@publicagroup.uk</p>
Key risks	As outlined in Appendix 1
Corporate and community plan Implications	A Community Impact Assessment has been undertaken and attached at Appendix 5 of this report.
Environmental and climate change implications	N/A
Property/Asset Implications	<p>N/A</p> <p>Contact officer: Dominic.Stead@cheltenham.gov.uk</p>

1. Background

- 1.1 Sexual Entertainment Venues (“SEVs”) are regulated under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.
- 1.2 The amended provisions were adopted by Council on the 11th of October 2010 and the authority’s current SEV licensing policy was adopted in October 2014.
- 1.3 A review of this policy has been undertaken as outlined in this report and appendices.

2. Statutory Context

- 2.1 Section 27 of the Police and Crime Act 2009 (“2009 Act”) amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“1982 Act”) to introduce a new type of sex establishment known as a sexual entertainment venue.
- 2.2 Any premises that want to offer “relevant entertainment” can only do so by obtaining a SEV licence.
- 2.3 Relevant entertainment is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.4 Under the 2009 Act, a premises can provide relevant entertainment on an infrequent basis without the need for a SEV licence. Infrequent relevant entertainment is defined as relevant entertainment offered for no longer than 24 hours on no more than 11 occasions a year. Any premises that want to offer relevant entertainment more frequently is required to apply for a SEV licence.

3. Current Policy Position

- 3.1 The authority does not take any moral stand in relation to the regulation of sexual entertainment. The current policy recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this authority’s role as the Licensing Authority to administer the licensing regime in accordance with the law.
- 3.2 The authority is empowered by schedule 3 paragraph 12(4) of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to set a limit on the number of licensed SEVs permitted in the relevant locality of which zero can be a number. For information, the current policy defines “relevant locality” as the local ward in which a SEV could be licensed.
- 3.3 The current policy position is set out in paragraph 11 of the policy stating:

Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. *It is the Council’s policy therefore that there is no locality outside of the adopted Central Shopping Area in which it would be appropriate to license a SEV.* Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil. (paragraph 11.2)
- 3.4 Accordingly, there is currently one licensed SEV which is the Two Pigs Pub on Church Street which is inside the relevant locality in which SEVs are permitted.

4. Consultation

- 4.1 Consultation on the revised SEV policy was undertaken between 1 November 2019 and 6 January 2020.
- 4.2 Three responses were received. These are outlined, along with officer comments, at Appendix 2.

5. SEV Policy Scrutiny and Review Meeting

- 5.1 In July 2019, the authority's Licensing Committee held a SEV scrutiny session to give opportunity for Members of the committee to hear from key stakeholders in order to facilitate the review.
- 5.2 The stakeholders invited to attend were:
 - 5.2.1 Gloucestershire Constabulary;
 - 5.2.2 Ward Members in whose area SEV are, or have been, licensed;
 - 5.2.3 SEV operators; and
 - 5.2.4 Consultees who have previously engaged in the licensing process on a regular basis.
- 5.3 A copy of the minutes of that meeting is attached at Appendix 3 of this report.

6. SEVs in Cheltenham

- 6.1 Attached at Appendix 4 is the briefing paper that accompanied the scrutiny group meeting. Members may find the briefing paper helpful in terms of gaining a contextual understanding of SEVs in Cheltenham.
- 6.2 As outlined in the briefing paper, the authority has licensed and regulated SEVs in some form or another for many years. SEVs are particularly prevalent during horse racing events in Cheltenham on a scale that is not comparable with any other area outside of London.
- 6.3 As outlined above (under Statutory Context), sexual entertainment can either be licensed or take place unlicensed as part of infrequent sexual entertainment.
- 6.4 Infrequent sexual entertainment is unlicensed by virtue of a statutory exemption that allows premises to carry on sexual entertainment without a licence if the sexual entertainment is offered for no longer than 24 hours on no more than 11 occasions a year.
- 6.5 Any premises that want to offer relevant entertainment more frequently is required to apply for a SEV licence.
- 6.6 As Members will note from the scrutiny meeting minutes (Appendix 3), there is a lot of debate about whether the authority should change its policy to set a zero limit to apply to the entire borough.
- 6.7 Officer's view is that a borough-wide policy of zero SEVs will not address the concerns raised by people and organisations that are opposed to SEVs; the rationale being that a zero policy for the borough will not achieve a reduction in the amount of sexual entertainment being offered in the town. Instead, the consequence would be that operators will instead rely on the statutory exemption by, instead of operating from one licensed venue, moving between premises around the town but offering the same amount of sexual entertainment.
- 6.8 Under the circumstances described above and recognising that sexual entertainment is a lawful

activity, officers are of the view that it is better for the council to regulate SEV through licensing. Venues operating under the statutory exemption are free of any licensing regulation and control.

- 6.9 It is therefore proposed that the policy position with regards to limiting SEVs in Cheltenham not be changed.

7. Proposed policy changes

- 7.1 In addition to minor updates to the policy such as removing references to fax, the following policy changes are proposed:

7.1.1 Under paragraph 11.4 (Sensitive Locations), reference to specific sensitive locations and building be removed in favour of a more general description of the types of locations that may be considered sensitive. Specific examples have in the past limited the Licensing Committee's determination of SEVs.

7.1.2 A number of conditions have been updated or amended as shown on the draft revised policy at Appendix 5.

7.1.3 The "relevant locality" where the authority will permit the licensing of SEVs has been revised. The rationale for this is:

7.1.3.1 Recognition that the adopted Central Shopping Area excludes a number of venues on the Bath Road that can be considered as part of the "wider mix on offer, particularly in the night time economy"; and

7.1.3.2 The Licensing Committee has already determined that the licensing of SEVs in the area referred to above is appropriate.

7.1.4 It is also proposed that the authority include a waiver provision in the policy. Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the council to issue waivers. The effect is that it will remove the requirement for a licence under very limited circumstances as outlined under paragraph 3 of the revised policy.

8. Equality duties

8.1 An equality and community impact assessment has been undertaken to accompany this policy review. The impact assessment is attached at Appendix 6 of this report.

8.2 Notwithstanding the fact that Parliament has made it lawful to operate a sex establishment, there is still an overarching duty on the authority to comply with its Public Sector Equality Duty (PSED) as defined by the Equality Act 2010.

8.3 The PSED places a duty on the authority to, in the exercise of their functions, have due regard to the need to:

8.3.1 Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act.

8.3.2 Advance equality of opportunity between people who share a protected characteristic and those who do not.

8.3.3 Foster good relations between people who share a protected characteristic and those who do not.

8.4 Consideration of the authority's PSED is particularly relevant to the licensing of sexual entertainment. It's licensing and regulation often creates a tension between the statutory right to operate such a venue and equality issues relating to discrimination and objectification of primarily

women.

- 8.5 The starting point for the authority is the fact that it cannot take any moral stand in relation to SEVs in recognition that Parliament has made it lawful to operate a sex establishment. This starting point however does not mean that the authority is therefore bound by the primary legislation at the expense of other statutory requirements such as the PSED.
- 8.6 Equality issues may be relevant to (not exhaustive):
 - 8.6.1 The need to protect performers from harassment and threat;
 - 8.6.2 The need to ensure that any protected characteristic group is not more, or less, welcome than another;
 - 8.6.3 The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure;
 - 8.6.4 The need to properly understand the relevant locality and the need to ensure, taking into account the relevant locality, any protected characteristic group’s view is taken into account such as those relevant to religion or belief or race;
 - 8.6.5 The need to consider the views and experiences of people with disabilities as a protected characteristic group.
- 8.7 Some or all of these equality issues may be addressed through appropriate conditions and robust enforcement. Equally, the licensing process may also be an important tool to achieve the same outcome, for example, licence reviews and policy changes.

9. Reasons for recommendations

- 9.1 To secure adoption of the recommended revised policy as outlined in this report.

10. Alternative options considered

- 10.1 Cabinet can take the view that the policy changes proposed are not necessary and that the current policy remains sufficient for the purpose of regulating SEVs in Cheltenham.
- 10.2 However, this is not recommended as changes to the policy are necessary to ensure information is up to date and the policy continues to ensure SEVs are properly regulated.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 262626
Appendices	<ul style="list-style-type: none"> 1. Risk Assessment 2. Consultation feedback 3. SEV Policy Review Meeting minutes 4. SEV Policy Scrutiny Group - briefing paper 5. Revised Sexual Entertainment Venue Policy Statement 6. Community impact assessment

Background information	<ol style="list-style-type: none"><li data-bbox="539 159 1406 192">1. Council, Monday, 13th October, 2014 2.30 pm (Agenda item 8)<li data-bbox="539 221 1458 255">2. Cabinet, Tuesday, 16th September, 2014 6.00 pm (Agenda item 9)
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the authority does not approve draft changes to the policy it would be less able to effectively regulate sexual entertainment venues in the borough.	Director of Environment	October 2019	2	3	6	Accept	Approve draft policy change for consultation.		Licensing Team Leader	
	If the authority is not mindful of its Public Sector Equality Duty in reviewing the policy it risks a breach of this duty and the risk of reputational damage and legal challenge.	Director of Environment	October 2019	2	3	6	Accept	Approve draft policy change for consultation.		Licensing Team Leader	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

Appendix 2 – Consultation Feedback

Revised Sexual Entertainment Venue Policy

Comment	Officer comments
<p>Cllr Dr David Willingham</p> <p>Dear Licensing,</p> <p>I am writing in response to the SEV policy consultation.</p> <p>1 I support the proposed designation of Bath Road for inclusion in the approved area. Given that the Town Hall and some venues on A4015 The Promenade facing Imperial Square also occasionally host SEV under the exemption, it might be worth including this area to encourage them to properly licence those activities.</p> <p>2 I believe that the following licensing conditions should be modified:</p> <p>Venues should operate a Challenge 25 policy rather than a Challenge 21 policy to make it more difficult for anyone underage to access the premises.</p> <p>The prohibition on performers sharing personal details with customers should also be</p>	<p>Officers did not consult on the basis that Imperial Square should be included inside the relevant locality.</p> <p>If Members are minded to include this part of town, separate consultation will be required on this point.</p> <p>At the moment the frequency of sexual entertainment does not meet the statutory licensing threshold and there is no indication that this will change. It is therefore not proposed that the relevant locality be changed to include Imperial Square.</p> <p>Noted and policy amended.</p>

<p>modified to include a prohibition on sharing social media and electronic communication identifiers.</p> <p>A condition similar to the following should be added: Literature and contact details of organisations that provide advice and counselling on matters relating to:</p> <ul style="list-style-type: none"> (a) Modern slavery, (b) Domestic abuse, (c) Coercive control, (d) Rape and sexual assault, <p>shall be made available to performers free of charge in their changing area.</p> <p>The Council may wish to consider adopting the condition used by Manchester City Council on their SEV policy, which states: The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and/or transport to or from the premises is prohibited.</p> <p>3 No comments.</p> <p>4 I fully support the council's view that a zero limit is not going to prevent sexual entertainment from occurring in the town, but will mean that it is less well regulated and lesser regulation puts the performers at greater risk.</p>	<p>Noted and policy amended.</p> <p>Noted and policy amended.</p> <p>Noted and policy amended.</p>
<p>Ms Tess Beck</p> <p>In Cheltenham, SEVs and the lap dancing industry are only an issue during racing events such as race week. It is some time since there was an SEV licensed year round (Fantasy) and even then, for the last few years of its operation, it would only operate during race week, standing empty and getting increasingly dilapidated for the rest of the year.</p> <p>The link between lap dancing (sex-tourism) and race week is no more inevitable than the link between hooliganism and football. Removing the sex tourism aspect of race week</p>	<p>The scope of this policy is limited to sexual entertainment as defined in law. As outlined in the covering report (6.7 &</p>

(of which lap dancing is only a part) would make the town centre much more pleasant for many people (especially women) who visit or live and work in Cheltenham. Putting an end to sex tourism in Cheltenham could potentially also help to reduce the market for other parts of the sex industry such as trafficking.

Cheltenham's nightlife is valued for its safety: this is reflected in its Purple Flag status. But not during race week, when sexual harassment and even assault becomes commonplace for women socialising or working in the town centre.

Community Impact Assessment

You state that you are confident that your policy is robust in addressing any disadvantage caused to any groups.

As a woman, I can tell you that I experience greater levels of sexual harassment when in the town centre during race week. This is worse in the evenings when the majority of SEVs operate. But even during the day, when I worked in the town centre in a customer facing role during race week, I would experience frequent sexual harassment (which I rarely did at other times of the year). On many occasions, the men doing the harassing would refer to lap dancing or other aspects of the sex industry. I have heard similar experiences from many female friends of mine, many of whom take active steps to avoid town during race week. Your policy has not been robust enough to address this.

Though you refer to performers in another part of the impact assessment, you fail to acknowledge the gendered nature of SEV performers. Lap dancing is done exclusively by female performers, almost always for a male audience. It is done in booths in a one to one encounter. Though some performers may be paid per dance, they also rely on tips from the punter, which can make it hard for performers to enforce boundaries. As female sex workers, they routinely face discrimination. Their employment terms and

6.8), a zero limit on the number of licensed sexual entertainment venues will be ineffective because operators will instead rely on the statutory exemption which is entirely free of licensing control.

Officer's view is that it serves the public interest to license sexual entertainment venues therefore.

The scope of this policy is limited to regulating sexual entertainment venues. Comments generally about sexual harassment during horse racing festivals falls outside this scope and is a criminal matter to be reported to the police.

The authority's policy recognises that Parliament has made it lawful to operate sexual entertainment venues and to this extent the authority's policy is gender neutral.

In addition to the policy statement and licensing process, there is a robust inspection and enforcement process in

conditions for performers in lap dancing clubs are usually worse than other workers in the gig economy. This is quite different from the Dreamboys (for example) who are often touted as a false equivalent. The Dreamboys perform a floorshow as a troupe, not one to one in an enclosed space. Male performers do not experience the same discrimination as female lap dancers.

You state that your policy is robust enough to protect children from exposure to the sex industry. I can tell you that it isn't. My youngest child (born in 2005) has been exposed to aspects of the lap dancing industry many times. There was the van covered in a blown-up hyper realist image of a naked woman in a porn pose. This was parked on the Lower High Street near the Two Pigs when we went into town after school to get some new daps. There have been the posters promoting lap dancing in shop windows along the route into town, including next to McDonalds in the Lower High Street. There have been flyers left on the streets promoting Eroticats lap dancing and their XXX chat lines and cam girls. There have been the billboard trailers promoting lap dancing driven around the town centre and up and down the route to the race course - which also happens to be alongside Pittville Park and play area.

The distinction between the core commercial area and residential areas is a false one. Many people live in the town centre (I believe there is an effort by CBC, the BID and others to promote the increased use of the space above commercial premises for residential purposes). Many more people like us within 5 or 10 minutes' walk of the High Street. It is not possible for us and our families to avoid the town centre for a week, nor should we be expected to.

The licensing committee has repeatedly granted an SEV license to premises which are outside this core commercial area. Your response in this draft of the policy is to extend the Central Shopping Area. I do not agree with this response.

place to ensure compliance with licensing and legislative requirements. The inspection regime is undertaken in partnership with police licensing officers.

The policy conditions have been amended to remove the right to use vehicles to promote or market licensed sexual entertainment venues.

The policy conditions have also been strengthened in respect of leaflets to address concerns and complaints.

The policy statement makes provision for consideration of the character of the relevant locality including the proximity of residential properties and buildings with sensitive uses.

The point remained that, as outlined in the covering report (6.7 & 6.8), a zero limit on the number of licensed sexual entertainment venues will be ineffective because operators will instead rely on the statutory exemption which is entirely free of licensing control.

You admit your policy is not robust enough to prevent discrimination against people who have a particular religion or belief. Although your SEV policy states that a licence would be inappropriate when the premises are near a property which is sensitive for religious purposes, e.g. a church, licences have repeatedly been granted for the Two Pigs which is right next to St Mary's churchyard. This is despite members of the church telling you that the presence of sexual entertainment deters people from using church premises during race week, especially young people who would normally attend youth club in the evening. This is despite members of the church have telling you they regularly finding used condoms, underwear and sanitary protection in the church yard when licensed SEV activities are taking place in the Two Pigs during race week.

Your community impact assessment states that there is no direct or specific impact on people who are attracted to the same sex. The Two Pigs when operating as an SEV used to operate a sexist and homophobic door policy, banning women from entering as customers. A representative of the licensee even stood up in front of the licensing committee and stated that this policy was to prevent prostitution (I presume this was because any women were assumed to be prostitutes). This resulted in female observers from St Mary's Church being refused entry. This resulted in female friends of mine who are bisexual and were curious (and I think were expecting something a bit more like burlesque) being refused entry. After this was drawn to licensing officers' attention, Two Pigs had to change this door policy, but it had already been operating for some time by then.

The Statutory Exemption

I have sat through many licensing committee meetings where committee members have stated that it is better to have the premises providing lap dancing to do this under the auspices of the SEV licence than under the statutory exemption. I got the impression from some of the members that they would rather not give the licence - especially for premises next to a church, but have only done so because the national legislation means they could not prevent it happening altogether. (Of course, there are other members who aggressively support the sex industry and are happy to promote sex work as a career option for women and girls, but thankfully they seem to be in a minority).

Not clear where this is referenced in the policy document. As stated already however, the authority's policy recognises that Parliament has made it lawful to operate sexual entertainment venues and it is the authority's role to administer the licensing regime lawfully including the Public Sector Equality Duty on the authority.

Each individual application is referred to the licensing committee for determination and this is done with full consideration of the individual merits of the application, policy, statutory guidance and consultation feedback.

Whilst the policy should be adhered to and only be deviated from under exceptional circumstances, it cannot fetter the committee's discretion.

The statutory exemption exists in law and is therefore not within this authority's ability to influence.

There is general acknowledgement by this authority and opponents of sexual entertainment venues that the statutory exemption is unhelpful and to some extent defeats the object of the licensing scheme.

Hopefully operating with an SEV licence has given the performers better protections, but for residents it has meant that the Lap dancing has taken place at the premises over several nights rather than the 1 night permitted by the exemption.

I have heard representatives of the licensees stand in front of the licensing committee and state that by being able to operate out of one premises for the whole week, they would not need to use other premises across the town. In practice, come race week, they were operating in at least one other premises each night under the statutory exemption. And as these additional premises were operating under the exemption, this enabled them to flyer and use the liveried van to promote the licensed venue as well. And of course, there is nothing to prevent other operators providing lap dancing elsewhere under the statutory exemption.

Operators of SEVS whether licensed or operating under the Statutory Exemption are aware that race week is the busiest week of the year for police and licensing officers in Cheltenham. SEVs are only a small part of increase in licensable activities which take place that week. Enforcement does a good job in keeping a lid on things but officers are stretched to their limit and spread thinner than marmite.

From my research, Cheltenham during race week is the only place where the Statutory Exemption is exploited to this extent. Newquay used to have problems during the summer season, but thanks to the efforts of its then MP and police chiefs, they have managed to take action to prevent this. This has improved the atmosphere in Newquay for residents and tourists. Newquay has not experienced any drop in tourist numbers as result of the sex tourism industry being closed down.

SEVs do not benefit the town's economy, though they are great money spinners for the promoters. The operators who use our venues to put on lap dancing are here only for a week. They do not provide regular or stable employment. They suck money out of the town to the detriment of other businesses and the town's residents.

The existence of the Statutory Exemption removes Cheltenham's ability to establish and

This is the case principally because venues relying on the statutory exemption are entirely free of licensing control including a requirement to inform the authority and not subject to any controls or conditions.

No authority can, nor has, overcome the statutory exemption by any means. This authority has previously written to Cheltenham's PM to raise this with him, seeking a change in legislation, but to date there has been no indication from Government that it plans to make changes to legislation.

Until such a time as there is a change in legislation in so far as it relates to restrictions under the statutory exemption, this authority is faced with either seeking a license where one is required, or seeking to manage exempt sexual entertainment venues through voluntary schemes as is the case at present.

<p>enforce its own SEV policy for the benefit of the town as a whole. I would ask Cheltenham Borough Council to work with our MP and parliament to address the Statutory Exemption, and to remove this 'loophole'.</p>	
<p>Licensing Committee</p> <p>Remove specific examples under 12.4 to leave the discretion to the committee. The list is currently too prescriptive whilst not covering other premises that can be defined as sensitive uses.</p> <p>A standard commencement time for relevant entertainment of 20:00 should be specified in the policy.</p> <p>Conditions relating to flyers (10, 11 & 12) are confusing.</p> <p>Adopt a challenge 25 rule under condition 17.</p> <p>Include reference to social media in condition 30.</p> <p>Scope of condition 35 should be broadened to include other services/information.</p>	<p>Noted and policy amended.</p> <p>Noted and policy amended.</p> <p>Noted and policy amended.</p> <p>Noted and policy amended.</p> <p>Noted and policy amended.</p> <p>Noted and policy amended.</p>

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SEV Policy Review Meeting – 17th July 2019

Session 1 – Gloucestershire Police

- DM advised that staff from Gloucestershire Constabulary had been sent to London to see how they operate with regards to SEV's. He explained that the rules and regulations were very similar in London to that in Gloucestershire. They felt that Cheltenham officers, in particular, were extremely competent in enforcing and conducting visits on premises.
- They had not identified a correlation between SEV's and an increase in disorder and crime.
- With regards to the 2 Pigs, there had been 9 recorded offences in the last 3 years when they had been operating as an SEV. The police advised that you could expect a similar number of offences at other premises that were not SEV's.
- The recorded offences mainly related to theft, 2 related to sexual incidents, one of which was an anonymous call suggesting that performers were charging £250, however, the police attended immediately and saw that it was a malicious call. The other incident related to two individuals during the November race meet requesting a price for sex. Despite the fact it was a malicious call DM confirmed it still counted as an incident.
- The police confirmed that they were extremely happy with the conditions that Cheltenham imposed on SEV's and were satisfied that the licensing officers enforced them.
- They highlighted that Under the Prom and Moo Moo's also operated as an SEV under the statutory exemption they had no reported sexual incidents from the premises whilst they were operating as an SEV.
- The police explained that they try to ascertain where people who have been arrested were before the arrest and from previous experience; there was nothing to suggest they were in clubs operating SEV's. They explained that they do not have the resources to verify their claims, however, they would do so if it was a serious incident and there was evidential value in doing so. If this was the case, they would check the CCTV of every venue they had been to.
- They confirmed that there had been one alleged sexual assault during race week; however, this had no correlation to 2 pigs. The Licensing Team Leader confirmed that the assault related to 2 people who had met in the Bank House and the incident had happened at the person's residence.
- The Police highlighted that they would come straight to CBC and the licensing committee if they had any concerns. However, in their opinion, such licences didn't manifest in extra crime.
- They explained that they had never come across any performers who had been acting under duress. However, going forward this would be something they would look out for whilst doing routine inspections.
- There had been an incident whereby a performer had requested her money back and this had been resolved quickly by licensing officers and the police.
- The Licensing Team Leader confirmed that when doing inspections they are allowed access to the office and they check the girls ID and registration forms. They also have access to the CCTV and changing areas.

- The police confirmed that they were happy with the quality of the CCTV which was sufficiently adequate for any investigation.
- The Police acknowledged that prostitution did increase in Cheltenham during race week, however generally, this was not a big problem in Cheltenham when compared with Gloucester. Improvements in technology had also meant it was easier for prostitutes to make contact with clients. At the end of the races they had received complaints from guests in hotel rooms who had been robbed by prostitutes, however, they were not aware of any incidents of prostitutes propositioning people in the streets. The police advised that they had officers who specifically dealt with online prostitution.
- The police confirmed that they do visit hotels during race week to identify incidents of prostitution, however, agreed they could be more proactive and pick this up with hoteliers. There had been known cases of prostitutes operating in the Queens Hotel.
- One Member felt that they needed to focus on SEV's rather than prostitution and that linking the two was quite dangerous. They had been impressed by the set up at 2 Pigs and how open and transparent they had been, although were slightly concerned that they had to wait a while before they gained entry. They therefore questioned whether the police ever sent out undercover officers? The police confirmed that they did not send out undercover officers, however, Eroticats had suggested an officer be stationed for a whole evening at the venue. They also had the powers to force entry. The Licensing Team Leader highlighted that if they receive specific intelligence of concern then the Council may undertake a covert operation.
- One Member raised a concern about the size of the booths and the close proximity of the performers to clients. The Licensing Team Leader noted this point and agreed to do further research in this area.
- The police confirmed that door staff don't entice people in, although they do have promotional staff stationed across the town. They were unsure what Eroticats policy was on drawing in customers.
- The Licensing Team Leader explained that venues who operate under the statutory exemption have signed up to a voluntary code of practice which includes notifying police and the council when they intend to hold an event. They can therefore control them to some extent albeit informally.
- Members noted that there was inevitably a spike in crime rates during race week due to the increased number of people coming in to the town who were intoxicated and there was no evidence to suggest that SEV's contributed to the increase in crime.

Summary by Police

- Cheltenham's conditions were adequate and officers were extremely competent in enforcing them.
- From the research there is no connection between SEV's and prostitution. Financially the performers earn a lot more in a much safer environment in the 2 Pigs rather than through prostitution.

Session 2 – Chelt Fems/GRASAC/ Cheltenham Minster

GRASAC

- There was a lot of written evidence to suggest that those working and living in town were harassed physically and verbally during racing week. She felt that the Council, in carrying out its functions, should have due regard to the objectives of the public sector equality duty. As acknowledged by some Members at the recent licensing meeting, the tone of Cheltenham changes during race week and one female Councillor had stated they do not come in to town during race week. She also cited the changes in the pubs which see a large influx of males compared with females. She felt that local authorities should provide equal access and that women were not welcome in town. She requested that the local authority evoked all SEV licences.

Chelt Fems

- Felt that under the public sector equality duty, the local authority should permit zero SEV's. In her experience, women had been denied access to clubs with an SEV licence, lesbians had been told it was unsafe for them because they would be seen as prostitutes and women who would normally frequent at the 2 Pigs were denied access when there was sexual entertainment on. She felt that lap dancing was the cause of gender inequality in society and it sexualised and objectified women. Women in the town feel discriminated against and she felt that a petition in 2014 was ignored by the Council. She highlighted that times were changing and SEV's had dropped by a third, they therefore needed to show they were a progressive town and moving with the times. With regards to claims from the police that there were no increases in sexual incidents she stressed that women do not report rapes and in particular, reporting of low levels of sexual harassment were extremely low.

Chelt Fems

- Also had concerns that the council was not fulfilling its public sector equality duty as people feel excluded from town during race week, she highlighted that this also has an impact on the day time economy. She was relieved that the Eroticats van had been rebranded as the image originally portrayed was inappropriate. She felt that as the money was made in the booths and the performer's income was dependent on tips there was an equality issue, similarly, excluding entry to lesbians was homophobic. Those operating the SEV's were breaching the terms and conditions of their licence as they were flyering on the streets, moreover, the fact that 2 Pigs was situated next to a church and by the entrance to a park meant it did not comply with the council's licensing policy. She felt that the statutory exemption was exploited in Cheltenham and not used for the purpose intended and the national legislation should be challenged. She reiterated that she did not have a moral objection but that the council had an equality duty.

The Church

- The 3 main reasons they objected to SEV's was because of the effect on children, the location of the 2 Pigs and the discrimination against women.
- They felt that during race week the nature of the town changes completely. At St Matthews they have youth activity over the weekend and on a Friday evening,

however, during race week parents don't let their children walk to church as they ordinarily would.

- They also had concerns about the Erotocats van playing loud music.
- They noted that the grounds to the church were secluded and cut off from the main thoroughfare which promoted secretive activity in this area. They acknowledged that the Council sent somebody to clean the church yard on a Sunday morning at 10am, however, this didn't always happen. As a result, on several occasions, CD had cleared the church yard and found lots of broken glass, cigarettes, nitrous oxide canisters, syringes, discarded underwear and condoms.
- They felt that the operation of SEV's was discriminatory against women and that CBC had a statutory duty with regards to disability, race and gender. They felt that 2 Pigs, when operating as an SEV, sexualises and objectifies women. They had considerable concerns that the establishment was being used as a brothel during race week.
- Miss Phillips explained that they had been taking cakes in for the performers for several years, however, they had not been let in at first and advised that it was gentleman only. They had suspicions that it was a brothel because they had observed women wandering through and chatting to men who appeared to be advertising themselves to be taken upstairs and the bouncers had advised that they were unable to go upstairs. The fact it was free entry was also not normal for a strip club.
- The Chair advised that the licensing officers and committee had unfettered access to the club and they had no evidence to suggest prostitution. He highlighted that the reason they may not have been allowed upstairs was because a condition on the licence didn't allow members of the public upstairs.
- One Member noted that the change in tone of the town during race week was inevitable given the large influx of people, they reasoned that it was impossible to implement a policy to address this and felt that it wasn't just women who avoided the town during this time. They were concerned if women had been turned away from the clubs as this contravened the conditions in the policy. They questioned those giving evidence as to what more could be done to prevent assaults.
- MS advised that in the lead up to race week they did some joint work with the Council which included putting up posters in pubs and coffee shops encouraging people to report any incidents or suspicious activity. She explained that they had spoken with bar staff and a large majority said they had been assaulted in some fashion during race week including men. She explained that they had one incident of sexual assault reported to them and the police response was that this could be expected as it was race week. She explained that the low level assault often went unreported as victims felt they would not be listened to. The key was on more preventative work.
- One Member questioned how many cases of women being turned away had been reported to the Licensing Officer. The Licensing Team Leader confirmed that no incidence has been reported directly to them, however, given the evidence heard today they would need to speak to the venue to ensure they understood the policy. The Member reiterated that the current licensing policy prevents venues refusing women and so encouraged people to report it to the Licensing team.
- RC felt that the whole set up was highly intimidating to women and that used underwear, condoms and broken glass found in the church yard increased when

SEV's were in operation. One Member disagreed and felt that this could not be linked back to SEV's and was as a result of the large influx of people to the town during race week.

- One Member questioned what more could be done to increase the number of sexual assaults reported. They also highlighted that they were unable to change the law with regards to SEV's and that they had even lesser control under the statutory exemptions. They also questioned what more could be done to improve the wellbeing of performers.
- TB recommended that the booths be removed as was being trialled in some areas of Bristol and London. If they just had floor shows it would be more public and less chance of incidents. She also had concerns that more vulnerable women were coming in to the industry as the demand was increasing.
- RL noted that the recent marketing Cheltenham campaign whereby a woman was stripped to the waist did not portray the right image for Cheltenham. She felt that that they should be more concerned with reducing sexual assaults through prevention campaigns.
- MS advised that the rape and crisis centre appealed to many victims as they are an independent body and they are often frightened to report incidents to the police, whilst they support them if they wish to report it, many women choose not to.
- AP questioned why if men also felt intimidated during race week they did not make the town feel safer for both men and women. One Member felt that some people were more sensitive than others and that the main reason for the intimidation was because of the large number of people around the town not the SEV's.
- One Member highlighted that at present the Council has a SEV policy that allows them to put a vast number of conditions on premises that operate as an SEV and they have much less power to regulate venues under the statutory exemptions. With regards to temporary events notices, only the police could object on public safety grounds. The Licensing Team Leader reiterated that if they were to set a zero limit on SEV's there could still be the same number of SEV's due to the statutory exemption.
- RC questioned whether there would be the same number of SEV's as society was changing and felt that by setting a zero limit on SEV's they would give a better impression of Cheltenham.
- The Licensing Team Leader confirmed that the local authority had no control over statutory exemptions even if there were complaints and that the 2 Pigs had a licence from 8pm during race week.
- In response to a Member question, RC confirmed that whilst they do not have any services during the evening they do have a service at 11am on a Sunday morning and youth events in the evenings from 19:00 – 21:30.
- The Licensing Team Leader agreed to share the minutes from the meeting where the 2 Pigs were granted a licence with the church so that they could see the rationale for the committee's decision.
- TB highlighted that when Cheltenham had hosted burlesque shows and the Chippendales there had been a mixed audience and people felt far less intimidated.
- MS felt that a zero tolerance on SEV's would send a clear message about what Cheltenham stands for and agreed that the wider issues of TEN's needed to be dealt with.

- RC felt that there should be more research done in to what a zero policy might look like from towns that are working towards that.
- One Member advised that they been extremely impressed with the set up at the 2 Pigs when they had visited it during race week, particularly with regards to the security and the safety of the women and the checks carried out on the women to ensure they hadn't been coerced.
- The Licensing Team Leader confirmed that the public consultation on the SEV policy was likely to take place in the lead up to Christmas and the 2 Pigs licence was due for renewal in January.

Session 3 – Eroticats

2 Pigs Licence Holder

- Advised that their policy and procedures were based on advice received from CBC licensing department and they go beyond the standards imposed by the council. This included driving performers home or to their cars, providing them with hot and cold refreshments and a secure cloak room.
- They continually cooperate with the Licensing Team Leader and the police to resolve any issues and take action as appropriate.
- They have additional security staff on during race week.
- The performers register online beforehand, they are then contacted by one of the managers and are asked to provide additional information including proof of ID. They are subject to further background checks to ensure they are not the victim of human or sex trafficking.
- They keep a log to report any issues and fully comply with the equalities act.
- Eroticats felt that CBC's policies and approach were very strict but fully understood why such policies were in place and were more than willing to comply.
- The 2 Pigs were only open on a Friday and Saturday night and the bar staff were given the option to work during race week.
- The performer in attendance who worked for Eroticats and resided in Cheltenham felt that the 2 Pigs was a happy and safe environment, she felt that the security were fully equipped to deal with any issues. She explained that she had never experienced or witnessed any issues and that the security staff were right next to them when they were giving dances. They also had adequate changing facilities and a room to put their belongings which is manned by security.
- The 2 Pigs confirmed that they do allow ladies in to venue and they have a number of women and couples who have dances. They did, however, monitor the type of people coming in to the venue and do not allow entry to those looking for illegal business or those they anticipate causing trouble. He reiterated that they do not turn people away based on their gender.
- The performer advised that there are a number of dancers who are local to Cheltenham, Gloucester, Swindon and the West Midlands, she explained that the races is known as well-run event and so dancers do come from all over to work it. She explained that the club was extremely busy and so it was easy to walk away from any awkward situations or people she knew.

- The Licence Holder explained that they have their own procedures that go beyond the conditions imposed by the council and suggested such conditions be imposed on other establishments to ensure the welfare of dancers.
- They confirmed that the dancers can refuse to dance with anyone and a number of them have female and couple customers.
- In response to a Members question, Eroticats explained that all their dancers were self-employed and that they had a number of male performers on their books. He explained that they emailed all those on their database when they were advising them of the race week event and male performers had the opportunity to sign up. They had also put on 3 or 4 male strip shows in the past.
- On the database they keep a record of everyone who has ever worked for Eroticats including information regarding their conduct and behaviour, they also keep an incidence log and incidents are rated from severe to minor. They have had situations whereby they haven't invited people back.
- The performer confirmed that they had a house mother who was available if any of the girls had any issues.
- They advised that the booths can be made bigger or smaller as they are partitioned by a curtain.
- With regards to the Eroticats van they had agreed the music wouldn't be played past 11pm/12am.
- The Licencee advised that they had had incidents where feminists had attended, however, they had been politely asked to leave as a result of their behaviour towards the girls. They were also known to the door staff and so may have been turned away on occasions when it was anticipated that they would cause trouble. Members suggested that venue keep a log of incidents where the group caused trouble. They advised that they do keep a refusal log, however, those wouldn't be broken down in to groups i.e. feminists. The main reason for refusal was intoxication.
- In response to suggestions that the booths be removed, they explained that single booths made situations easier to manage. All the door staff patrolled the area and could see in to the booths at any one time. They had concerns that if the performers were all in one room customers may act up in front of their friends and security would have less control which would be potentially dangerous for the performers. The performer confirmed that she had more control one on one and wouldn't feel comfortable performing to a room if someone had paid for a service.
- It was confirmed that money for dances was taken at the desk and the performer is then given a token which is safer than them dealing directly with money. They don't generally get tips, however, if they do they declare them to the management. The manager advised they generally encourage them not to accept tips and to carry minimal money on them, if they have over £10 they need to declare it.

Session 4 – Ward Cllrs

- He had long been opposed to SEV's particularly with regards to Fantasy Club. His main concern was that the council had a policy on areas permitted for SEV's and Fantasy had been granted a licence despite the fact it was outside of the permitted area. He felt strongly that the policy with regards to permitted areas should be strictly adhered to.

- He felt that when premises did have licence the regulations were not adhered to and that rather than spreading the councils resources thinly they should just allow premises to operate under a TEN. In particular, he had serious concerns with the management of Fantasy with regards to health and safety and felt there was a lot of anecdotal evidence that girls were performing in order to pay off university fees. From what he had seen girls had been allowed on to the roof to smoke and did not have a chaperone at the end of the evening, they had also lied to the committee about the money they had spent on the venue. From his past experience, the policy hadn't been robust and he saw SEV's as a money making enterprise and the opportunity for cutting corners was rife.
- Members felt that in contrast, the 2 Pigs was extremely well run and managed and the safety of the girls was paramount and suggested Councillor Barnes visit with the licensing officers.
- Within his ward, Councillor Barnes explained that there were a lot of objections to SEV's on moral grounds.
- With regards to the fact that Fantasy was outside of the permitted area, some Members highlighted that the policy was guidance and not necessarily law and if the committee can find justifiable reasons for varying from policy then it can do so.
- The Licensing Officer advised that a venue must pass the health and safety regulations and that when Fantasy was in operation they had visited once or twice a night to check they were adhering to regulations.

Closing Comments

- Reference to fax at 3.2 should be removed
- A discussion was had about 11.4 and sensitive locations, it was agreed that reference to specific sensitive locations should be removed and instead be a catch all.
- It was agreed that the reference to flyering in appendix 1 needed to be revisited as the council are unable to control flyering of venues operating under the exemption.
- The policy should specify how long the signing in register is kept for.
- Venues should have literature in the changing area regarding coercion and the work that GRASAC do.
- Move to challenge 25 rather than 21.
- A condition about door supervisors not touting for business.
- The permitted area for SEV's should be reviewed and brought back to the licensing committee. Some Members felt it should include the area down to the park on Bath Road.



SEV Policy Scrutiny Group – Briefing Paper

Background – SEVs in Cheltenham

Cheltenham Borough Council has licensed and regulated sexual entertainment venues (SEVs) in some form or another for many years.

Prior to 2009, sexual entertainment venues were not licensable and were able to operate largely without any council control. The only requirement would have been a premises licence under the Licensing Act 2003 authorising the sale/supply of alcohol and regulated entertainment such as the performance of dance and playing recorded music.

Prior to the legislative change in 2009, only one SEV operated in Cheltenham which was The Blue Room on St Margaret's Road.

In 2009 the Policing and Crime Act 2009 came into force that introduced for the first time a formal licensing requirement for SEVs. The Blue Room ceased trading in 2011 as a SEV.

In 2013 the first SEV licence was granted to the then Diamond Gentleman's Club on Bath Road. That venue, later known as Fantasy, was licensed until 2017 as a SEV.

In 2016 the council issued a SEV licence to the Two Pigs Pub on Church Street. The Two Pigs Pub continues to be licensed as a SEV to date.

The law change in 2009 also created a statutory exemption for infrequent SEVs. The majority of venues in the town that offer sexual entertainment do so under the statutory exemption.

Legislation

The need for a licence

SEVs are licensed as sex establishments under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 and schedule 3 of the Policing and Crime Act 2009.

“Sexual entertainment venue” is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or

principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Any premises that offers “relevant entertainment” more frequently than once a month, lasting longer than 24 hours at a time, or on more than eleven occasions per year requires a SEV licence.

Premises that offer infrequent “relevant entertainment” (i.e. no more than once/month, lasting no longer than 24 hours on each of these occasions and no more than 11 occasions/year) can do so without the need for a licence and are free from council regulation and control.

Determination

The legislation prescribes the circumstances under which the council can refuse or revoke a SEV licence:

1. Mandatory grounds:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified under paragraph 17(3)¹;
- c) to a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- d) to a body corporate which is not incorporated in the United Kingdom;
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

2. Discretionary grounds:

- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) that the number of sex establishments in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard:
 - i. to the character of the relevant locality; or
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

The council has the power to prescribe conditions. The council’s standard conditions are attached for reference.

¹ Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.

National Guidance

The Government has issued guidance for licensing authorities. The guidance is available online (<https://webarchive.nationalarchives.gov.uk/20100408140149/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>)

Policy

The council has adopted Policing and Crime Act 2009 in so far as it relates to SEVs. The council has also adopted a SEV licensing policy.

The most current version of the SEV policy was adopted in October 2014. [The policy document](#) should be read in conjunction with this briefing note.

It is an overarching principle of the policy that the council does not take any moral stand in relation to the licensing of SEVs. The council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this council's role as the licensing authority to administer the licensing regime in accordance with the law.

Councils are able to set a limit on the number of SEVs it will permit in its administrative area – including a zero limit.

Cheltenham Borough Council's SEV policy has set limits on the number of SEV as follows:

- a) The appropriate number of SEVs for outside of the adopted Central Shopping Area is nil.
- b) The Council has resolved that it will not set a limit on the number of permitted SEVs in the adopted Central Shopping Area providing those premises are not near properties with sensitive uses or in sensitive locations.

Properties with sensitive uses or in sensitive locations are defined as:

- a) The fact that the premises are sited in a residential area;
- b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
- c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
- d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

Equality Issues

An issue that has consistently been raised is that of council's Public Sector Equality Duty (PSED) and its interaction with the licensing of SEVs.

The PSED places a statutory duty on the council, in the exercise of its functions, to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The licensing and regulation of SEVs does fall within the council's PSED and therefore the council must have regard to the matters listed above when, for example, setting policy and issuing licences.

The licensing and regulation of SEVs often creates a tension between the statutory right to operate such a venue and equality issues relating to discrimination and objectification of primarily women.

The starting point for the council is the fact that it cannot take any moral stand in relation SEVs in recognition that Parliament has made it lawful to operate a sex establishment. This starting point however does not mean that the council is therefore bound by the primary legislation at the expense of other statutory requirements.

When setting policy or determining individual applications, the council must have regard to its PSED taking into account the individual merits of each application.

Equality issues may be relevant to (not exhaustive):

1. The need to protect performers from harassment and threat;
2. The need to ensure that any protected characteristic group is not more, or less, welcome than another;
3. The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure;
4. The need to properly understand the relevant locality and the need the need to ensure, taking into account the relevant locality, any protected characteristic group's view is taken into account such as those relevant to religion or belief or race;
5. The need to consider the views and experiences of people with disabilities as a protected characteristic group.

Some or all of these equality issues may be addressed through appropriate conditions and robust enforcement. Equally, the licensing process may also be an important tool to achieve the same outcome, for example, licence reviews and policy changes.

Waivers

Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the council to issue waivers. The effect is that it will remove the requirement for a licence.

The legislation allows an applicant to apply to the Council for a waiver either as part of a substantive application or just for a waiver by itself.

The circumstances that may lead the council to grant a request for a waiver is not clear in the legislation and therefore it should come down to local decision making and policy to define and provide guidance. The general principle should be that regulated activity should be minimal or largely ancillary to something else that is cannot be regarded as relevant entertainment. Examples of this could include some nudity in a burlesque show, shops with a small amount of sex toys and objects and/or ad hoc film festivals where erotic films are shown.

Since the legislation is silent on criteria to be applied when applications for a waiver is submitted, it is appropriate for the council's licensing policy to provide further guidance and set criteria to be applied.

Proposed policy on waivers:

The power to waive licensing requirements is not a substitute for licensing, and applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived in their case.

In considering applications for waivers, the council's general approach will be:

- 1. Waivers must be sought in respect of a temporary events*
- 2. Waivers will not be granted for events that includes relevant entertainment (i.e. striptease, lap-dancing, pole dancing or similar activities) recognising that a statutory exemption already exists for infrequent sexual entertainment*
- 3. Licensable activities (that would normally have required a licence) must principally be ancillary and kept to an absolute minimum to other activities not licensable under the provisions of the 1982 Act*
- 4. Waivers will only be considered, on its merits, in exceptional circumstances*

Applications will be considered by the Licensing and Committee, or delegated sub-committee thereof, and reasons shall be given of the decision taken.

A waiver may be for such period as the Council sees fit. Where the Council grants an application for a waiver, notice will be given to the applicant stating that it has granted the application. The Authority may at any time give a person who would require a licence, notice that the waiver is to terminate, on such date not less than 28 days from the date on which it gives the notice, or as may be specified in the notice.

STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES**General Conditions:**

1. The premises shall only permit adult entertainment between the hours of hours and hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Council shall take place.
3. The agreed activities shall take place only in designated areas approved by the Council.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Any flyers advertising the adult entertainment must not display any photographs or images of the entertainment and any images must be approved by the Advertising Standards Agency and not be handed to persons who look under the age of 21. Any handbills must only be distributed after 19.00hrs with the exception of race days. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.
6. No flyers or similar promotional material for the premises shall be distributed within the Town.
7. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
8. A clear Notice shall be displayed inside the entrance to the premises in the following terms:
“Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises.”
9. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
10. When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.
11. The premises shall maintain a Refusals Log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.

Conditions regarding Performers:

12. Striptease and similar entertainment may only take place in ‘designated areas’ that are marked on the plan of the premises.

13. The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.
14. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.
15. A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised Officers of Cheltenham Borough Council (who will carry identification).
16. During any performance there must be no physical contact between the performer and any member of the viewing public.
17. No performances shall include any sexual act with other performers.
18. No performances shall include any sexual act with objects.
19. There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that the area may be used for performances of sexual entertainment.
20. At the completion of the relevant entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
21. Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
22. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
23. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
24. Entertainers or performers not performing must not be in a licensed area in a state of undress.
25. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.

Briefing:

26. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors:

27. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.
28. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.
29. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
30. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
31. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System:

32. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
33. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
34. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification).
35. No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).
36. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
37. Notices shall be displayed informing customers of the presence of CCTV.



CHEL TENHAM
BOROUGH COUNCIL

SEXUAL ENTERTAINMENT VENUE POLICY STATEMENT

Schedule 3 Local Government (Miscellaneous Provisions Act 1982), as amended by
Section 27 Policing and Crime Act 2009



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Preface

This Policy Statement sets out the authority's requirements for premises to be licensed as Sexual Entertainment Venues ("SEVs") within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") as amended by Section 27 of the Policing and Crime Act 2009.

Adoption of Schedule 3 also allows the Authority to set terms and conditions and fees for the grant, variation, renewal and transfer of such licences and the number of premises to be licensed in an area, which may be nil.

The Authority adopted the original provisions of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 25th April 1983 and the new provisions for SEVs under the amendments of the Policing and Crime Act 2009 on 11th October 2010.

Consultation was conducted with local residents, existing and future potential holders of SEV licences in the Borough, the statutory responsible authorities under the Licensing Act 2003, and holders of Premises Licences and Club Premises Certificates under the Licensing Act 2003 in the Borough.

The Authority does not take any moral stand in adopting this policy. The Authority recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Authority's role as the Licensing Authority to administer the licensing regime in accordance with the law.

In formulating this policy statement consideration has been given to:

- a) The legal requirements of the 1982 Act (as amended);
- b) The Home Office Sexual Entertainment Venues Guidance for England and Wales;
- c) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- d) The Regulators Compliance Code; and
- e) Equality Act 2010
- f) The Provisions of Services Regulations 2009 and associated Department for Business, Innovation & Skills guidance.

The legislation may be viewed here:

<http://www.legislation.gov.uk/ukpga/1982/30>

Local Government (Miscellaneous Provisions) Act 1982 Chapter 30

<http://www.legislation.gov.uk/ukpga/2009/26/section/27>

Policing & Crime Act 2009 Part 2 Section 27 – Regulation of lap dancing and other sexual entertainment venues etc

The Borough of Cheltenham

The Authority is one of six district authorities within Gloucestershire.

The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 117,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

1. Introduction

- 1.1 This policy statement sets out the Authority's guidance, application procedure, terms and conditions relating to the regulation of SEVs.
- 1.2 This policy statement will guide current licence holders, potential licence holders, the public and the Authority when considering applications for SEVs.
- 1.3 This policy statement applies to every type of SEV (as defined in the Act) unless an exemption applies.
- 1.4 Whilst each application will be considered on its individual merits, this policy statement is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken into consideration when determining the application. This policy statement also sets out the expectations of the Authority on the applicant when receiving an application.
- 1.5 Applications for grant or variation and opposed applications to renew and/or transfer, will be determined by the Authority's Licensing Committee. Unopposed applications to renew and/or transfer will be determined by the relevant director in accordance with the Authority's constitution and scheme of delegation.

2. Definitions

The 1982 Act - This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.

SEV - Means Sexual Entertainment Venue as defined by section 27(3) of the Policing and Crime Act 2009.

The Policy Statement - This refers to this policy statement.

The Relevant Locality - Refers to the locality in which an application for a SEV licence has been made in respect of a premises, vehicle, vessel or stall.

The Character of the Relevant Locality - The character of the Relevant Locality where the premises is situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Authority to consider based on local knowledge, factors and circumstances.

The Authority - Means Cheltenham Borough Council.

The Premises - This is the premises, vessel, vehicle or stall which is subject to a SEV licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Permitted Hours - These are the hours of activity and operation that have been authorised under the SEV licence.

3. Waivers

- 3.1 Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the Authority to issue waivers. The effect is that it will remove the requirement for a licence.

- 3.2 The power to waive licensing requirements is not a substitute for licensing, and applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived in their case.
- 3.3 In considering applications for waivers, the Authority's general approach will be:
- 3.3.1 Waivers must be sought in respect of a temporary event.
 - 3.3.2 Waivers will not be granted for events that include relevant entertainment (i.e. striptease, lap-dancing, pole dancing or similar activities) recognising that a statutory exemption already exists for infrequent sexual entertainment.
 - 3.3.3 Licensable activities (that would normally have required a licence) must principally be ancillary and kept to an absolute minimum to other activities not licensable under the provisions of the 1982 Act.
 - 3.3.4 Waivers will only be considered, on its merits, in exceptional circumstances.
- 3.4 Applications will be considered by the Licensing and Committee, or delegated sub-committee thereof, and reasons shall be given of the decision taken.
- 3.5 A waiver may be for such period as the Authority sees fit. Where the Authority grants an application for a waiver, notice will be given to the applicant stating that it has granted the application. The Authority may at any time give a person who would require a licence notice that the waiver is to terminate, on such date not less than 28 days from the date on which it gives the notice, or as may be specified in the notice.

4. Making an Application

- 4.1 An application for the grant, variation, renewal or transfer of a SEV licence must be made in writing to the Authority in accordance with the requirements set out below.
- 4.2 The address at which the Authority will accept applications and notices is:-
- a) By post/personal service to Licensing Section, Cheltenham Borough Authority, Municipal Offices, Promenade, Cheltenham, GL50 9SA;
 - b) By e-mail to licensing@cheltenham.gov.uk;
 - c) On-line via the gov.uk website.
- 4.3 For all enquiries please contact the Licensing team on 01242 262626.

5. Application for the Grant of a Licence

- 5.1 The Authority may grant to any applicant a licence for the use of premises as a SEV on such terms and conditions as specified by the Authority.
- 5.2 To apply for the grant of a SEV licence an applicant must:
- a) Complete an application form;
 - b) Pay the relevant fee;
 - c) Submit a plan of the premises to which the application relates showing, amongst other things, all means of ingress and egress to and from the premises, parts used in common with any other building, and
 - d) Supply details of how the premises lie in relation to the street. (See below)

- e) Submit a site plan scale 1:1250;
- f) Submit drawings showing the front elevation as existing and as proposed to a scale of (1:100) (see below);
- g) Display a notice on or near the premises (see below);
- h) Advertise the application in a local newspaper no later than 7 days after the date of the application; and
- i) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the Authority.

5.3 Application forms are available from www.cheltenham.gov.uk/licensing

6. Plans

6.1 The plan of the building, unless agreed in writing beforehand, must comply with the following:

The plan shall be drawn at a scale of 1:100 and shall show:

- a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- b) The location of points of access to and egress from the premises;
- c) If different from paragraph (1)(b), the location of escape routes from the premises;
- d) In a case where the premises is used for more than one existing activity the area within the premises used for each activity;
- e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- h) The dressing room of performers;
- i) The area where performances take place;
- j) Any private screened area where a performance(s) take place;
- k) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- l) The location and type of any fire safety and any other safety equipment; and
- m) The location of a kitchen, if any, on the premises.
- n) The area(s) to be licensed must be clearly identified by outlining these areas in red.

6.2 The plan must include a legend through which the matters mentioned are sufficiently illustrated by the use of symbols on the plan.

7. Public Notices

7.1 A notice must be displayed at or on the premises to which the application relates for a period of no less than 21 consecutive days beginning with the date of the application, where it can be conveniently read from the exterior of the premises.

7.2 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

- 7.3 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 7.4 The notice must state:
- a) the details of the application and activities that it is proposed will be carried on or from the premises;
 - b) the full name of the applicant;
 - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified;
 - d) the date, being 28 days after that on which the application is given to the authority, by which objections may be made to the authority and that the objections should be made in writing;
 - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.
- 7.5 A similar notice must be published in a local newspaper circulating in the area within 7 days of giving the application to the authority

8. Variation of a Licence

- 8.1 The holder of a SEV licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 8.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.
- 8.3 Application forms are available from www.cheltenham.gov.uk/licensing

9. Renewal of a Licence

- 9.1 The holder of a SEV licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.
- 9.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
- 9.3 The authority will not accept applications for the renewal of a SEV licence more than 3 months in advance of the renewal date.
- 9.4 The authority will determine renewal applications on individual merits taking into account the facts of the application and any objections received. Opposed applications will be referred to the authority's licensing committee for determination. The Courts have confirmed that authorities are entitled to look afresh at renewal applications and, accordingly, it is open to the authority to refuse to renew a licence even where there has been no change in the character of the relevant locality, or in the use to which any premises in the locality are put.

10. Transfer of Licence

- 9.1 A person may apply for the transfer of a licence at any time.
- 9.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

11. Determination

11.1 Mandatory Grounds for Refusal

11.1.1 A licence will not be granted:

- a) to any person under the age of 18 years;
- b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to any person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

11.1.2 If the authority finds any of these grounds apply then it must refuse the application.

11.2 Discretionary Grounds for Refusal

11.2.1 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) that the grant or renewal of the licence would be inappropriate, having regard:-
 - to the character of the relevant locality; and/or
 - to the use to which any premises in the vicinity are put; and/or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

11.2.2 Applications for the transfer of an issued SEV licence may only be refused on grounds (a) and (b) above.

11.2.3 Any decision to refuse a licence must be relevant to one or more of the above grounds.

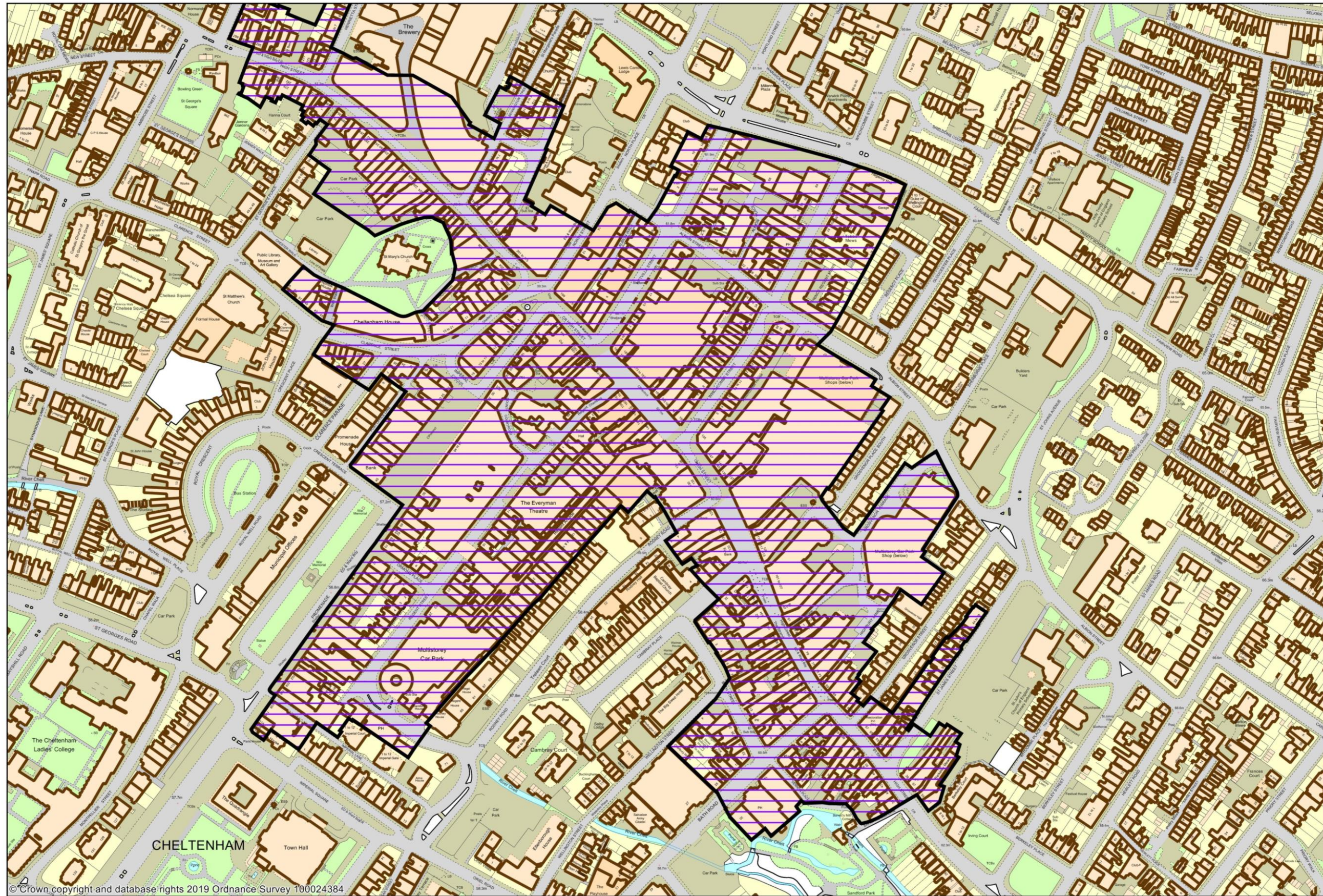
12. Location of Premises

12.1 In deciding the appropriate number of premises to be licensed, the authority must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'.

12.2 Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority's policy therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the Designated Permitted Area is nil.

12.3 The authority recognise however that the Designated Permitted Area offers a more varied situation in as much as it has a much wider mix on offer, particularly in the night time economy and it may therefore be appropriate to consider applications for SEVs in the area. The authority has therefore resolved that it will not set a limit on the number of permitted SEVs in the Designated Permitted Area providing those premises are not near properties with sensitive uses or in sensitive locations (see 11.4).

Designated Permitted Area (shaded)



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Fig 1 – Designated Permitted Area (shaded)

Properties with sensitive uses or in sensitive locations

- 12.4 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, the authority shall consider, amongst other things, whether the grant of the application would be appropriate, having regard to:
- a) The fact that the premises are sited in a residential area;
 - b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
 - c) Whether the premises are sited near properties which are sensitive for religious; and/or
 - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families.
- 12.5 When determining an application for the grant of a SEV licence, the authority shall have regard to the policy statement, the relevant guidance issued by the Home Office and provisions set out above, but subject to the overriding principle that each application will be determined on its merits.
- 12.6 Applications in respect of premises must state the full address of the premises.
- 12.7 Applications in respect of a vehicle, vessel or stall must state where it is to be used as a SEV.
- 12.8 The authority would normally expect that applications for licences for permanent commercial premises would have the appropriate planning consent for the property concerned.
13. Granting a Licence
- 13.1 All applications for the grant of a new SEV licence will be referred to the authority's Licensing Committee for determination.
- 13.2 In determining the application, the Licensing Committee will have regard to this policy statement, any limitation on the number of permitted SEVs, the merits of the application and any objections, if any, that have been made.
14. Objections
- 14.1 When considering an application for the grant, renewal, variation or transfer of a SEV licence the authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory consultation period.
- 14.2 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 14.3 Objections should not be made on moral grounds or values and the authority will not consider objections that are not relevant to the grounds mentioned above.
- 14.4 Objectors must give notice of their objection in writing, stating the general terms of the objection.

- 14.5 Where the authority receives notice of any objection it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the authority shall not without the consent of the person making the objection reveal their name or address to the applicant.
- 14.6 Objections may only be made within the period of 28 days following the date on which the application was made to the authority.
15. Hearings
- 15.1 Where applications are referred to a Licensing Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 15.2 The hearing provides all parties to the application, including those making objections, the opportunity to air their views openly and those views will be considered by the Licensing Committee.
16. Appeals
- 16.1 There is no right of appeal:
- a) Against the mandatory grounds for refusal as detailed in section 11.1.1 (a), (b), (c), (d), and (e) above, unless the applicant can prove that the ground of refusal does not apply to them, and
 - b) Against the grounds as detailed in Section 11.2.1 (c) and (d) which can only be challenged by the applicant by way of judicial review.
- 16.2 All relevant grounds for appeal, other than these detailed at point (a) and (b) above can be made to the Magistrates Court within 21 days from the date on which the person is notified of the decision.
17. Fees
- 17.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement in relation to licensed operators, inspections and any hearings and are not refundable.
18. Standard Conditions
- 18.1 The Standard Conditions for Sexual Entertainment Venues are attached at Appendix 1.
19. Specific Conditions
- 19.1 Under schedule 3(8) of the 1982 Act the authority may grant to an applicant, and from time to time renew, a licence for SEV on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of SEV licence.
20. Duration of Licence

20.1 The authority, unless there are exceptional circumstances for doing so, shall grant a licence for the maximum duration of one year at a time, to provide certainty to those persons operating businesses.

21. Exempt Sexual Entertainment Code of Practice

21.1 The Government has seen fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the authority recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection & safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.

21.2 Whilst the authority cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an Exempt Sexual Entertainment Code of Practice. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The authority expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.

21.3 A copy of the code of practice is attached at **Appendix 2** of this policy statement.

22. Review

22.1 This policy statement will be reviewed at least once every three years.

APPENDIX 1

STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES

In these conditions:

‘Relevant Entertainment’ means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

‘Authority’ means Cheltenham Borough Council.

‘Town’ means Cheltenham and refers to it in its entirety.

‘Premises’ means any vessel, vehicle, stall, building, forecourt yard, place of storage or any part of any of these where Relevant Entertainment takes place and is the subject of a licence.

In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

General Conditions:

1. The premises shall only permit adult entertainment between the hours of 20:00 hours and 04:00 hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Authority shall take place.
3. The agreed activities shall take place only in designated areas approved by the Authority.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

Advertisements, solicitation and displays

6. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements that indicate or suggest that any form of Relevant Entertainment takes place on the premises. This includes the display of any advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) including in any of the following ways:
 - a) by means of personal solicitation in the locality of the licensed premises;
 - b) by means of leafleting in the locality;
 - c) by means of externally displayed advertisement (such as on billboards or posters) in any part of the Council’s administrative area.
 - d) by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

Premises

7. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.
8. A clear Notice shall be displayed inside the entrance to the premises in the following terms:
9. *“Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises.”*
10. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
11. When the premises are open for Relevant Entertainment no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 25 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

Management and licensee

12. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Authority within 14 days of such change.
13. The premises shall maintain a refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Authority.

Conditions regarding performers

14. Relevant Entertainment may only take place in ‘designated areas’ that are marked on the plan of the premises.
15. The audience must at all times remain fully-clothed.
16. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.
17. A ‘Signing-in’ Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised officers of the Authority.
18. During any performance there must be no physical contact between the performer and any member of the viewing public.
19. No performances shall include any sexual act with other performers.
20. No performances shall include any sexual act with objects.

21. There shall be no nudity by performers in public areas of the premises, unless the Authority has agreed in writing that the area may be used for performances of sexual entertainment.
22. At the completion of the Relevant Entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
23. Performers are not to solicit, exchange addresses, telephone numbers or social media contact details with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
24. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
25. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
26. Entertainers or performers not performing must not be in a licensed area in a state of undress.
27. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.
28. Literature and contact details of organisations that provide advice and counselling on matters relating to:
 - (a) Modern slavery,
 - (b) Domestic abuse,
 - (c) Coercive control,
 - (d) Rape and sexual assault,

shall be made available to performers free of charge in their changing area.

Briefing

29. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors

30. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Relevant Entertainment is taking place.
31. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with licence conditions by customers and performers.

32. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
33. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
34. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System

35. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
36. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
37. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Authority (who will carry identification).
38. No CCTV footage is to be copied, given away or sold (except as required by Police/Authority for investigation/enforcement purposes).
39. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
40. Notices shall be displayed informing customers of the presence of CCTV.

APPENDIX 2 - Sexual Entertainment Code of Practice

1. Operators/licensees will notify the Authority & Police Licensing Sections of events where sexual entertainment is due to take place.

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2. All sexual entertainment should only take place in one designated area inside the premises, and this shall not be visible from outside the premises.
3. Private performances should only take place inside screened-off private booths. However, the front of these booths must not be covered or obstructed, so that managers and SIA door-supervisors are able to monitor activity inside the booths.
4. A clear notice should be displayed inside the entrance to the designated area stating: "Sexual entertainment takes place on these premises. No persons under 18 shall be admitted."
5. Scantily clad individuals performing in the premises must not exhibit themselves in the entrance to or in the vicinity of the premises and individuals not performing shall not remain in any area in a state of undress.
6. Customers must at all times remain fully-clothed.
7. During any performance there must be no physical contact between the performer and any member of the viewing public/private customer.
8. No performance shall include any sexual act with other performers, customers or viewing public.
9. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only.
10. A minimum of one SIA registered door supervisor shall be employed in the designated area where sexual entertainment is taking place and they shall intervene promptly to ensure compliance with these rules.
11. The area in which sexual entertainment is to take place shall be covered by CCTV from which footage shall be stored for a minimum of 14 days and produced to Police or Authority officers on request.
12. A list of all performers shall be available on the premises for immediate production if requested by Police or Authority officers. This list shall contain full names, dates of birth and contact details (address or telephone number).
13. Rules 2, 3, 5,7,8,9 and 10 shall be drawn to the attention of all performers and promoters prior to activity commencing.

Rules 6, 7 and 8 shall be prominently displayed to customers at appropriate locations within the premises.

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Community impact assessments – for services, policies and projects

What is a community impact assessment?

A community impact assessment is an important part of our commitment to delivering better services for our communities. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our communities, as well as employees and potential employees.

By undertaking an impact assessment, we are able to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

Background

Name of service / policy / project and date	Licensing
Lead officer	Louis Krog
Other people involved in completing this form	

Step 1 - About the service / policy / project

<p>What is the aim of the service / policy / project and what outcomes is it contributing to</p>	<p>The council's sexual entertainment policy review is part of the council's normal work to review and update policy. Regular policy reviews are necessary to ensure policy remains effective and up to date as a regulatory tool.</p>
<p>Who are the primary customers of the service / policy / project and how do they / will they benefit</p>	<p>The policy sets out the council approach to the regulation of sexual entertainment in Cheltenham as a whole. To this extent, every resident of the borough is affected to varying degrees. For example, the policy sets out where the council will permit the licensing of sexual entertainment venues and conversely where it will not.</p> <p>This policy also affects operators of sexual entertainment venues (SEV) as primary customers.</p>
<p>How and where is the service / policy / project implemented</p>	<p>The policy will undergo political scrutiny through Cabinet, licensing committee and Council.</p>
<p>What potential barriers might already exist to achieving these outcomes</p>	<p>There are strong opinions on the provisions set out in the policy from both sides of the argument. There is strong opposition to sexual entertainment in Cheltenham and the council's role as licensing authority in this. There is equal recognition that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries.</p> <p>Within this context however, the Council does not take any moral stand in adopting this policy. It is this council's role as the licensing authority to administer the licensing regime in accordance with the law.</p>

Step 2 – What do you know already about your existing / potential customers

<p>What existing information and data do you have about your existing / potential customers e.g. Statistics, customer feedback, performance information</p>	<p>Residents and business of Cheltenham regularly engage in the licensing process, mostly as objectors.</p> <p>The council has also undertaken a scrutiny session with key stakeholders to gather information and data to support and inform the most recent policy review.</p>
<p>What does it tell you about who uses your service / policy and those that don't?</p>	<p>The conclusion of the review process including the scrutiny session has led the council not to propose any substantial changes to the current policy position. The main objection to sexual entertainment in Cheltenham relates to primary legislation which is outside of the council's control.</p>
<p>What have you learnt about real barriers to your service from any consultation with customers and any stakeholder groups?</p>	<p>See above.</p>



If not, who do you have plans to consult with about the service / policy / project?	A more formal consultation will follow and this equality impact assessment will be updated accordingly at the conclusion of the consultation.
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Step 3 - Assessing community impact

How does your service / policy / project impact on different groups in the community?

Group	What are you already doing to benefit this group	What are you doing that might disadvantage this group	What could you do differently to benefit this group	No impact on this group
People from black and minority ethnic groups				No direct or specific impact on this group.
People who are male or female	The council's policy is non-discriminatory. It does not restrict itself to specific gender or orientation.	<p>From consultation, the authority is aware that females in particular feel disadvantaged by the sexual entertainment and licensing of SEVs.</p> <p>This is manifested in both a general sense of feeling objectified and more specifically through feeling intimidated and unwelcome in the vicinity of licensed SEVs.</p>	<p>From experience of licensing SEVs since 2004 (when they were first formally regulated), there is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group.</p> <p>A number of policy conditions have been tightened up to address some concerns raised through informal consultation including those relating to behaviour and duties on door and promotional staff and promotional activity in the vicinity of licensed SEVs.</p>	
People who are transitioning from one gender to another				No direct or specific impact on this group.
Older people / children and young people	Licensing policy gives particular attention and consideration to properties with sensitive	Exposure to sexual entertainment is inappropriate particularly for children and young	From experience of licensing SEVs since 2004 (when they were first formally regulated), there	



	<p>uses or in sensitive locations including</p> <ul style="list-style-type: none">a) The fact that the premises are sited in a residential area;b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;c) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets. <p>The licensing policy also does not permit the licensing of SEVs in or in the vicinity of residential areas.</p>	<p>people. Whilst there are safeguards in place, children and young people may find themselves in the vicinity of licensed SEVs.</p> <p>Older people may feel intimidated and vulnerable around or in the vicinity of licensed SEVs.</p>	<p>is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group. This is backed up by data.</p> <p>A number of policy conditions have been tightened up to address some concerns raised through consultation including those relating to the restriction on leafleting, promotional activity in the vicinity of licensed SEVs and review of the "relevant locality".</p>	
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	A number of the council's standard licensing conditions address the potential exposure to sexual entertainment of this group including minimum age requirements, public notices, opening times and requirements relating to the appearance of SEV venues.			
People with disabilities and mental health challenges				No direct or specific impact on this group.
People who have a particular religion or belief	<p>Licensing policy gives particular attention and consideration to properties with sensitive uses or in sensitive locations including:</p> <p>a) Whether the premises are sited near properties which are sensitive for religious purposes.</p>	The authority may (and have) granted licences for SEVs in the vicinity of properties which are sensitive for religious purposes.	<p>Each application is referred to the authority's licensing committee who will take into consideration the full scope of issues before making decisions particularly in cases where the grant of the licence is contrary to policy.</p> <p>This includes full consideration of the opposing views and any mitigation.</p> <p>Full reasons are given for any decision and this is subject to legal challenge.</p>	
People who are attracted to their own sex, the opposite sex or to both sexes.				No direct or specific impact on this group.



People who are married or in a Civil Partnership				No direct or specific impact on this group.
People who are pregnant or who are on maternity leave				No direct or specific impact on this group.
Other groups or communities – Performers	The council's licensing policy, standard conditions and scrutiny of licence holders directly relates to the wellbeing and safeguarding of performers.	<p>There is an inherent risk for performers given the environment they operate in.</p> <p>This is not as a direct cause of anything the authority is responsible for but is within the authority's power to regulate.</p>	From experience of licensing SEVs since 2004 (when they were first formally regulated), there is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group. This is backed up by data, for example, from Gloucestershire Constabulary on any reported crime, disorder and welfare.	

Step 4 - what are the differences

Are any groups affected in different ways to others as a result of the service / policy / project?	Yes – see above (Assessing community impact)
Does your service / policy / project either directly or indirectly discriminate?	No for the reasons set out above (Assessing community impact)
If yes, what can be done to improve this?	N/A
Are there any other ways in which the service / project can help support priority communities in Cheltenham?	Yes – see above (Assessing community impact > What could you do differently to benefit this group)

Step 5 – taking things forward

What are the key actions to be carried out and how will they be resourced and monitored?	<p>Formal consultation will follow and feedback will be taken into account prior to any decision on the authority's policy moving forward.</p> <p>No additional resource requirements have been identified.</p> <p>Performance and scrutiny of this policy will be undertaken through the authority's adopted processes and accountability in terms of decision making by officers and the Licensing Committee.</p>
Who will play a role in the decision-making process?	Cabinet, Council, Licensing Committee and licensing officers (in accordance with delegation under the constitution).
What are your / the project's learning and development needs?	None identified.
How will you capture these actions in your service / project planning?	N/A

Cheltenham Borough Council Cabinet – 11 February 2020 Adoption of revised Street Trading Policy

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mike Redman, Director of Environmental & Regulatory Services
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The council’s current street trading policy was approved on 12 February 2016. In May 2019 the Cabinet Member for Development and Safety approved a draft policy for consultation.</p> <p>Consultation has now been completed and this report seeks approval from Cabinet to adopt and implement the revised street trading policy.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the amendments to the current policy; 2. Note the consultation feedback and officer comments; 3. Adopt the revised policy for implementation.

Financial implications	<p>There are no financial implications of the amendments to this policy.</p> <p>Contact officer: Andrew Knott, Andrew.Knott@publicagroup.uk, 01242 264121</p>
Legal implications	<p>Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows licensing authorities to control street trading activities within their area. Cheltenham Borough Council designated the whole of the borough a consent area. The proposed new street trading policy must be in accordance with the powers granted in Section 3 and Schedule 4 of the LGMP Act 1982.</p> <p>Contact officer: Vikki.Fennell@tewkesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>There are no HR implications of the amendments to this policy.</p> <p>Contact officer: Clare Jones, Clare.Jones@publicagroup.uk, 01242264364</p>
Key risks	As outlines in Appendix 2

Corporate and community plan Implications	As outlined in the report
Environmental and climate change implications	As outlined in the report
Property/Asset Implications	N/A Contact officer: Dominic.Stead@cheltenham.gov.uk

1. Background

- 1.1 The authority's current street trading policy was approved by Cabinet on 12 February 2016.
- 1.2 The current policy sets out a commitment to keep the policy under review and proposes revisions where they are deemed necessary, but in any event to review the policy at least every three years.
- 1.3 In accordance with the above, a review of the current policy was undertaken and Cabinet is asked to consider the policy revisions, consultation feedback and approve the draft revised policy for adoption.
- 1.4 A copy of the draft revised policy is attached at **Appendix 2** for reference.

2. Statutory Framework

- 2.1 The authority has adopted schedule 4 of Local Government (Miscellaneous Provisions) Act 1982 ("the Act") to apply in the borough. Schedule 4 of the Act enables the council to control street trading in the borough.
- 2.2 As part of the adoption, the authority has designated all streets in the borough as consent streets meaning that no street trading can take place anywhere in the borough without the authority's consent.
- 2.3 There is no statutory responsibility on the authority to adopt a policy but it is considered good practice as it clearly sets out the authority's approach to local street trading regulation and provides guidance to licence holders, prospective licence holders and Members.

3. Policy Review

- 3.1 The authority's current policy approach prescribes a number of permitted trading locations and goods that can be sold at these locations. Whilst this approach was the right one in 2016, the public realm has changed, as has the authority's approach to managing it.
- 3.2 Accordingly, the revised policy seeks to adopt a more flexible approach. The draft revised policy still allocates permitted trading locations (called "zones") but, instead of also prescribing goods to be sold there, it provides flexibility for traders to approach the authority with proposals.
- 3.3 Street licensing "zones" provide a number of advantages over the existing policy:
 - They cover a wider footprint than the previous plots, and therefore can accommodate more street trading. This also provides back-up options to those traders who miss out on a particular area if it is already booked.
 - They open up areas that are currently used for street trading, but are not actually a plot. This may encourage new street traders to make applications in these areas.
 - They cluster street traders closer together. This gives them presence, rather than isolation, and may encourage greater footfall.
 - They provide applicants with more flexibility in choosing a particular area within a zone.
 - They are high profile locations within the town centre.
 - Zones help to reimagine particular areas of public realm. Within zones, there is an opportunity to move street furniture items to accommodate street trading – particularly for

market events.

- 3.4 Trading applications will be determined against revised assessment criteria as outlined in the revised policy (4.2).
- 3.5 In addition, the authority also proposed a number of changes to the current policy in respect of:
 - 3.5.1 The sale of real fur;
 - 3.5.2 Environmental credentials of street traders and trading activities; and
 - 3.5.3 Revising consultation periods.

4. Consultation

4.1 Consultation on the revised policy was undertaken between June and August 2019. A copy of the consultation feedback and officer response is attached at **Appendix 3** of this report.

4.2 Consultation was undertaken with:

- Existing consent holders
- The Licensing Committee
- Members of Cheltenham Borough Council
- Parish Councils
- Director of Environment
- Gloucestershire Highways
- Head of Planning
- Public Space Design Team
- Conservation & Heritage Manager
- Cheltenham Business Improvement District
- Chief Officer of Police
- The residents of Cheltenham

4.3 A number of specific issues have arisen from the consultation feedback, of note:

- a) Ban on the sale of real fur – A number of respondents noted that whilst a ban is right, it needs to be enforced properly to be effective. One respondent raised in particular issues around training to differentiate between fake and real fur and penalties for breaches of any such ban.

It is proposed that the authority amends the standard conditions attached to consents to include a new condition that will place the onus on the consent holder to ensure that they do not sell or permit the sale of real fur when relying on a trading consent issued by the authority.

This will allow the council the discretion to review and / or revoke consents in cases where this condition has been breached.

- b) Phasing out the use of single use plastics – The proposal to phase out single use plastics associated with street trading presents a more complex picture. Respondents to the consultation have pointed out that whilst they support the principle of it:
 - a. alternatives are not always better or accessible
 - b. examples of certain alternatives not being easily recycled or not recyclable at all
 - c. increased carbon footprint for alternatives
 - d. the need to phase in any such ban particularly for smaller businesses.

4.4 Whilst the authority is still firmly of the view that phasing out single use plastics is appropriate, the practical implications of this requires more work and research. It is proposed therefore that officers bring back a policy in respect of this to Cabinet at a later date in 2020 for consideration.

5. Reasons for recommendations

5.1 To ensure the authority’s regulation of street trading activities remains relevant and continues to support the changing nature of public realm improvements around town.

6. Alternative options considered

6.1 Cabinet can decide not to approve the revised policy document. However, this is likely to result in an outdated policy document and regulatory environment.

6.2 Alternatively, Cabinet can decide to make changes prior to approving the revised policy document.

7. How this initiative contributes to the corporate plan

7.1 Continuing the revitalisation and improvement of our vibrant town centre and public spaces.

7.2 Achieving a cleaner and greener sustainable environment for residents and visitors.

8. Performance management – monitoring and review

8.1 The performance of the policy will be measured against the stated aims of the policy.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 264177
Appendices	<ul style="list-style-type: none"> 1. Risk Assessment 2. Revised policy 3. Consultation feedback
Background information	<ul style="list-style-type: none"> 1. Cheltenham Borough Council street trading policy adopted 12 February 2016 2. Draft revised street trading policy document approved for formal consultation, 30/05/2019, Cabinet Member for Development & Safety

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If Cabinet does not approve the proposed revised policy, it will result in an outdated policy document and regulatory environment for street trading.	Director of Environment	May 19	2	3	6	Accept	Report recommendations		Licensing Team Leader	
	If Cabinet does not approve the proposed revised policy, the council could face legal challenges to its policy adoption and regulation.	Director of Environment	May 19	2	2	4	Accept	Report recommendations		Licensing Team Leader	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											



CHELTENHAM
BOROUGH COUNCIL

Street Trading Licensing Policy



All enquiries should be directed to:

Licensing Section
Municipal Offices
Promenade
CHELTENHAM
GL50 9SA

Tel: 01242 262626
E-mail: licensing@cheltenham.gov.uk
Website: www.cheltenham.gov.uk/licensing

This Policy was approved on xxx

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1. Purpose of the Policy

This policy sets out Cheltenham Borough Council's ("the authority") framework and approach for the management of street trading in the borough.

Through the street trading scheme the authority aims to control:

1. the location of street traders;
2. the number of street traders; and

The scheme also aims to:

1. prevent unnecessary obstruction of the highway by street trading activities;
2. sustain established shopkeepers in the town;
3. maintain the quality of the townscape and add value to the town; and
4. encourage inward investment.

In doing so, the authority recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause public or statutory nuisance to the people in the area.

This policy will guide the authority when it considers applications for street trading consents. It will inform applicants of the criteria against which applications will be considered.

2. Review of the Policy

It is the intention that this policy will be reviewed every 3 years or more frequently should it be deemed necessary.

3. Legislation & Designation of Streets

The authority has resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") should apply in the borough. Under Schedule 4 of the 1982 Act, the authority can regulate street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

The authority has designated the entire borough as consent streets. A 'consent street' is a street in which street trading can only take place if consent from the authority has first been obtained.

It is a criminal offence to engage in street trading in a consent street without consent.

There are currently no licence streets or prohibited streets within the borough.

4. The Licensing and Determination Process

This part of the policy sets out how the authority will deal with applications for consent in the borough.

Applications can be made for:

1. a “Fixed Pitch” (see “Permitted Locations” below);
2. a “Roaming Consent” (Borough wide consent when a schedule of stops/streets is included with the application i.e. ice cream vans etc.)

4.1 Permitted Locations

Consents are limited to the sites identified in **Annex 1**.

Sites can remain with the same person for a number of years. In the event of the consent being revoked, surrendered or if it lapses without being renewed, the authority will accept new applications for the vacant site. This might be at any time of the year.

If more than one application is received for any new or vacant pitch, the applications will be referred to the authority’s licensing committee to consider the applications. The applications will be assessed against the authority’s Assessment Criteria.

4.2 Assessment Criteria

In considering applications for the grant or renewal of a consent, the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other established retailers within vicinity. This criterion permits the authority to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The authority does however recognise that the surrounding retail offer is subject to change, therefore, it will apply this criterion to applications for new or renewal applications.
- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public, or properties in the vicinity, from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

The authority would expect a minimum of 6 feet (1.8m) of unobstructed highway/walkway on at least one side of the proposed trading unit/location.

- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street and street scene rather than detract from it and be constructed in a suitable scale, style and using appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed.

The authority will generally not permit trading units where the unit fully, or substantially, blocks lines of sight to established retailers in the vicinity.

Any street trading operation which negatively impacts public access by walking, cycling or public transport will not generally be accepted.

- **Environmental Credentials** - The impact of the proposed operation on the local environment, including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation and recycling, waste disposal and waste created by customers.

The authority will encourage the use of sustainable products and will consider the trader's environmental credentials in respect of these when considering whether or not to approve applications. The authority will expect applicants to submit environmental statements setting out how the applicant will operate in an environmentally sustainable way.

5. Renewals

Consents are issued for a period of up to one year.

Consent holders should re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent. As a matter of convenience, the authority will send renewal reminders to consent holders.

However, the authority is clear that it remains the consent holder's responsibility to ensure that their consent is renewed in time.

If, without reasonable excuse, a renewal application is not made before the expiry of the current consent it will expire and the pitch will become available. A new application must be submitted in accordance with the procedure set out above ("Application for Consent – Permitted Locations").

The authority may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

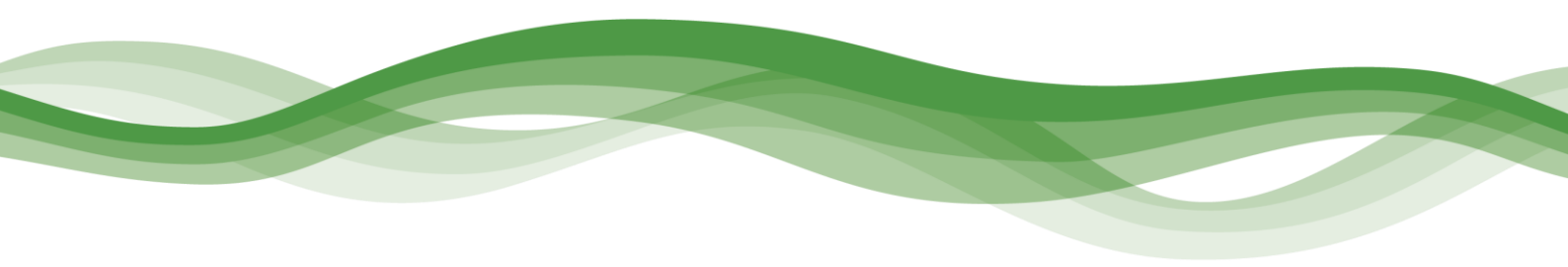
Where a renewal application has been made and:

1. there have been no significant complaints or enforcement issues;
2. all fees have been paid on time; and
3. there has been no significant change to the retail environment in the vicinity of the trading location

the consent will normally be renewed.

6. Transfers

An issued consent can be transferred. Written consent will need to be obtained using the authority's adopted form available on the website at <https://www.cheltenham.gov.uk/licensing>.



7. Special Events

The authority recognises that there may be times when consent may be sought otherwise than in accordance with the policy for special one-off events.

These may include, for example, one-off charitable or promotional events.

Applications of this type will be determined on a case-to-case basis taking into account the assessment criteria set out above.

8. Markets

Street trading associated with markets will require individual consent applications from individual traders. The market operator can act as an agent for individual traders by submitting a single application on behalf of all the traders on the market.

Please refer to the authority's website for further information on the application process (<https://www.cheltenham.gov.uk/licensing>).

On dates and/or in locations where applications have been made for trading associated with markets, the authority will only permit traders associated with that market.

9. Conditions

Consents are issued subject to the authority's standard conditions. See **Annex 2** for the authority's standard conditions.

In addition, the authority can impose additional conditions where it is deemed appropriate.

10. Enforcement

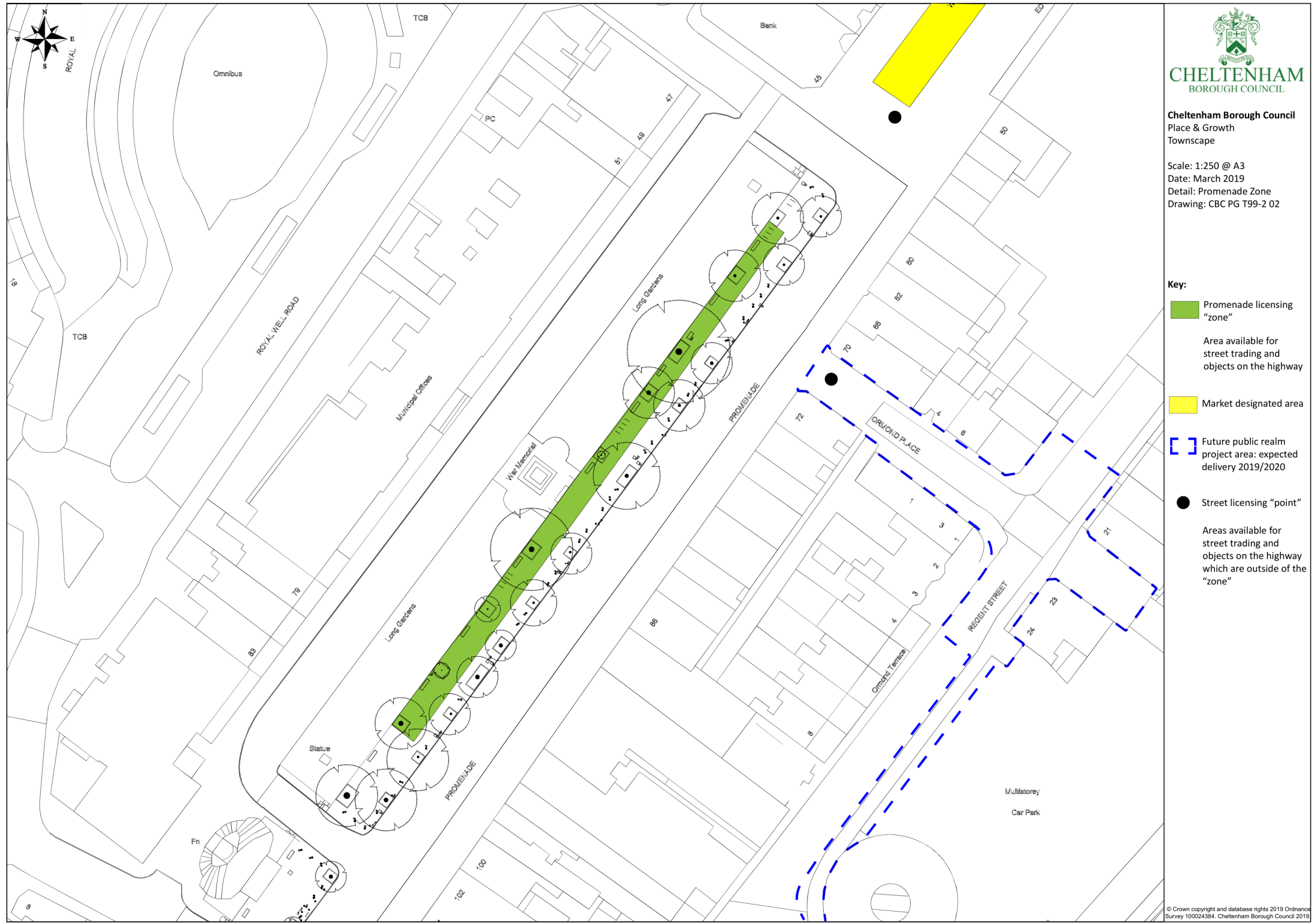
The authority has a responsibility to regulate street trading in the borough and is therefore committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies.

All enforcement action will be undertaken in accordance with the authority's adopted enforcement policy available on the website at <https://www.cheltenham.gov.uk>.



Annex 1

CBC PG T99-2 02 Promenade Zone



CBC PG T99-2 03 High Street Zone



CBC PG T99-2 04 Cambray Zone




Annex 2 – Standard Conditions

1. Definitions

- 1.1 “Consent” means this Street Trading Consent issued pursuant to Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 “Consent holder” means the person named in this Consent and for the purpose of enforcing these conditions includes any other person engaged by them to assist in trading (including any Nominated Assistant(s) named in this Consent).
- 1.3 “Council” or “the authority” means Cheltenham Borough Council.
- 1.4 “Site” means the site identified in this Consent.
- 1.5 “Unit” means the unit described in this Consent.

2. Obligations on the Consent holder

- 2.1 Not to use the Site for any purpose other than that of the operation of the Unit.
- 2.2 Not to trade or operate the Unit in such a way as to cause obstruction of the street or danger or annoyance to persons using the street.
- 2.3 To adequately manage the street trading activity so as not to cause a statutory or public nuisance (from noise, fumes and odour, for example).
- 2.4 To ensure that the Unit is securely erected, is of such material and design, and so constructed and maintained that it is not liable to cause injury to any person present on the Site or otherwise.
- 2.5 To pay to the Council the cost of making good any damage which may be caused to the Site in consequence of the Consent Holder’s operations thereon.
- 2.6 To keep the Site in a clean and tidy condition and to pay to the Council the cost of carrying out any works, including cleansing of the highway, that is required due to the Consent Holder’s use of the Site.
- 2.7 The Consent Holder will be responsible for cleansing of the Site and ensuring that all refuse arising as a result of the activities of the Consent Holder shall be placed in suitable covered containers provided by the Consent Holder, unless otherwise provided by the authority, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and disposed of in an approved manner on a daily basis.
- 2.8 To observe all statutory and other provisions and regulations for the time being in force which relate to the Consent Holder’s use of the Site.

- 2.9 So far as is reasonable to ensure that patrons or customers of the Consent Holder conduct themselves in an orderly manner.
 - 2.10 To ensure that the use and storage of liquefied petroleum gas complies with any relevant codes of practice.
 - 2.11 The Consent Holder shall ensure that liquefied petroleum gas is not used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.
 - 2.12 The Consent Holder shall ensure that goods may not be of an inflammable, corrosive or otherwise dangerous nature.
 - 2.13 The Consent Holder shall ensure that no mobile generators are used without the express permission of the Council. Where permission is granted generators shall be so positioned that they do not present a danger to the public, do not present a fire or similar hazard to the stall, goods displayed thereon, or adjoining premises and do not cause any contamination, noise or fume nuisance.
 - 2.14 The Consent Holder shall ensure that a competent person installs all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
 - 2.15 The Consent Holder shall ensure that no combustible materials are to be stored in the vicinity of a generator and suitable first aid fire fighting appliance(s) must be immediately available.
 - 2.16 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
 - 2.17 All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
 - 2.18 All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported.
 - 2.19 All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
 - 2.20 To ensure that the dimensions and appearance of the Unit at all times accord with the details agreed by the Council upon the issue of this Consent.
 - 2.21 To maintain the Unit in a clean and tidy condition.
 - 2.22 To indemnify the authority from all claims, damages and costs in respect of all spillages, accidents, damage and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act, neglect or default of the Consent Holder, his
- 

servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000.

- 2.23 At all times while trading to display in a conspicuous position on the Unit the street trading permit issued by the Council.
- 2.24 To forthwith inform the Council in writing of the details of any change in the operation or staffing of the Unit (including changes in details of Nominated Assistants) or the sale or transfer of the Consent Holder's business to another party.
- 2.25 The Consent Holder(s) shall notify the Council's Licensing Section within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
- 2.26 The Council may revoke or suspend this Consent at any time in the event of:
- The breach by the Consent Holder, their servants or agents (included Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the authority; or
 - Work being carried out in, under or over the highway on which the Unit is located; or
 - A change in Council Policy which necessitates termination of this Consent; or
 - Circumstances outside the authority's control which necessitate termination of this Consent forthwith.
- 2.27 The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
- 2.28 The Consent Holder(s) shall not sell or permit the sale of any products containing or made up of real animal fur.



SPECIAL CONDITIONS FOR MOBILE ICE CREAM TRADERS

Trading prohibited in the following streets or parts of streets:

- a) High Street (from Sandford Park entrance to Townsend Street)
- b) Promenade (from High Street to Montpellier Walk)
- c) Clarence Street
- d) North Street
- e) Pittville Street
- f) Regent Street
- g) Rodney Road
- h) Winchcombe Street (from High Street to Warwick Place)
- i) Imperial Square
- j) Montpellier Walk
- k) Montpellier Street
- l) Warden Hill Road (within 100 meters of frontage to Bournside School), both sides of the road in any direction, during the period half an hour before school opening to 1 hour after closing during school terms).
- m) Loweswater Road (from the junction with Alma Road to the junction with Langdale Road during the above period and times).
- n) Evesham Road and roads adjacent to Pittville Park.

2. Trading prohibited within 75 metres of the gates of all schools, except Bournside School (see Special Condition l) on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms.

3. The consent holder shall not, without the prior permission of the authority, trade in any particular location for more than 30 minutes at any one time and shall not return to that particular location, or any position in the immediate vicinity thereof (which expression shall be as interpreted by the authority), within 2 hours of leaving it.

4. The consent holder shall comply with all traffic regulations, rules, orders and directions which apply to the public highways on which he trades.

5. The consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.



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Adoption of Revised Street Trading Policy

Appendix 3

Response	Officer comment(s)
<p>Please find below my feedback regarding the consultation on the revised Street Trading Policy.</p> <p>Firstly, I do not have, or know anyone that does, a business or an interest in either an established or street trading business in Cheltenham. However, I do have concerns that the proposed revised policy wording below is vague and would be hugely open to interpretation:</p> <p>The council will generally not permit trading units where the unit fully, or substantially, blocks lines of sight to established retailers in the vicinity. Any street trading operation which negatively impacts public access by walking, cycling or public transport will not be encouraged.</p> <p>I saw the recent coverage regarding The Flower Man off the Promenade, which I happen to think is a quality, well-presented local business that adds variety and interest to the town without negatively impacting on surrounding businesses in any way. The Green Coffee machine coffee cart opposite Barclays Bank and the falafel cart outside Thomas Cook on the High Street also do this, mobile phone cover sellers less so.</p> <p>All of these long-standing quality Cheltenham small street businesses could be considered by some to be blocking lines of sight or restricting access in some way. But they also clearly support the third aim in your adopted policy: "maintain the quality of the townscape and add value to the town".</p> <p>So I would suggest that this proposed assessment criteria is poorly and vaguely worded, leaving room for personal or collective interpretation that could benefit some traders whilst negatively impacting others, for example those that necessarily require larger stalls or those that repeatedly have complaints raised against them by fixed site</p>	<p>Licensing policy acts as a guide for officers, members, applicants and the public to aid understanding of the council's approach to, in this case, regulating street trading activity in the borough.</p> <p>Whilst there is a general presumption that the council should not arbitrarily deviate from its adopted policies, it is also the case that policy cannot fetter the discretion of decision makers.</p> <p>The wording referred to in the comment is deliberate as it acts as a guide on the general approach to be taken by the council whilst leaving sufficient scope for officers and Members to apply some discretion in cases where this is deemed appropriate.</p> <p>It must also be made clear that nothing in the policy is specifically aimed at any particular trader as referred to in the consultation response.</p>

<p>retailers. This policy wording needs addressing and clarifying before being implemented.</p>	
<p>I assume Councillors, as local residents too, can respond to the consultation.</p> <p>I am delighted to support the proposed changes but do not feel they go far enough.</p> <p>On the appearance of the stall I would change ‘will not be encouraged’ to ‘will not generally be accepted’.</p> <p>On environmental credentials there should be a presumption against the use of single use plastic associated with catering stalls such as cutlery, cups, plates and other types of crockery, also straws. There is no reason to use these plastic items as alternatives are easily available, so stalls using single use plastic will not be permitted. THIS WOULD EXTEND TO INCLUDE BALLOONS AND OTHER SINGLE USE PLASTIC NOVELTIES.</p> <p>On real fur I would support a complete ban on the sale of any real fur products.</p>	<p>Policy amended accordingly.</p> <p>Officers are of the view that the proposed wording in the policy does this in practice already. The policy deliberately does not seek to define “single use plastic” as this will limit the effect of the policy provision. Instead, each case will be determined on its individual merits.</p>
<p>Please ban the sale of fur and single use plastic. I support restrictions being imposed on traders for them to get licenses to sell at markets.</p>	<p>Comments noted.</p>
<p><i>The council is seeking views on whether it should ban the sale of real fur relating to any street trading activities that require a consent.</i></p> <p><i>The council recognise the various views on the debate and also the fact that the sale of real fur in the UK is not unlawful. However, the council also acknowledge the animal welfare concerns associated with the trade and sale of real fur.”</i></p> <p>Background</p> <ul style="list-style-type: none"> • The fur trade is horrifically cruel and unnecessary. As such fur farming has been illegal in this country since 2000 and surveys after survey reveal that over 90% of people in the UK refuse to wear real animal fur (for example https://bit.ly/2MSKjLI) 	<p>The council’s proposed future policy on real fur is outlined in the officer’s report taking into account the comments made.</p>

- The public has a right to be able to exercise their ethical beliefs. However, recent years have seen the increasing problem of real fur being mislabelled as fake fur or not labelled at all (<https://www.hsi.org/news-media/online-real-as-faux-122017/>)
- There is no legal requirement to use the specific word "fur" on items containing real fur. EU regulations do require items defined as "textile products" to carry the confusing wording "contains non-textile parts of animal origin". However, as well as not clearly telling consumers it means "real animal fur", in practice this wording requirement is rarely adhered to at all. Furthermore, footwear or non-garment accessories such as handbags and keychains are excluded from even this confusing labelling requirement (ibid)

Local context

- In December 2018, I found the same brand of real fur gloves being sold as fake fur on two separate occasions in Cheltenham, once at Geraud market (<https://www.gloucestershirelive.co.uk/news/cheltenham-news/campaigners-anger-after-real-fur-2326778>) and once at a shop called Sugar Loaf in the Regent Arcade (now closed down).
- This was despite Geraud market stall holders being told they could not sell real animal fur.
- On both occasions the trader's paperwork stated the fur was fake, and the traders themselves did not appear to be able to differentiate between real and fake fur. However further inspection by market inspectors (and latterly Trading Standards) revealed it was real fur (I can provide a sample with a receipt and photographs if required).
- Furthermore, myself and my fellow animal rights campaigners did several outreach events in Cheltenham in response to this to teach people how to spot the difference between real and fake fur. We spoke with over 200 people in total. All of them were against wearing real animal fur. However, not only did the majority not know how to spot real fur, they thought the sale of it was illegal in the UK.

<p>Recommendations</p> <ul style="list-style-type: none"> Given the confusing labelling requirements around real animal fur and the fact that many members of the public are not able to spot real animal fur, it would appear there is a need for traders to take some responsibility in ensuring the public do not accidentally buy real fur. I would therefore recommend: A ban on the sale of real animal fur at street trading activities that require consent. However given that street traders I spoke with were unable to recognise real fur I would also recommend: Street traders are provided with instructions about how to spot the difference between real animal and fake fur To incentivise traders (or the market provider) to comply with a ban I would recommend: A penalty system for (e.g. a fine) if traders are found to be selling real animal fur 	
<p>I am writing to respond to the street trading policy consultation.</p> <p>The Flowerman Stall: I support this business retaining it's current pitch locations on Cheltenham High Street and Promenade.</p> <p>Furthermore I object to the addition in the assessment criteria – The council will generally not permit trading units where the unit fully or substantially blocks lines of sight to established retailers in the vicinity.</p> <p>Whilst neither of the Flowerman stalls blocks the view to other businesses near to them, this change of wording creates unacceptable business risk to not just this business but other stall holders because it will be down to members of the licensing committee to interpret what is meant by 'substantially'. The opinion of what is substantial can only be a subjective opinion of whoever is on the committee at any one time, this creates unfair and unacceptable risk to business owners and their employees. I fear it will be used by members of the committee to justify their personal opinion on the worthiness of the</p>	<p>The policy is not specifically aimed at any particular trader as referred to in the consultation response.</p> <p>Preventing the obstruction of the streets by street trading activities is an existing policy aim. The revised policy wording has taken learning from issues that has arisen since the last policy review including the revised provision that "The council will generally not permit trading units where the unit fully or substantially blocks lines of sight to established retailers in the vicinity."</p> <p>The revised wording makes it clear that the test will relate to "fully or substantially" blocking lines of sight. It is not intended that this proposed provision be used either in cases where the committee has deemed existing trader not to be "fully or substantially" blocking lines of sight or where the blockage is</p>

Flowerman stall or other street traders which will have the impact of creating more uncertainty to this sort of trade in the town.

I do strongly believe market stalls have the ability to add diversity to the retail offer in the town centre and complement fixed traders and should be encouraged to help foster a viable town centre. We should not be creating policies which will stifle entrepreneurial spirit and restrict retail to just fixed traders.

I would like to see Cheltenham Farmers markets allowed to trade until later in the day. Currently they start packing up at about 2.30pm which it seems to be is incredibly environmentally unfriendly if nothing else as they come here, some over quite long distances, I would like to see the time they are here be longer so they can trade more so the additional environmental impact is worth it. I actually really love the farmers market but I am not in town in the mornings so never get a chance to visit it, I really think it is a wasted opportunity for stall holders and the town as it currently is.

Also Cheltenham needs a night market with street food and live music <https://www.bristol.gov.uk/web/st-nicholas-markets/st-nicholas-night-market> . It really is incomprehensible to me that our market offer is so middle of the road and not seen by anyone with any power as a really useful means to bring more visitors to the town. I know that idea is sort of grudgingly understood but it is not grasped with enthusiasm for fear of irritating fixed traders. But if a market was in the evening with a retail offer as well as street food not available in the town it would really help create more of a family friendly atmosphere that just leaving the evenings to the theatre goers or clubbers.

On the note regarding real fur being sold on market stalls, I would suggest it would be a really good idea for the borough council to ban its sale on our street markets for a number of reasons. This is not simply from an anti fur perspective but because it has been reported widely that people who do not wish to buy real fur have inadvertently bought it when being told an item is faux fur <https://www.bbc.co.uk/news/newsbeat-46809757> It is very difficult even for traders to know if they are selling real fur or faux fur and some people just avoid buying any of it so they don't get caught out which is not beneficial to traders. It would be far better for us to have a clear, unequivocal policy

minimal.

As regulator, the authority will play its role in determining any applications for markets. It is not with the licensing committee's function to establish new markets.

As regulator, the authority will play its role in determining any applications for markets. It is not with the licensing committee's function to establish new markets.

The council's proposed future policy on real fur is outlined in the officer's report taking into account the comments made.

which we can be supported to uphold by charities such as Respect for Animals who have resource to test samples of fur to see if they are manmade or not - <http://www.respectforanimals.org/>

From an environmental perspective using farmed animals to produce basically cosmetic trims like hat pompoms or glove decoration is not environmentally friendly - <http://www.respectforanimals.org/fur-is-not-green/> The council has agreed a climate change emergency but allowing animal trims to be sold on markets we license contributes to the very unhealthy state of our planet.

Real fur is cruelty, it is torture of sentient beings through incredibly awful lives then tortuous death for human beings vanity. I know from a marketing perspective that if CBC describe our street trading policy as anti real fur will be hugely beneficial to the image of our town as a compassionate, progressive and ethical place to visit and shop. People who do still want to purchase real fur will be able to via private shops if they wish so the licensing policy will not infringe civil liberties but it will make such a positive statement.

I really love the Christmas market that comes to Cheltenham but a large amount of the stalls are not really reflecting the change in consumer behaviour that is reflected in the huge increase in people rejecting the use of animal products as clothing, food etc. People are waking up to the cruelty to animals killed for food or other resources and also realising that animal industry hurts human beings too through the pollution and damage it is causing to our planet.

I really am passionate about Cheltenham trying to get a grip on being more progressive in the way we organise our public life and promote our town. Some times it all feels a bit tired and dated because well that is just how we do it here and we don't want to cramp people's style. Let's be bold for change and say its time to make real fur history because Cheltenham is too good for the cruelty and environmental damage it represents.

Real fur – The council is seeking views on whether it should ban the sale of real fur relating to any street trading activities that require a consent.

<p>Dear Sir / Madam,</p> <p>With reference to this matter I am totally against the trading if real fur items. Real fur is often mislabelled (illegal) and is immoral and extremely cruel. Cheltenham should not be promoting this evil trade. Thank you for noting my views.</p>	<p>The council’s proposed future policy on real fur is outlined in the officer’s report taking into account the comments made.</p>
<p>Sir/Madam</p> <p>I write in support of a total ban on the sale of real fur by street traders in Cheltenham.</p> <p>I have been opposed to the sale of real fur for many many years. The UK made fur farming illegal in 2000 but failed to make the selling of real fur illegal. Consequently, many people are under the misapprehension that the selling of real fur is also illegal because of this and having spoken to quite a few members of the public on this subject, I found that most were horrified to know that real fur is still being legally sold, here on the streets of Cheltenham and of course elsewhere. They were very concerned when they realised that products they had purchased as 'fake fur' could well be real, as there have been quite a few cases of this happening and even traders seem unaware of what they are selling.</p> <p>Animals are treated appallingly in fur farms, often killed in cruel ways to avoid pelt damage and just because it doesn't happen in the UK, we most definitely should not be complacent in our attitude towards the innocent victims of vanity.</p> <p>I am therefore requesting the Council bans the sale of real fur products by street traders and that it enforces this ban rigorously, by substantially fining traders who fail to adhere to this ban.</p>	<p>The council’s proposed future policy on real fur is outlined in the officer’s report taking into account the comments made.</p>
<p>Hi, here is my response to the street trading consultation. I live in Cheltenham.</p> <p>I don't own nor work in a shop, and I don't own nor run a street stall. I'm commenting as a resident.</p>	

1) The web page announcing the policy has this:

"The council will generally not permit trading units where the unit fully, or substantially, blocks lines of sight to established retailers in the vicinity. Any street trading operation which negatively impacts public access by walking, cycling or public transport will not be encouraged."

a) Flower stalls are an attractive addition to the town and it is important to protect them, especially in Ormand Place. That street is somewhat unattractive. The view of the regent Arcade and car park isn't nice, and having the flower stall there very much improves the perceived quality of the town. That stall does not block visibility. Local shop keepers need to realise that any shop which is off a main thoroughfare will see reduced footfall irrespective of sightlines.

b) Some activities during Cheltenham Gold Cup Race week feel like they're disrupting cycling - all the gubbins along Winchcombe Street make cycling a bit more dangerous. (And it's already a bit more dangerous than it should be because of the weird mix of two-way cycles with one-way cars.)

2) The document talks about single use plastics. Of course single use plastics are an important issue. More important would be total carbon output. Switching away from single use plastics would increase CO2 being used to create and transport packaging. I'm not persuaded that I can support a restrictive policy on street traders using single-use plastic while allowing huge multi-billion dollar business to carry on as normal. (eg KFC distribute plastic straws packages in a plastic sleeve.)

3) I'd welcome a ban on real fur but the council would need to have a coherent policy. Would it only include fur from animals that we do not eat?

4) The policy talks about conflict with local established retailers. I think we need to look

The policy is not specifically aimed at any particular trader as referred to in the consultation response.

Not within scope of this policy review.

The council has given a commitment to address the use of single use plastics through this policy review and its recent climate emergency declaration. It is acknowledged that this will not be the entire solution but a start towards it.

The council's proposed future policy on real fur is outlined in the officer's report taking into account the comments made.

The policy recognises the contribution by street traders to the

<p>at the number of local closed shops and units and realise that a successful street stall is potentially a business that can move into one of these closed shops.</p> <p>5) There's a lot of talk about public safety and public nuisance. These require active enforcement. I don't know if all the shenanigans during race week count as street trading or not, but it's clear that there is a lot of litter and noise created by the gambling shops (again, multi-million pound businesses) that isn't cleared up and a lot of alcohol being sold to people who are obviously drunk (an offence) and there's no visible enforcement. Race week is pretty miserable for people who live on Winchcombe Street.</p> <p>To summarise: I like flower stalls. I welcome strong guidance for street trading, but this requires enforcement and we need to welcome small businesses. We also need a bit of parity of enforcement between small businesses and huge multinationals selling junk food, alcohol, or gambling products.</p>	<p>town. Whether they chose to occupy retail units or not is not in scope but the comments is noted.</p> <p>Not within scope of this policy review.</p>
<p>My response to the proposed changes to the street trading policy:</p> <ul style="list-style-type: none"> • I would fully support the banning of sale of real fur. • I would say that the issue of single use plastic is more complex and whilst it should be an ambition it needs more research and thought before a complete ban is introduced. This is for the following reasons: <ul style="list-style-type: none"> ○ Small independent traders need time to make changes to their business practices. ○ Some alternatives to plastic, whilst advertised as compostable, can only be composted in industrial composters – e.g. hot composters. They cannot be home composted and as some of them look very much like plastic if they were put in plastic recycling bins they could contaminate the plastic. 	<p>The council's proposed future policy on real fur is outlined in the officer's report taking into account the comments made.</p> <p>The consultation document acknowledged the complexities around this matter. Whilst the council has given a commitment to address the use of single use plastic is so far as it relates to street trading activities, we acknowledge the complications associated with this approach.</p>

<ul style="list-style-type: none"> ○ Some paper products have a larger carbon footprint than plastic products. ● I would be in favour of a longer consultation period for applications. 	
<p>I thought this website might be of relevance when communicating with traders in Cheltenham, and creating new policy: https://www.polybags.co.uk/shop/biodegradable-starch-based-carrier-bags_c1084.htm</p> <p>And of course you are aware of the Plastic-Free Cheltenham Facebook group and Foodloose.</p>	<p>Comments noted.</p>
<p>Response and questions from Cheltenham BID</p> <p>What is not clear in the policy are the benefits that it is felt that casual street traders bring to the town. Unless they offer products that are very different to what is already available from full-time businesses who are paying business rates and making a year-long contribution to the town, why are so many allowed to trade, often against the advice of the council's officers?</p> <p>The BID would also like to understand what commitment there is from councillors on the Licensing committee to follow the revised policy when they have frequently ignored its predecessor?</p>	<p>The Council recognises that street trading is a lawful activity and forms a legitimate part of the retail industry in the town. It is this council's role as the licensing authority to administer the licensing regime in accordance with the law.</p> <p>The council wish to regulate the retail market and access to that market through this policy.</p> <p>The council will deal with applications in the way prescribed in the constitution and probity guide acknowledging the general principle of not deviating arbitrarily from policy. However, the policy cannot fetter discretion and must leave scope for determining applications on a case to case basis.</p>

<p>The policy says that it aims to “sustain established shopkeepers in the town”. It would be helpful if the policy clarified how the council is doing that.</p> <p>We are concerned that the new policy seems to include a significant change in that it will no longer have clearly defined sites where particular goods e.g. flowers can/can’t be sold. We think other consultees could have missed this. Why is not highlighted in the “Proposed changes” section on the website?</p> <p>In 4.3, it is stated that when an application is made, the council will consider whether “The goods complement and do not conflict with the goods sold by other established retailers within vicinity”. The Licensing committee has frequently approved traders who are in direct competition with retailers nearby.</p> <p>There is a case for using streets like High Street and Regent Street for focussed, quality markets that would attract footfall to existing businesses but there seems to be an obsession in approving one-off stalls of lesser quality even when it is directly against the wishes of neighbouring businesses.</p> <p>Under 5. Renewals, it is stated that the council may consult again “if the street trader is a cause for concern or has been the subject of complaints”. Please add to this, words to this effect - “... or where the application was opposed when it was first made”.</p> <p>On the consultation timescale, I would support the proposal to extend the period for consultations from seven to 14 days to allow sufficient time for responses.</p> <p>On the map of the Cambray Zone, there does not seem to be any permission available</p>	<p>See comment above.</p> <p>This was noted in the consultation document under the “Street trading zones and points” section.</p> <p>Comments noted.</p> <p>As regulator, the authority will play is role in determining any applications for markets. It is not with the licensing committee’s function to establish new markets.</p> <p>The proposed wording as suggested by the response will only be relevant if, after a committee decision, there has been a material change that would/could alter the decision made by the committee previously. Officers retain the ability to refer any application to the committee at any time which could alleviate some concerns about this.</p> <p>Comments noted.</p> <p>The locations have been updated as per the revised policy.</p>
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<p>for traders to operate outside Next and the surrounding area. Has this changed from the previous policy?</p>	
<p>Please find as follows Environmental Protection’s comments on the proposed policy:</p> <ol style="list-style-type: none"> 1. We remain supportive of the principles of the policy and welcome the consistency it gives 2. Section 1: purpose – reference to ‘nuisance and annoyance’ – recommend this wording is changed to ‘public or statutory nuisance’, unless licensing are able to regulate against ‘annoyances’? 3. Section 4: the licensing and determination process – from a customer perspective, it may be useful to mention the role of consultees and what they would be commenting on or looking for in an application. 4.1 only states that the licensing committee will assess applications against the council’s criteria for assessment. In systems thinking terms, we are more likely to get ‘clean ‘applications if we set out the requirements of each consultee as well as committee 4. Para 4.2, second bullet point ‘Public Nuisance’ – we would have worded this para differently if it only applied to EP assessment of public nuisance, but we understand this in relation to the licensing committee’s assessment of it? For example – EP would deal with ‘misbehaviour’ as ASB not public nuisance. The other examples of emissions and smells are also more likely to give rise to statutory rather than public nuisance. 5. Para 4.2 Public nuisance – as an applicant or a complainant or Member, it would be useful to know what you mean by ‘a substantial risk of nuisance’ and how the cumulative impact of these applications will be assessed 6. There is no reference to statutory nuisance but this is covered in comment 3 above. Noise from a loudspeaker in a street is more likely to be a stat nuisance than a public nuisance for example. 	<p>No reference to annoyance in section one.</p> <p>These are already outlined 4.2 of the revised policy</p> <p>Comments noted.</p> <p>The individual circumstances will dictate how the application is determined, for example, the nuisance that may result from the proposed trading. Public Protection is a consultee and will have an opportunity to comment on the impact of proposed trading.</p>

<p>7. Para 4.2 third bullet point – public safety – would be useful to expand on what is meant by ‘substantial risk to the public’. If the ‘unhygienic conditions’ is supposed to relate to food safety, -please can you change the wording accordingly. It would be for useful to know how licensing assess this please, or maybe this is something we can work on together.</p>	<p>See comments above. In addition, the policy should avoid statutory duplication and where there is other primary legislation, i.e. food hygiene, this should take precedence. Public Protection are consultees and will have an opportunity to comment on the impact of proposed trading.</p>
<p>8. Para 4.2 last bullet point – environmental credentials – great to see this in the policy as sustainability should be a key consideration of all commercial enterprises/operations – as long as such schemes do not have the potential to give rise to a nuisance. We understand the council does not have a sustainability officer at the moment so it would be good to know who has the expertise to assess against this criteria in the interim. If we can be of help in this respect, do let us know.</p>	<p>It is acknowledged that this proposal requires further work to develop.</p>
<p>9. Section 5, renewals – ‘the council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints’ – for our information, please can you advise who else would be consulted and what, if any, impact this would have on an EP representation</p>	<p>Will be dealt with on a case to case basis. This is not a new provision in the revised policy and no proposal to amend this.</p>
<p>10. Also section 5 – ‘where a renewal application has bene made and: 1) there have been no significant complaints or enforcement issues’ – please expand or define what is meant by ‘significant’ for example do you mean a certain number of complaints or enforcement issues, or substantiated ones or ones that you or LC would consider to be the most serious?</p>	<p>As per the above.</p>
<p>11. Section 7 markets – please be aware that although ‘the council...would be inclined to be supportive of market applications of this type’ – in the world of EP, the usual considerations re nuisance and pollution would still apply</p>	<p>Comments noted.</p>
<p>12. Annex 2 standard conditions – 2.3 – we would prefer this wording please ‘To adequately manage the street trading activity so as not to cause a statutory or public nuisance (from noise, fumes and odour, for example).</p>	<p>Comments noted and policy revised.</p>
<p>13. Annex 2, para 2.13 – please advise who in the council gives this express permission for the use of generators? We note there is reference to fumes and noise in this</p>	<p>Will be determined as part of application determination.</p>

<p>clause, which indicates the ‘permission giver’ would need to liaise with EP.</p> <p>14. Special conditions for ice cream traders – the 1984 CoP was revised in 2013 so these conditions should match the revised CoP please and reference should be to the current version</p> <p>15. Food safety – where the application relates to a food vendor, the Licensing Officer or committee could use the national food hygiene ratings website to ensure a high standard of food hygiene through street trading consents, if this is appropriate. A rating of 3 or above means the business is broadly compliant with food safety and hygiene legislation.</p>	<p>Already makes reference to the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013.</p> <p>Comments noted.</p>
<p>I have only the following comment to add to the Licensing consultation on Revised Street Trading Policy.</p> <p>“There is reference at 4.1 to the need for a minimum clearance width for pedestrians ‘maintaining a 2m (6 foot) clear footpath’ . In the relatively recent past the Licensing committee has tended to use 1.8M, and this is much nearer to 6 feet than 2M. This difference is not a subtle one, and if the minimum clearance was increase to 2M a lot of locations would become effectively barred to being licensed. In practice 1.8M is generous I think, and more than enough for two mobility scooters or two double buggies to pass with more besides. I propose changing to ‘maintaining a 1.8M (6 foot) clear footpath’ .“ –END</p>	<p>Comments noted and policy revised.</p>

The Flowerman, Cheltenham – formal representation to Cheltenham Borough Council’s Street Trading policy review

Dear sir or madam,

I am writing to respond to your current Street Trading Policy consultation. I am the owner of the business known as The Flowerman and trade from two Fixed Pitch town centre sites.

These are both shown in your consultation in **Annex 1, CBC PG T99-2 02 Promenade Zone and CBC PG T99-2 03 High Street Zone.**

I have worked on these stalls for 30years and owned the business since 1996

Owning a professionally run and attractive stall involves often hard, physical manual work and working outside in all weathers; not something all people would enjoy. The fantastic support our stalls have received over the years from members of the public has made it all very worthwhile.

At all times since my involvement with this business, I have prided myself on creating an attractive stall with high quality seasonal flowers, not only for people to buy but also to enjoy as they pass by. It has not always been an easy road however and at times other traders have tried to get our Promenade stall moved.

The locations shown on the map are essential to our takings and the sustainability of our business. We have moved at different times whilst temporary work was being undertaken to the detriment of our takings.

I must stress that not all traders have complained about us. Situated where we are on the Promenade for example, we often get asked for recommendations for businesses, for example coffee shops nearby.

None of the many cafes and restaurants in Regent Street is easily visible from the Promenade; *our stall does not affect this.* When asked we always suggest small local businesses nearby such as The Find which people may not otherwise know about.

As a small business ourselves we seek to actively work with existing traders in a harmonious way to benefit us all. Since the recent licensing applications reviews and renewals I have been working positively with neighbouring business Beard’s, who had previously raised concerns about some breaches of our stall during our busiest times.

In February we ran a Valentines promotion jointly with them. We believe this joint working and support is the way all businesses in the town centre can flourish in an otherwise challenging environment for retail.

I also want councillors and licensing officers to understand that running a street stall is not just physically demanding but it is also an investment in a business which takes time and money to build. The Flowerman stalls have grown and improved over the years to respond to the demand for our products.

Any stallholder on a permanent pitch needs to make considerable investment in items such as vehicles, website, staff training etc. and all the behind the scenes equipment needed to deliver a first class business.

Because of this, the locations of our stalls, and subsequent ability to make the business profitable to cover the many costs, is essential. The location and importantly certainty about sites is so important for any street trader looking to invest for the long term; not just to create a sustainable business but also to have a business that is an asset for Cheltenham.

With these points in mind for the future of our business it is very welcome to see in the draft policy at **4.2 Street Trading Points** it says that -

These are special areas identified by the council where existing trading locations have historically existed and deemed to have worked well.

The thousands of people who have signed a petition in favour of our Promenade stall also agree this location works well. This is confirmed in the recent Decision Notice we received which stated at point 4. **The local support for the trading location evidenced through a number of petitions that have generated substantial signatories.**

In regard to 4.3 assessment criteria of the draft Policy, we work very hard to ensure our stalls –

- Complement the needs of the area they are in, as evidenced by the long period of time they have been on these sites and public support for them
- Do not create any public nuisance
- Have no impact on public safety
- Create an attractive floral display at key locations, enhancing public space
- **Environmental**

However, I wish to object to the addition in the assessment criteria – **The council will generally not permit trading units where the unit fully or substantially blocks lines of sight to established retailers in the vicinity.**

In point 5. of our most recent Decision Notice it says {..} **in the Licensing Sub-Committee's view, the stall does not substantially obstruct the lines of sight to either Beards the Jewellers and the Regent Arcade.**

Comments noted. Preventing the obstruction of the streets by street trading activities is an existing policy aim. The revised policy wording has taken learning from issues that has arisen since the last policy review including the revised provision that "The council will generally not permit trading units where the

We do not believe either of our stalls blocks the view to other businesses substantially but it is open to licensing committee members to interpret what is meant by substantially if this is left in the policy. Different interpretations of this as the committee membership changes could undermine the future of the business through no fault of anything we have done.

This is unacceptable when it comes to license renewals but it could make the establishment of any new pitches impossible, as *by their very nature being in the public realm stalls can prevent people stood next to them from viewing what is beyond them*. I urge the council to remove this part of the policy.

As outlined previously there is a considerable investment of both time and money to build up a sustainable street trading pitch. It is unfair for circumstances outside of the control of businesses in our situation to be suddenly introduced as reason to not renew a licence.

I also wish to object to 5. Renewals, 3. of the draft Policy **there has been no significant change to the retail environment in the vicinity of the trading location.**

I am aware of talks to make changes to the public realm in the area of Ormond Place and Regent Street, which I very much welcome. However, our Promenade stall should not be refused a renewal application in the future because of any such changes.

It would be very off-putting to anyone considering investing their time and money developing a popular and attractive street trading business if there is a policy which means it can be taken away at any time *through no fault of the proprietor* in this way.

I draw your attention again to our most recent licence renewal decision Letter –

- at point 2. **The fact that, in the Licensing Sub-Committee's view, there is sufficient egress and ingress access on either side of your stall.**
- at point 3. **The fact that you have been trading in the relevant location for the past 11 years and the number of complaints has been minimal.**
- at point 6. **The existence of the stall positively contributes to the "look and feel" of the Promenade, Ormond Place and Regent Street.**
- at point 7. **Whilst there has been evidence of breaches of the consent, these have been "deminimis" and dealt with at the time of the breach.**
- at point 8. **The fact that the objector submitted verbally that your trading location will not materially affect the commercial operation of their business in any substantial way.**

From these points it is clear that our Promenade stall does not impact the ability of people to walk past, nor does it substantially affect the view to the Regent Arcade or Beard's, any breaches in conditions which have occurred at peak times have had minimal impact and not affected the commercial operation of even the nearest of businesses. In fact the stall positively contributes to the look and feel of the area.

unit fully or substantially blocks lines of sight to established retailers in the vicinity."

The revised wording makes it clear that the test will relate to "fully or substantially" blocking lines of sight. It is not intended that this proposed provision be used either in cases where the committee has deemed existing trader not to be "fully or substantially" (unless there has been a material change) blocking lines of sight or where the blockage is minimal.

The council needs to be mindful of the impact of a developing public realm on its decisions in order to be able to respond in an appropriate manner.

This does not however restrict licence holders rights and the council's obligations to determine applications fairly and to provide reasons for these decisions.

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Cheltenham Borough Council

Cabinet – 11 February 2020

Regulation of Investigatory Powers Act 2000 Surveillance and Covert Human Intelligence Source Policy

Investigatory Powers Act 2016 Acquisition of Communications Data Policy

Accountable Member	Cabinet Member Corporate Services, Councillor Alex Hegenbarth
Accountable Officer	Chief Executive Tim Atkins, Managing Director Place and Growth Tim.Atkins@cheltenham.gov.uk
Ward(s) affected	All indirectly
Key/Significant Decision	No
Executive summary	<p>To present Cabinet with:</p> <ul style="list-style-type: none"> i) A revised Regulation of Investigatory Powers Act 2000 Surveillance and Covert Human Intelligence Source Policy for approval and adoption. ii) A new Investigatory Powers Act 2016 Acquisition of Communications Data Policy for approval and adoption. <p>The Local Authority is required to have effective Policies to enable officers to gather intelligence and conduct surveillance in line with the law.</p> <p>The Policies set out the legislative framework and principles the Local Authority will abide by to mitigate the risk of legal challenge in Court.</p> <p>The Policy demonstrates the Local Authority's consideration of necessity, proportionality and public interest when deciding on surveillance activity and requests for communication data. It also demonstrates openness and transparency for its customers.</p> <p>The report also provides an update in relation the Local Authority's existing authorisation arrangements.</p>
Recommendations	<p>That Cabinet:</p> <ul style="list-style-type: none"> a) Formally adopts the Policies attached to this report. b) Authorises the Chief Executive to approve future minor amendments to the Policies in consultation with the Cabinet member for Corporate Services, One Legal and the Counter Fraud Manager.
Financial implications	<p>The adoption and approval of these Policies will support the Local Authority's objectives in reducing crime and financial loss to the Local Authority.</p> <p>Contact Officer: Paul Jones, Executive Director Finance and Assets Paul.Jones@cheltenham.gov.uk</p>

Legal implications	<p>The Local Authority Page 130 ensure that it complies with the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016 and any other relevant/statutory legislation regarding investigations. It should also consider government guidance in this area.</p> <p>The Local Authority has a statutory obligation for enforcing a wide range of legislation, where it is necessary and proportionate to do so. Human rights implications are a consideration of this type of activity and this is included within the Policy.</p> <p>Any requests for directed/covert surveillance or the acquisition of communications data to be undertaken should be necessary and proportionate, and authorised by the appropriate Officer. Both Policies provide information and advice to those seeking authorisation and those officers granting authorisation. Both policies confirm the process to be used and matters to be considered.</p> <p>Contact officer: Iona Moseley, One Legal. iona.moseley@teWKesbury.gov.uk</p>
HR implications (including learning and organisational development)	<p>There will be a requirement to cascade the new policies to all relevant employees and ensure any training is undertaken.</p> <p>Contact officer: Julie McCarthy, HR Operations Manager Julie.McCarthy@publicagroup.uk 01242 264355</p>
Key risks	<p>The Policies demonstrate the Local Authority's consideration of necessity, proportionality and public interest when deciding on surveillance activity or the decision to obtain personal communication data.</p> <p>The Policies set out the legislative framework and principles the Local Authority will abide by in investigations undertaken to mitigate the risk of legal challenge in Court.</p>
Corporate and community plan Implications	<p>Effective enforcement plays an important role in enabling the Local Authority to achieve its priorities and community outcomes.</p>
Environmental and climate change implications	<p>N/A</p>
Property/Asset Implications	<p>There are no property implications associated with this report.</p> <p>Contact officer: Dominic Stead, Head of Property Services dominic.stead@cheltenham.gov.uk</p>

1. Background

- 1.1. The Local Authority's Policies are based on the legislative requirements of the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016 and the Codes of Practice relating to directed surveillance, the use of covert human intelligence sources and the acquisition of communications data. Attached at [Appendix 2](#) and at [Appendix 3](#) are revised Policies.
- 1.2. The Investigatory Powers Act 2016 now governs communication data requests. The legislation widened the scope of information the Local Authority may obtain for investigations,

introduced the necessity for a serious crime threshold and removed the requirement for judicial approval.

- 1.3. All applications for communications data are made online via the National Anti-Fraud Network (NAFN) which acts as the single point of contact for Local Authorities. NAFN send requests to the Office for Communication Data Authorisations (OCDA) which ratifies all applications from public authorities for approval and if granted, NAFN will then obtain the requested data for the applicant.
- 1.4. There is a requirement for the Local Authority to nominate a Designated Senior Officer who will confirm to NAFN that the Local Authority is aware of any request and approve its submission. This role is undertaken by the Counter Fraud Manager and the Deputy Counter Fraud Manager.
- 1.5. Surveillance and the use of a Covert Human Intelligence Source (CHIS) is still governed by the Regulation of Investigatory Powers Act 2000 and any 'RIPA' applications are subject to the same application processes as outlined in the previous Policy – the offence must meet the serious crime threshold and the Local Authority must obtain judicial approval.
- 1.6. As outlined in 1.5 above, the Local Authority must have a Senior Responsible Officer and Authorising Officers to approve the application before the Court is approached. The arrangements relating to Officers involved in the authorisation process have been updated to reflect the changes in staffing.
- 1.7. The Senior Responsible Officer is the Managing Director Place and Economic Development, Tim Atkins and the Authorising Officers are the Executive Director People and Change, Darren Knight and the Director of Environment, Mike Redman.
- 1.8. The refreshed Policy introduces a mandatory requirement for staff to complete a Non-RIPA Application Form where surveillance is being undertaken but the offence does not meet the serious crime criteria.
- 1.9. As reported in April 2019, there were no RIPA applications made by the Local Authority during 2018/2019. There were four Non-RIPA applications made during 2018. Three related to overt activity and one related to an internal investigation.
- 1.10. The application of these Policies, to govern surveillance and the obtaining of personal communications data, ensures that there is less risk that an individual's human rights will be breached. Furthermore it protects the Local Authority from allegations of the same.

2. Consultation

- 2.1. The draft Policy was subject to consultation with Enforcement Officers, Governance Group, Executive Leadership Team and One Legal.
- 2.2. Audit, Compliance and Governance Committee considered and endorsed the Policies on 22 January 2020.

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Appendices	<ol style="list-style-type: none">1. Risk assessment2. Regulation of Investigatory Powers Act 2000 Surveillance and Covert Human Intelligence Source Policy3. Investigatory Powers Act 2016 Acquisition of Communications Data Policy

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the Local Authority fails to put in place adequate policy and process covering the use of RIPA / IPA powers then it risks damage to its reputation and financial loss	Chief Executive	January 2020	4	2	8		Put in place effective management and guidance. Promote the guidance with managers and enforcement officers	Ongoing	Chief Executive	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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1. INTRODUCTION

- 1.1 The performance of certain investigatory functions by Local Authorities may require the surveillance of individuals or the use of undercover Officers and informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates these types of activities and the Act and this Policy must be followed at all times.
- 1.2 Neither RIPA nor this Policy covers the use of any overt surveillance, or general observation that forms part of the normal day to day duties of Officers, or circumstances where members of the public volunteer information to the Council. The majority of the Council's enforcement functions are carried out in an overt manner.
- 1.3 RIPA was introduced to ensure that public authorities' actions are consistent with the Human Rights Act 1998 (HRA). It balances safeguarding the rights of the individual against the needs of society as a whole to be protected from crime and other public safety risks. This reflects the requirements of Article 8 (right to privacy) under the HRA. RIPA provides a statutory mechanism for authorising covert surveillance and the use of a covert human intelligence source (CHIS).
- 1.4 RIPA also introduced a legal gateway for public authorities to apply for telecommunications and postal data. However, these have been amended by the Investigatory Powers Act 2016 (IPA), and for guidance in relation to the obtaining of Communications Data please see the IPA Acquisition of Communications Data Policy.

2. SCOPE OF POLICY

- 2.1 The purpose of this document is to ensure that the Council complies with RIPA.
- 2.2 This document provides guidance on the regulation of any Directed Covert Surveillance that is carried out by the Council. This includes the use of undercover Officers and informants, known as Covert Human Intelligence Sources (CHIS).
- 2.3 Covert surveillance will only be used by the Council where it judges such use to be necessary and proportionate to the seriousness of the crime or matter being investigated.
- 2.4 All directed surveillance must be authorised and conducted in accordance with RIPA. Therefore, all Officers involved in the process must have regard to this document and the statutory Codes of Practice issued under section 71 RIPA. The Codes of Practice are available from:
<https://www.gov.uk/government/collections/ripa-codes#current-codes-of-practice>
- 2.5 There must be no situation where a Council Officer engages in covert surveillance without obtaining authorisation in accordance with the procedures set out in this document and the RIPA Codes of Practice.
- 2.6 Any queries concerning the content of the document should be addressed to the RIPA Coordinator, Counter Fraud Unit.

3. BACKGROUND

3.1 RIPA provides a legal framework for the control and regulation of covert surveillance techniques which public authorities undertake as part of their duties. As was highlighted in the introduction to this Policy, the need for such control arose as a result of the HRA. Article 8 of the European Convention on Human Rights states that:-

- 1) Everyone has the right of respect for his private and family life, his home and his correspondence.
- 2) There shall be no interference by a Public Authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals or for the protection of the rights and freedoms of others.

3.2 The right under Article 8 is a qualified right and public authorities can interfere with this right for the reasons given in 2.3 above. RIPA provides the legal framework for lawful interference.

3.3 However, under RIPA, Local Authorities can only authorise directed covert surveillance for the purpose of preventing or detecting conduct which constitutes a criminal offence which is:

- An offence that is capable of attracting a maximum prison sentence of 6 months or more punishable whether on summary conviction or indictment meets the serious crime threshold or,
- Relates to the underage sale of alcohol or tobacco.

3.4 Furthermore, the Council's authorisation can only be given effect once an Order approving the authorisation has been granted by a Justice of the Peace (JP).

3.5 The serious crime criteria do not apply to CHIS authorisations.

3.6 RIPA ensures that any surveillance undertaken following a correct authorisation and approval from a JP is lawful and therefore protects the Council from legal challenge. It allows the information obtained to be used as evidence in the investigation. It can also be used if required in other investigations.

4. SURVEILLANCE WITHOUT RIPA

4.1 Section 27 of RIPA provides that surveillance shall be lawful for all purposes if authorised and conducted in accordance with an authorisation granted under RIPA.

4.2 Lawful surveillance is exempted from civil liability.

4.3 Although not obtaining authorisation does not make the surveillance unlawful per se, it does have some consequences:-

- Evidence that is gathered may be inadmissible in court;
- The subjects of surveillance can bring their own proceedings or defeat proceedings brought by the Council against them on human rights grounds i.e. we have infringed their rights under Article 8;
- If a challenge under Article 8 is successful, the Council could face a claim for financial compensation;

- The Government has also introduced a system of tribunal to deal with complaints. Any person who believes that their rights have been breached can have their complaint dealt with by the Investigatory Powers Tribunal (IPTC) (See Complaints section within the Code of Practice)

5. INDEPENDENT OVERSIGHT

- 5.1 From 1 September 2017 oversight of RIPA is provided by the Investigatory Powers Commissioner's Office (IPCO). They are the independent inspection office whose remit includes providing comprehensive oversight of the use of the powers to which the RIPA Codes of Practice apply, and adherence to the practices and processes described in it. They also provide guidance to be followed which is separate to the codes.
- 5.2 Anyone, including anyone working for the Council, who has concerns about the way that investigatory powers are being used, may report their concerns to the IPCO
- 5.3 IPCO has unfettered access to all locations, documentation and information systems as is necessary to carry out its full functions and duties and it will periodically inspect the records and procedures of the Council to ensure the appropriate authorisations have been given, reviewed, cancelled, and recorded properly.
- 5.4 It is the duty of any person who uses these powers to comply with any request made by a Commissioner to disclose or provide any information required for the purpose of enabling them to carry out their functions.
- 5.5 It is important that the Council can show it complies with this Policy and with the provisions of RIPA.

6. LEGAL ADVICE

- 6.1 The Council's legal representatives will provide legal advice to staff making, renewing or cancelling authorisations. Requests and responses for legal advice will be in writing and copied to the RIPA Coordinator, Counter Fraud Unit to keep on file.

7. REVIEW OF POLICY AND PROCEDURE

- 7.1 The Audit Committee will receive annual reports regarding the use of RIPA. Those reports will contain information on:
- Where and when the powers have been used;
 - The objective;
 - The authorisation process;
 - The job title of the Senior Responsible Officer (SRO), Authorising Officers (AO) and RIPA Coordinator;
 - The outcomes including any legal court case;
 - Any costs.

8. RIPA ROLES AND RESPONSIBILITIES

8.1 THE SENIOR RESPONSIBLE OFFICER

8.2 The SRO has responsibility for the following:

- The integrity of the process in place within the Council to authorise Directed and Intrusive Surveillance;
- Compliance with the relevant sections of RIPA and the Codes of Practice;
- Oversight of the reporting of errors to the Investigatory Powers Commissioner (IPC) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- Engagement with the IPCO and the inspectors who support the IPC when they conduct their inspections;
- Where necessary, overseeing the implementation of any recommended post-inspection action plans and;
- Ensuring that all AO are of an appropriate standard, addressing any recommendations and concerns in the inspection reports prepared by the IPC.

8.3 THE RIPA COORDINATOR

8.4 The RIPA Coordinator is responsible for storing all the original authorisations, reviews, renewals and cancellation forms and the signed approval or refusal documentation from the JP. This will include any authorisations that have not been authorised by the AO or refused by a JP.

8.5 The RIPA Coordinator will:

- Keep the copies of the forms for a period of at least 3 years;
- Keep the Central Register (a requirement of the Codes of Practice) of all of the authorisations, renewals and cancellations; and issue a unique reference number. This record should contain the information outlined within the Covert Surveillance and Property Interference revised Code of Practice;
- Keep a database for identifying and monitoring expiry dates and renewal dates;
- Along with Officers (AO and Investigating Officers (IO)), ensure that any electronic and paper records relating to a RIPA investigation are used, retained or destroyed in line with the Council's Information Management Policies, Departmental Retention Schedules and Data Protection Legislation /Regulations;
- Provide administrative support and guidance on the processes involved;
- Not provide legal guidance or advice;
- Monitor the authorisations, renewals and cancellations with a view to ensuring consistency throughout the Council;
- Monitor each department's compliance and act on any cases of non-compliance;
- Provide training and further guidance and awareness of RIPA and the provisions of this Policy; and review the contents of this Policy.

8.6 INVESTIGATING OFFICER/APPLICANT

8.7 The applicant is normally an IO who completes the application section of the RIPA form. IOs should think about the need to undertake directed surveillance or the use of a CHIS before they seek authorisation. IOs must consider whether they can obtain the information by using techniques other than covert surveillance. Advice can be given by the RIPA Coordinator.

8.8 The applicant or IO must carry out a feasibility study and this should be seen by the AO. The IO seeking authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any significant delay between the feasibility study and the completion of the application form in order to ensure that the details within the application are accurate. The form should then be submitted to the AO for authorisation.

8.9 AUTHORISING OFFICERS

8.10 The role of the AO is to authorise, review, renew and cancel directed surveillance.

8.11 AOs should not be responsible for authorising investigations or operations in which they are directly involved. Where an AO authorises such an investigation or operation the Central Record of Authorisations should highlight this, and it should be brought to the attention of the ICO or Inspector during their next inspection.

8.12 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 prescribes that for the Council, the AO shall be a Director, Head of Service, Service Manager or equivalent as distinct from the Officer responsible for the conduct of an investigation.

8.13 A designated AO must qualify both by rank and by competence. Officers who wish to be designated must have been trained to an appropriate level in order to have an understanding of RIPA and the requirements that must be satisfied before an authorisation can be granted.

8.14 Authorisations must be given in writing by the AO by completing the relevant section on the authorisation form. Before giving authorisation for directed surveillance, an AO must be satisfied that the reason for the request is for the prevention and detection of crime and that the crime attracts a custodial sentence of a maximum of 6 months or more, or is an offence relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

8.15 The lawful criteria for CHIS are prevention and detection of crime and prevention of disorder and the offence does not have to have a sentence of 6 months imprisonment but consideration must be given to the risk of collateral intrusion (the risk of obtaining private information about persons who are not the subject of investigation), the possibility of collecting confidential personal information and that the result cannot reasonably be achieved by any other means.

8.16 When completing an authorisation, the case should be presented in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the authorisation.

8.17 The application should explain why the activity is both necessary and proportionate, having regard to the collateral intrusion. It should also explain exactly what is being authorised, against whom, in what circumstances, where

and so on, and that the level of the surveillance is appropriate to achieve the objectives. It is important that this is very clear as the surveillance operatives will only be able to carry out activity that has been authorised. This will assist with avoiding errors.

- 8.18 If any equipment such as covert cameras are to be used, the AO should know the capability of the equipment before authorising its use. This will have an impact on collateral intrusion, necessity and proportionality. It is important that they consider all the facts to justify their decision and that it is not merely a rubber-stamping exercise.
- 8.19 The AO may be required to attend court to explain what has been authorised and why. Alternatively, they may have to justify their actions at a tribunal. AOs are also responsible for carrying out regular reviews of applications, for authorising renewals and cancelling any authorisation (see relevant sections below).
- 8.20 AOs must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA and the current Procedures and Guidance issued by the Commissioner. This document also details the latest operational guidance to be followed. It is recommended that AOs hold their own copy of this document.
- 8.21 AOs, through the Council's Data Controller, must ensure compliance with the appropriate data protection requirements under data protection legislation and regulation and any relevant internal protocols of the Council relating to the handling and storage of material.

9. SURVEILLANCE TYPES AND CRITERIA

9.1 Surveillance is:

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications.
- Recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

9.2 By its very nature, surveillance may involve invading an individual's right to privacy. The level of privacy which individuals can expect depends upon the nature of the environment they are within at the time. For example, within an individual's own home or private vehicle, an individual can expect the highest level of privacy. The level of expectation of privacy may reduce if the individual transfers out into public areas.

9.3 There are different types of surveillance which, depending on their nature, are either allowable or not allowable and that require different degrees of authorisation and monitoring under RIPA.

9.4 OVERT SURVEILLANCE

9.5 Overt surveillance is where the subject of surveillance is aware that it is taking place. This could be by way of signage, such as in the use of CCTV, or because the subject of the surveillance has been informed of the activity. Overt surveillance is outside the scope of RIPA and therefore does not require authorisation. However, it still must take account of privacy under the HRA.

9.6 COVERT SURVEILLANCE

- 9.7 Covert Surveillance is defined as “surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place” and is covered by RIPA. Covert surveillance is categorised as either intrusive or directed.
- 9.8 There are three categories of covert surveillance regulated by RIPA:
- 1) **Directed Surveillance;**
 - 2) **Covert Human Intelligence Sources (CHIS);** and
 - 3) **Intrusive surveillance** (the Council is not permitted to carry out intrusive surveillance).
- 9.9 INTRUSIVE SURVEILLANCE
- 9.10 The Council has no authority in law to carry out Intrusive Surveillance. Intrusive surveillance is defined in section 26(3) of RIPA as covert surveillance that:
- Is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
 - Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- 9.11 Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.
- 9.12 A risk assessment of the capability of equipment being used for surveillance of residential premises and private vehicles should be carried out to ensure that it does not fall into intrusive surveillance.
- 9.13 If you are considering conducting surveillance that may fall within the scope of intrusive surveillance you must contact the RIPA Coordinator for clarification or seek legal advice from the legal department before you undertake any surveillance.
- 9.14 DIRECTED SURVEILLANCE
- 9.15 Surveillance is directed surveillance within RIPA if the following are applicable:
- It is covert, but not intrusive surveillance;
 - It is conducted for the purposes of a specific investigation or operation;
 - It is likely to result in the obtaining of private information (see private information below) about a person (whether or not one specifically identified for the purposes of the investigation or operation);
 - It is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought.
 - The offence under investigation attracts a maximum custodial sentence of six months, or it is an investigation into criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the

Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

10. PRIVATE INFORMATION

- 10.1 The Code of Practice provides guidance on the definition of private information and states it includes any information relating to a person's private or family life. As a result, private information is capable of comprising any aspect of a person's relationship with others including family and professional or business relationships.
- 10.2 Information which is non-private may include publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public.
- 10.3 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public, and where a record is being made by the Council of that person's activities for future consideration or analysis.
- 10.4 Surveillance of publicly accessible areas of the internet should be treated in a similar way particularly when accessing information on social media websites. (See the Internet and Social Media Research and Investigations Policy for further guidance)
- 10.5 Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish a pattern of behaviour. Consideration must be given if one or more pieces of information (whether or not available in the public domain) are covertly and / or overtly obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes covert surveillance, a directed surveillance authorisation may be considered appropriate.
- 10.6 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate

11. CONFIDENTIAL OR PRIVILEGED MATERIAL

- 11.1 Particular consideration should be given in cases where the subject of the investigation or operation might reasonably assume a high degree of confidentiality. This includes where the material contains information that is legally privileged; confidential journalistic material or where material identifies a journalist's source; or material containing confidential personal information or communications between a Member of Parliament and another person on constituency business. Directed surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material must be authorised by the SRO. Advice should be sought from the RIPA Coordinator and the Legal Department if there is a likelihood of this occurring.

12. INTERNET AND SOCIAL MEDIA INVESTIGATIONS

- 12.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.
- 12.2 The use of online open source internet and social media research techniques has become a productive method of obtaining information to assist the Council with its regulatory and enforcement functions. It can also assist with service delivery issues and debt recovery. However, the use of the internet and social media is constantly evolving and with it the risks associated with these types of enquiries, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks. The activity may also require RIPA authorisations for Directed Surveillance or CHIS. Where this is the case, the application process and the contents of this policy are to be followed.
- 12.3 There is a detailed Internet and Social Media Research and Investigations Policy that covers online open source research which should be read and followed in conjunction with this policy.

13. CCTV

- 13.1 The use of the CCTV systems operated by the Council does not normally fall under the RIPA regulations. However, it does fall under the data protection legislation and regulations, the Surveillance Camera Code 2013 and the Council's CCTV Policy. However, should there be a requirement for the CCTV cameras to be used for a specific purpose to conduct surveillance it is likely that the activity will fall under directed surveillance and therefore require an authorisation under RIPA. The Council's CCTV Policy and Procedures should be referred to.
- 13.2 If an IO envisages using any other CCTV system they should contact the RIPA Coordinator concerning any clarification on the administrative process or seek legal advice before they undertake any surveillance.

14. AUTOMATIC NUMBER PLATE RECOGNITION (ANPR)

- 14.1 Automated Number Plate Recognition (ANPR) does not engage RIPA if it is used for the purpose it is registered for, such as traffic flow management or safety and enforcement within car parks. However, it is capable of being a surveillance device if used in a pre-planned way to carry out surveillance by monitoring a particular vehicle or by plotting its locations, e.g. in connection with illegally disposing of waste.
- 14.2 Should it be necessary to use the Police ANPR systems to monitor vehicles, the same RIPA principles apply regarding when a directed surveillance authorisation should be sought.

15. JOINT AGENCY SURVEILLANCE

- 15.1 In cases where one agency is acting on behalf of another, it is usually for the tasking agency to obtain or provide the authorisation. For example, where surveillance is carried out by Council employees on behalf of the Police, authorisation would be sought by the Police. If it is a joint operation involving both agencies, the lead agency should seek authorisation.

15.2 Council staff involved with joint agency surveillance must ensure that all parties taking part are authorised on the form to carry out the activity. When Council Officers are operating on another organisation's authorisation they are to ensure they see what activity they are authorised to carry out and make a written record. They should also provide a copy of the authorisation to the RIPA Coordinator at the Council to assist with oversight and monitoring.

16. USE OF THIRD PARTY AGENTS

16.1 In some circumstances it may be appropriate or necessary for the Council to work with third parties who are not themselves a public Authority (such as an individual, company or non-governmental organisation) to assist with an investigation. Where that third party is acting in partnership with or under the direction of the Council, then they are acting as our agent and any activities that the third party conducts which meet the RIPA definitions of directed surveillance should be authorised. The agent will be subject to RIPA in the same way as any employee of the Council would be. The AO should ensure that the agents are qualified or have the necessary skills to achieve the objectives. They should also ensure that they understand their obligations under RIPA. If advice is required, please contact the Legal Department.

16.2 If the above circumstances apply and it is intended to instruct an agent to carry out the covert activity, the agent must complete and sign the appropriate form.

16.3 Similarly, a surveillance authorisation should also be considered where the Council is aware that a third party (that is not a public Authority) is independently conducting surveillance and the Council intends to make use of any suitable material obtained by the third party for the purposes of a specific investigation or is to act as the prosecuting body.

17. EQUIPMENT

17.1 All equipment capable of being used for directed surveillance, such as cameras, should be fit for the purpose for which they are intended. The equipment should be logged on the central register of equipment held by the RIPA Coordinator. This will require a description, Serial Number, and an explanation of its capabilities.

17.2 When completing an Authorisation, the applicant must provide the AO with details of any equipment to be used and its technical capabilities. The AO will have to take this into account when considering the intrusion issues and proportionality. The AO must make it clear on the Authorisation exactly what equipment, if any, they are authorising and under what circumstances.

18. COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

18.1 This policy applies to all use of under-cover Officers or informants, referred to as Covert Human Intelligence Sources (CHIS). Not all human source activity will meet the definition of a CHIS. For example, a source may be a public volunteer or someone who discloses information out of a professional or statutory duty or has been tasked to obtain information other than by way of a covert relationship.

18.2 Test purchase activity does not in general require authorisation under RIPA as vendor-purchaser activity does not constitute a relationship. However, if a number of visits are undertaken, a relationship may be established and

authorisation as a CHIS should be considered. Equally a test purchase may meet the definition of directed surveillance.

- 18.3 If you intend to instruct a third party to act as the CHIS, the agent must complete and sign the appropriate form. The agent will be subject to RIPA in the same way as any employee of the Council would be. If advice is required, please contact either the RIPA Coordinator or the Legal Department.
- 18.4 An application for either directed surveillance or the use of a CHIS will need authorising internally by an AO. If authorised by the AO, approval will be required from a Justice of the Peace (JP) prior to any activity taking place. (See the appropriate sections below).
- 18.5 The authorisation request should be accompanied by a risk assessment, giving details of how the CHIS is going to be handled and the arrangements which are in place for ensuring that there is at all times a person with responsibility for maintaining a record of the use made of CHIS. The risk assessment should take into account the safety and welfare of the CHIS in relation to the activity and should consider the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS after the cancellation of the authorisation should also be considered at the outset.
- 18.6 Where surveillance or the use of a CHIS is likely to result in the obtaining of confidential information, it is imperative that legal advice should first be sought from the SRO or the Legal Department. Confidential information includes, though is not limited to, matters subject to legal privilege, confidential personal information and confidential journalistic material. Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it.
- 18.7 Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of all of the aspects relating to tasking contained within the CHIS codes of Practice.
- 18.8 Legal advice should always be sought where consideration is given to the use of CHIS.
- 18.9 DEFINITION OF CHIS
- 18.10 A CHIS is a person who: -
- Establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within the following paragraphs;
 - Covertly uses such a relationship to obtain information or to provide access to any information to another person; or
 - Covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.
- 18.11 A relationship is established, maintained or used for a covert purpose if, and only if, it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.
- 18.12 The serious crime criteria of the offences under investigation do not apply to CHIS.
- 18.13 CHIS's may only be authorised if the following arrangements are in place:

- That there will at all times be an Officer (the handler) within the Council who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security. The handler is likely to be the IO,
- That there will at all times be another Officer within the Council who will have general oversight of the use made of the source; (controller) i.e. the Line Manager.
- That there will at all times be an Officer within the Council who has responsibility for maintaining a record of the use made of the source.
- That the records relating to the source maintained by the local authority will always contain particulars of all matters specified by the Secretary of State in Regulations.

18.14 The Handler will have day to day responsibility for:

- dealing with the source on behalf of the Council concerned;
- directing the day to day activities of the source;
- recording the information supplied by the source; and
- monitoring the source's security and welfare.

18.15 The Controller will be responsible for the general oversight of the use of the source.

18.16 Tasking is the assignment given to the source by the Handler or Controller such as asking them to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant Council. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.

18.17 In some instances, the tasking given to a person will not require the source to establish a personal or other relationship for a covert purpose. For example, a member of the public is asked to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, directed surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual.

18.18 Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task.

18.19 VULNERABLE CHIS

18.20 Special consideration must be given to the use of a Vulnerable Individual as a CHIS. A 'Vulnerable Individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description, or a Juvenile as defined below, should only be authorised to act as a source in the most exceptional circumstances and only then when authorised by the Senior Responsible Officer.

- 18.21 Special safeguards also apply to the use or conduct of Juvenile Sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his parents or any person who has parental responsibility for them.
- 18.22 If the use of a Vulnerable Individual or a Juvenile is being considered as a CHIS you must consult the Legal Department before authorisation is sought as authorisations should not be granted unless the special provisions contained within the Regulation of Investigatory Powers (Juveniles) Order 2000; SI No. 2793 are satisfied. Authorisations for Juvenile Sources must be authorised by the Senior Responsible Officer within the Council.
- 18.23 It is unlikely that the use of a Vulnerable Individual or Juvenile CHIS by the Council will meet the requirements of necessity and proportionality and be considered justifiable.
- 18.24 USE OF EQUIPMENT BY A CHIS
- 18.25 If a CHIS is required to wear or carry a surveillance device such as a covert camera it does not need a separate intrusive or directed surveillance authorisation, provided the device will only be used in the presence of the CHIS. It should be authorised as part of the conduct of the CHIS.
- 18.26 CHIS, whether or not wearing or carrying a surveillance device, in residential premises or a private vehicle, does not require additional authorisation to record any activity inside those premises or that vehicle which takes place in their presence. This also applies to the recording of telephone conversations.
- 18.27 CHIS MANAGEMENT
- 18.28 The operation will require managing by the handler and controller which will include ensuring that the activities of the source and the operation remain focused and there is no status drift. It is important that the intrusion is assessed on an ongoing basis to ensure the operation remains proportionate. The security and welfare of the source will also be monitored. The AO should maintain general oversight of these functions.
- 18.29 During CHIS activity there may be occasions when unforeseen action or undertakings occur. Such incidences should be recorded as soon as practicable after the event and if the existing authorisation is insufficient, it should either be dealt with by way of a review and re-authorisation (for minor amendments only) or it should be cancelled, and a new authorisation obtained before any further action is carried out. Similarly, where it is intended to task a CHIS in a new significantly different way than previously identified, the proposed tasking should be referred to the AO, who should consider whether a separate authorisation is required. This should be done in advance of any tasking and details of such referrals must be recorded.
- 18.30 CHIS RECORD KEEPING
- 18.31 The records relating to the source maintained by the Council will always contain particulars as laid down by the Covert Human Intelligence Sources codes of practice, revised CHIS codes of practice and the RIPA (Source Records) Regulations 2000; SI No: 2725 which details the particulars that must be included in these records.

19. NECESSITY

- 19.1 Obtaining an authorisation under RIPA will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place.
- 19.2 RIPA first requires that the person granting an authorisation believe that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds applicable to the Council.
- 19.3 The applicant must be able to demonstrate why it is necessary to carry out the covert activity to achieve the objectives and that there was no other means of obtaining the same information in a less intrusive method. The applicant must detail the crime being investigated and the information or evidence they are hoping to obtain. They should also state that they have considered other means of obtaining this information and have either concluded this is the only method available or that other methods are not appropriate and state the reason; for example it would alert the subject to their investigation which would be detrimental to the case.

20. PROPORTIONALITY

- 20.1 If the activities are deemed necessary, the AO must also believe that they are proportionate to the objective they are aiming to achieve. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.
- 20.2 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render the proposed actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.
- 20.3 When completing the authorisation the AO should explain why the methods and tactics to be adopted during the surveillance are justified in the particular circumstances of the case.
- 20.4 The Codes provide guidance relating to proportionality which should be considered by both applicants and AOs:
- Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
 - Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
 - Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.
- 20.5 When completing an application for authorisation, the case should be presented in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the authorisation.

21. COLLATERAL INTRUSION

- 21.1 Before authorising applications for directed surveillance, the AO should also take into account the risk of collateral intrusion - obtaining private information about persons who are not subjects of the surveillance.
- 21.2 Officers should take measures, wherever practicable, to avoid or minimise unnecessary intrusion into the privacy of those who are not the intended subjects of the surveillance. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to the aims of the operation. The same proportionality tests apply to anticipated collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.
- 21.3 All applications must include an assessment of the risk of collateral intrusion and details of any measures taken to limit this (within the relevant section of the form), to enable the AO to fully consider the proportionality of the proposed actions.
- 21.4 In order to give proper consideration to collateral intrusion, an AO should be given full information regarding the potential scope of the anticipated surveillance, including the likelihood that any equipment or software deployed may cause intrusion on persons or property other than the subject(s) of the application. If an automated system such as an online search engine is used to obtain the information, the AO should be made aware of its potential extent and limitations. Material which is not necessary or proportionate to the aims of the operation or investigation should be discarded or securely retained separately where it may be required for future evidential purposes. The AO should ensure appropriate safeguards for the handling, retention or destruction of such material, as well as compliance with Data Protection Act requirements.
- 21.5 Where it is proposed to conduct surveillance activity specifically against individuals who are not suspected of direct or culpable involvement in the overall matter being investigated, interference with the privacy of such individuals should not be considered as collateral intrusion but rather as intended intrusion.
- 21.6 Where the Council intends to access a social media or other online account to which they have been given access with the consent of the owner, the authority will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a Directed Surveillance authorisation should be considered, particularly (though not exclusively) where it is intended to monitor the account going forward.

22. THE APPLICATION AND AUTHORISATION PROCESS

- 22.1 All forms relating to RIPA can be found at <https://www.gov.uk/government/collections/ripa-forms--2>
- 22.2 DURATION OF AUTHORISATIONS
- 22.3 Authorisations must be given for the maximum duration from the date approved by the JP/Magistrate but reviewed on a regular basis and formally cancelled when no longer needed. They do not expire – they must be cancelled when the surveillance is no longer proportionate or necessary. Therefore, a directed surveillance authorisation will cease to have effect after three months from the date of approval by the Magistrate unless renewed or cancelled. Durations detailed below:

- Directed Surveillance 3 Months
- Renewal 3 Months
- Covert Human Intelligence Source 12 Months
- Renewal 12 months
- Juvenile Sources 4 Months
- Renewal 4 Months

22.4 It is the responsibility of the IO to make sure that the authorisation is still valid when they undertake surveillance.

22.5 APPLICATIONS/AUTHORISATION

22.6 The applicant or some other person must carry out a feasibility study and intrusion assessment as this may be required by the AO. The person seeking the authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any real delay between the feasibility study and the completion of the application form to ensure that the details within the application remain accurate. The form should then be submitted to the AO for authorisation.

22.7 When completing an application, the applicant must ensure that the case for the authorisation is presented in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the warrant or authorisation.

22.8 For directed surveillance, the offence must be a criminal offence that attracts a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

22.9 All the relevant sections must be completed with enough information to ensure that applications are sufficiently detailed for the AO to consider necessity and proportionality, having taken into account the collateral intrusion issues. AOs should refuse to authorise applications that are not to the required standard and should refer them back to the originating Officers. Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.

22.10 If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, the respective application form and procedures should be followed, and both activities should be considered separately on their own merits.

22.11 All applications will be submitted to the AO via the Line Manager of the appropriate enforcement team in order that they are aware of the application and activities being undertaken by their staff. The Line Manager will perform an initial quality check of the application. However, they should not be involved in the sanctioning of the authorisation.

22.12 Applications, whether authorised or refused, will be issued with a unique number (obtained from the RIPA Coordinator) by the AO, taken from the next available number in the central record of authorisations which is held by the RIPA Coordinator.

22.13 If not authorised, feedback will be provided to the applicant and the application will be forwarded to the RIPA Coordinator for recording and filing.

22.14 If authorised, the applicant will then complete the relevant section of the judicial application/order form. Although this form requires the applicant to provide a

brief summary of the circumstances of the case, this is supplementary and does not replace the need to supply the original RIPA authorisation form to the Court.

22.15 ARRANGING THE COURT HEARING

22.16 Within office hours a hearing must be arranged at the Magistrates' Court with Her Majesty's Courts and Tribunals Service (HMCTS). The hearing will be in private and heard by a single JP. The application to the JP will be on oath.

22.17 Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or information as required by the JP. The legal department can advise who is duly authorised and able to present.

22.18 ATTENDING THE HEARING

22.19 The applicant and the AO should attend the Hearing to answer any questions directed at them. Upon attending the hearing, the presenting Officer must provide to the JP the partially completed judicial application/order form, a copy of the RIPA application/authorisation form, and the original form, together with any supporting documents setting out the case.

22.20 The original RIPA authorisation should be shown to the JP but will be retained by the Council so that it is available for inspection by IPCO, and in the event of any legal challenge or investigations by the IPT.

22.21 The JP will read and consider the RIPA authorisation and the judicial application/order form. They may ask questions to clarify points or require additional reassurance on particular matters. These questions are supplementary to the content of the application form. The forms and supporting papers must by themselves make the Council's case. It is not sufficient for the Council to provide oral evidence where this is not reflected or supported in the papers provided.

22.22 The JP will consider whether they are satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. In addition, they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate Designated Person within the Council and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

22.23 DECISION OF THE JP

22.24 The JP has a number of options:

22.25 Approve or renew an authorisation. If approved by the JP, the date of the approval becomes the commencement date and the three months duration will commence on this date, the Officers are now allowed to undertake the activity.

22.26 Refuse to approve or renew an authorisation. The RIPA authorisation will not take effect and the Council may **not** use the technique in that case.

22.27 Where an application has been refused, the applicant may wish to consider the reasons for that refusal. If more information was required by the JP to determine whether the authorisation has met the tests, and this is the reason for refusal, the Officer should consider whether they can reapply. For example, if there was

information to support the application which was available to the Council, but not included in the papers provided at the hearing.

- 22.28 For, a technical error (as defined by the JP), the form may be remedied without going through the internal authorisation process again. The Officer may then wish to reapply for judicial approval once those steps have been taken.
- 22.29 Refuse to approve or renew and quash the authorisation. This applies where the JP refuses to approve or renew the authorisation and decides to quash the original authorisation. However, the court must not exercise its power to quash the authorisation unless the applicant has had at least two business days from the date of the refusal in which to make representations. If this is the case the Officer will inform the Legal Department who will consider whether to make any representations.
- 22.30 The JP will record their decision on the order section of the judicial application/order form. The court administration will retain a copy of the Council's RIPA application and authorisation form and the judicial application/order form. The Officer will retain the original authorisation and a copy of the judicial application/order form.
- 22.31 The Council may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the Legal Department will decide what action if any should be taken.
- 22.32 POST COURT PROCEDURE
- 22.33 It will be necessary to work out the cancellation date from the date of approval and ensure that the applicant and the AO are aware. The original application and the copy of the judicial application/order form should be forwarded to the RIPA Coordinator. A copy will be retained by the applicant and if necessary by the AO. The Central Register of Authorisations will be updated with the relevant information to comply with the Codes of Practice and the original documents filed and stored securely.
- 22.34 Where dates are set within the process such as reviews, they must be adhered to. This will help with demonstrating that the process has been managed correctly in line with the Codes of Practice.
- 22.35 MANAGEMENT OF THE ACTIVITY
- 22.36 All RIPA activity will need to be managed by all the persons involved in the process. It is important that all those involved in undertaking directed surveillance activities are fully aware of the extent and limits of the authorisation. There should be an ongoing assessment of the need for the continued activity, including ongoing assessments of the intrusion. All material obtained including evidence should be stored in line with relevant legislation and procedures to safeguard its integrity and reduce a risk of challenge. (See use of material as evidence)
- 22.37 REVIEWS
- 22.38 When an application has been authorised and approved by a JP, regular reviews must be undertaken by the AO to assess the need for the surveillance to continue.
- 22.39 In each case the AO should determine at the outset how often a review should take place. This should be as frequently as is considered necessary and

practicable. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides a high level of intrusion into private life or significant collateral intrusion, or may obtain confidential information. Review periods will be recorded on the application form and the decision will be based on the circumstances of each application. However, reviews should be conducted at least monthly to ensure that the activity is managed. It will be important for the AO to be aware of when reviews are required following an authorisation, to ensure timely submission of the review form.

- 22.40 Applicants are responsible for submitting a review form by the date set by the AO. They should also use a review form for any changes in circumstances to the original application which would comprise a change to the level of intrusion so that the requirement to continue the activity can be reassessed. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances. If the circumstances or the objectives have changed considerably, or the techniques to be used are now different, a new RIPA application form should be submitted and the process followed to obtain approval by a JP.
- 22.41 Line managers should also make themselves aware of the required review periods to ensure that the relevant forms are completed on time.
- 22.42 The reviews are dealt with internally by submitting the review form to the AO. There is no requirement for a review form to be submitted to a JP.
- 22.43 The results of a review should be recorded on the Central Record of Authorisations.
- 22.44 RENEWAL
- 22.45 A renewal form is to be completed by the applicant when the original authorisation period is about to expire but directed surveillance or the use of a CHIS is still required.
- 22.46 Renewals must be approved by a JP.
- 22.47 Applications for renewals should not be made until shortly before the original authorisation period is due to expire but the applicant must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant AO and a JP to consider the application).
- 22.48 The applicant should complete all the sections within the renewal form and submit the form to the AO for consideration.
- 22.49 AOs should examine the circumstances with regard to necessity, proportionality and the collateral intrusion issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The AO must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.
- 22.50 If the AO refuses to renew the application, the cancellation process should be completed. If the AO authorises the renewal of the activity, the same process is to be followed as for the initial application whereby approval must be sought from a JP.
- 22.51 A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

22.52 CANCELLATION

- 22.53 The cancellation form is to be submitted by the applicant or another investigator in their absence. The AO who granted or last renewed the authorisation must cancel it if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the AO is no longer available, this duty will fall on the person who has taken over the role of AO or the person who is acting as AO.
- 22.54 As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other IO involved in the investigation should inform the AO. The AO will formally instruct the IO to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the Central Record of Authorisations.
- 22.55 The IO submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and also detail if any images were obtained, particularly any images containing third parties. The AO should then take this into account and issue instructions regarding the management and disposal of the images. See section below; Safeguarding and the Use of Surveillance Material.
- 22.56 The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant acted within the authorisation. This check will form part of the oversight function. Where issues are identified, they will be brought to the attention of the Line Manager and the SRO.
- 22.57 When cancelling a CHIS authorisation an assessment of the welfare and safety of the source should be assessed, and any issues identified and reported as above.

23. SURVEILLANCE OUTSIDE OF RIPA

- 23.1 As previously detailed, amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 mean that Councils can now only grant an authorisation under RIPA where the Council is investigating criminal offences which attract a maximum custodial sentence of at least six months or criminal offences relating to the underage sale of alcohol or tobacco.
- 23.2 As a result of the changes in legislation, it is envisaged that surveillance may be required which falls outside of RIPA (for example in the case of anti-social behaviour disorders which do not attract a maximum custodial sentence of at least six months imprisonment).
- 23.3 As stated, conducting surveillance outside of RIPA is not fundamentally unlawful, however in order for the Council to defend claims that they have breached an individual's right to privacy under the HRA the Council needs to demonstrate that their actions were justified in the circumstances of the case. It is therefore the Council's policy that, in order to undertake surveillance that falls outside of RIPA, Officers will follow the same initial process as when they are making an application for authorisation under RIPA. The IO must complete a Non-RIPA application form that is authorised by an AO and the application will be lodged with and monitored by the RIPA Coordinator. The AO will need to be satisfied that the actions are necessary and proportionate and give due consideration to any collateral intrusion. The Non-RIPA authorisation form is available from the RIPA Coordinator. The procedure for review and renewal of the surveillance

application will be the same, however there is no requirement/ability to obtain authorisation from a JP.

23.4 Non-RIPA surveillance also includes staff surveillance in serious disciplinary investigations. Any surveillance of staff must be formally recorded on the Non-RIPA surveillance application form and authorised by the AO in consultation with the RIPA Coordinator. The review of staff usage of the internet and e-mail would also not fall under RIPA. This surveillance outside of RIPA must however be compliant with any Council Policies with regard to monitoring at work and business practices legislation and should also consider ICO guidance in relation to surveillance of staff. Surveillance of staff should only be carried out in exceptional circumstances.

23.5 The RIPA codes also provide guidance that authorisation under RIPA is not required for the following types of activity:

- General observations that do not involve the systematic surveillance of an individual or a group of people and should an incident be witnessed the Officer will overtly respond to the situation.
- Use of overt CCTV and Automatic Number Plate Recognition systems.
- Surveillance where no private information is likely to be obtained.
- Surveillance undertaken as an immediate response to a situation.
- Covert surveillance not relating to criminal offence which carries a maximum sentence of 6 months imprisonment and does not relate to the sale of alcohol or tobacco to children (surveillance outside of RIPA).
- The use of a recording device by a CHIS in respect of whom an appropriate use or conduct authorisation has been granted permitting them to record any information in their presence.
- The covert recording of noise where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy. In either circumstance this is outside of RIPA.

24. SAFEGUARDING AND THE USE OF SURVEILLANCE MATERIAL

24.1 This section provides guidance on the procedures and safeguards to be applied in relation to the handling of any material obtained through directed surveillance or CHIS activity. This material may include private, confidential or legally privileged information.

24.2 AUTHORISED PURPOSE

24.3 Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. For the purposes of this Code this is defined as follows:-

- It is, or is likely to become, necessary for any of the statutory purposes set out in the RIPA in relation to covert surveillance or CHIS activity;
- It is necessary for facilitating the carrying out of the functions of public authorities under RIPA;

- It is necessary for facilitating the carrying out of any functions of the Commissioner or the Investigatory Powers Tribunal;
- It is necessary for the purposes of legal proceedings; or
- It is necessary for the performance of the functions of any person by or under any enactment.

24.1 USE OF MATERIAL AS EVIDENCE

24.2 Material obtained through directed surveillance, may be used as evidence in criminal proceedings. The admissibility of evidence is governed primarily by the common law, the Criminal Procedure and Investigations Act 1996 (CPIA), the Civil Procedure Rules, section 78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

24.3 Ensuring the continuity and integrity of evidence is critical to every prosecution. Accordingly, considerations as to evidential integrity are an important part of the disclosure regime under the CPIA and these considerations will apply to any material acquired through covert surveillance that is used in evidence. When information obtained under a covert surveillance authorisation is used evidentially, the Council must be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure.

24.4 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements. In a criminal case the codes issued under CPIA will apply. They require that the investigator record and retain all relevant material obtained in an investigation and later disclose relevant material to the prosecuting solicitor. They in turn will decide what is disclosed to the defence solicitor.

24.5 There is nothing in RIPA which prevents material obtained under directed or intrusive surveillance authorisations from being used to further other investigations.

24.6 HANDLING AND RETENTION OF MATERIAL

24.7 All material associated and obtained with an application will be subject to the provisions of all data protection legislation and regulations and CPIA Codes of Practice and to any Council Policies with regard to data retention and security. All Officers involved within this process should make themselves aware of the provisions within this legislation and how it impacts on the RIPA process. Material obtained together with relevant associated paperwork should be held securely. Extra care needs to be taken if the application and material relates to a CHIS.

24.8 Material required to be retained under CPIA should be retained until a decision is taken whether to institute proceedings against a person for an offence or if proceedings have been instituted, at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case.

24.9 Where the accused is convicted, all material which may be relevant must be retained at least until the convicted person is released from custody, or six months from the date of conviction, in all other cases.

24.10 If the court imposes a custodial sentence and the convicted person is released from custody earlier than six months from the date of conviction, all material

which may be relevant must be retained at least until six months from the date of conviction.

24.11 If an appeal against conviction is in progress when the convicted person is released, or at the end of the period of six months, all material which may be relevant must be retained until the appeal is determined.

24.12 Retention beyond these periods must be justified under data protection legislation and regulations. AOs, through the Council's Data Controller, must ensure compliance with the appropriate Data Protection requirements and any relevant internal arrangements produced by the Council relating to the handling and storage of material.

24.13 DISSEMINATION OF INFORMATION

24.14 It may be necessary to disseminate material acquired through the RIPA covert activity within the Council or with other Councils or agencies, including the Police. The number of persons to whom any of the information is disclosed, and the extent of disclosure, should be limited to the minimum necessary. It must also be in connection with an authorised purpose as set out above. It will be necessary to consider exactly what and how much information should be disclosed. Only so much of the material may be disclosed as the recipient needs; for example, if a summary of the material will suffice, no more than that should be disclosed.

24.15 The obligations apply not just to the Council as the original authority acquiring the information, but also to anyone to whom the material is subsequently disclosed. In some cases, this will be achieved by requiring the latter to obtain permission from the Council before disclosing the material further. It is important that the Officer in Charge (OIC) of the enquiry considers these implications at the point of dissemination to ensure that safeguards are applied to the data.

24.16 A record will be maintained justifying any dissemination of material. If in doubt, seek legal advice.

24.17 STORAGE

24.18 Material obtained through covert surveillance, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise the risk of loss. It must be held so as to be inaccessible to persons who are not required to see the material (where applicable). This requirement applies to all those who are responsible for the handling of the material. It will be necessary to ensure that an appropriate security clearance regime is in place to safeguard the material whether held electronically or physically.

24.19 COPYING

24.20 Material obtained through covert surveillance may only be copied to the extent necessary for the authorised purposes set out above. Copies include not only direct copies of the whole of the material, but also extracts and summaries which identify themselves as the product of covert surveillance, and any record which refers to the covert surveillance and the identities of the persons to whom the material relates.

24.21 In the course of an investigation, the Council must not act on or further disseminate legally privileged items unless it has first informed the IPC that the items have been obtained.

24.22 DESTRUCTION

24.23 Information obtained through covert surveillance, and all copies, extracts and summaries which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose(s) set out above. If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid. In this context, destroying material means taking such steps as might be necessary to make access to the data impossible.

25. ERRORS

25.1 Proper application of the surveillance provisions in the RIPA codes and this Policy should reduce the scope for making errors.

25.2 RELEVANT ERROR

25.3 An error must be reported if it is a “**relevant error**”. A relevant error is any error by the Council in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of RIPA.

25.4 Examples of relevant errors occurring would include circumstances where:

- Surveillance activity has taken place without lawful authorisation.
- There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the Surveillance Codes of Practice relating to the safeguards of the material.

25.5 Errors can have very significant consequences on an affected individual's rights. All relevant errors made by the Council must be reported to the Investigatory Powers Commissioner as soon as reasonably practicable, and a full report no later than ten working days after the error is discovered. The report should include information on the cause of the error; the amount of surveillance conducted, and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

25.6 SERIOUS ERRORS

25.7 The Investigatory Powers Commissioner must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a **serious error** and that it is in the public interest for the person concerned to be informed of the error. The Commissioner may not decide that an error is a serious error unless they consider that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's convention rights (within the meaning of the HRA) is not sufficient by itself for an error to be a serious error.

25.8 It is important that all staff involved in the RIPA process report any issues, so they can be assessed as to whether it constitutes an error which requires reporting.

26. COMPLAINTS

26.1 The Investigatory Powers Tribunal (IPT) has jurisdiction to investigate and determine complaints against the Council's use of investigatory powers, including those covered by this code. Any complaints about the use of powers as described in this code should be directed to the IPT.

26.2 Complaints should be addressed to:
The Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

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1. INTRODUCTION

- 1.1. The Investigatory Powers Act 2016 (IPA) governs how law enforcement agencies use the investigatory powers available to them, in relation to the lawful acquisition of Communications Data (CD). The IPA provides unprecedented transparency and substantial privacy protection, strengthening safeguards and introducing oversight arrangements. It also introduces a powerful new Investigatory Powers Commission (IPC) to oversee how these powers are used.
- 1.2. The powers provided by the Regulation of Investigatory Powers Act 2000 (RIPA) allowed the Council to obtain CD from Communications Service Providers (CSPs) in connection with criminal investigations.
- 1.3. The IPA extends the range of data Councils are able to request from providers but ensures independent authorisation for the acquisition through the new Office for Communications Data Authorisations (OCDA). However, it continues only to be a justifiable interference with an individual's human rights if such conduct is authorised, is both necessary and proportionate, and is in accordance with the law.
- 1.4. All applications for CD must be made via an Accredited Officer known as a Single Point of Contact (SPoC) who has passed a Home Office approved course. All Councils must use the National Anti-Fraud Network (NAFN) as their SPoC. Therefore, all applications to access CD will be made through NAFN via their online application service.
- 1.5. The introduction of OCDA means the acquisition of CD by Council officers no longer requires judicial approval.
- 1.6. These powers should not be confused with any Policy and practices with regard to monitoring under the lawful business practices legislation. This latter legislation relates to the monitoring of the Council's own communication and computer systems.

2. SCOPE OF POLICY

- 2.1. This Policy sets out the Council's procedures and approach for obtaining and handling CD for the purposes of preventing or detecting crime or of preventing disorder; the only lawful reasons for Council staff to use IPA legislation to access CD.
- 2.2. This Policy should be read in conjunction with the Communications Data Code of Practice (COP), currently in draft. This also creates a system of safeguards, consistent with the requirements of Article 8 (rights to privacy) of the Human Rights Act 1998. The Codes of Practice are admissible in evidence in criminal and civil proceedings.
- 2.3. The draft Code can be obtained using the link detailed below and is available to all Council staff involved in the acquisition of CD.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757851/Communications_Data_Code_of_Practice.pdf
- 2.4. Both this Policy and the COP will be followed at all times and under no circumstances should access to CD be sought outside of this guidance.
- 2.5. The Council will review and amend this Policy as necessary to ensure that it continues to remain compliant and meets legislative requirements and the objectives of the Council.

3. ROLES OF STAFF INVOLVED IN THE PROCESS

- 3.1. The process for the acquisition of CD under the IPA requires the following personnel:

- Applicant
- Designated Person (DP)
- Single Point of Contact (SPoC)
- OCDA Authorising Individual

4. APPLICANT

- 4.1. The Applicant is a person involved in conducting an investigation or operation who makes an application in writing for the acquisition of CD. The Applicant completes an application form, setting out for consideration the necessity and proportionality of a specific requirement for acquiring CD. Prior to the completion of the relevant paperwork, it may be advisable for the Applicant to consult with the SPoC at NAFN.

5. DESIGNATED PERSON

- 5.1. The DP is a person of Service Manager level or equivalent within the Council who confirms to NAFN that they are aware that an application has been made. They do not have any authorising function but are responsible for the integrity of the process in place and the overall quality of that process.

6. SINGLE POINT OF CONTACT

- 6.1. The SPoC is either an accredited individual (passed the Home Office course) or a group of accredited individuals such as the National Anti-Fraud Network, who are trained to facilitate lawful acquisition of CD. All accredited officers are issued a Personal Identification Number (PIN). Details of all accredited individuals are available to Communication Service Providers (CSPs) for authentication purposes.
- 6.2. An accredited SPoC promotes efficiency and good practice in ensuring only practical and lawful requirements for CD are undertaken. The SPoC provides objective judgement and advice to the Applicant and provides a "guardian and gatekeeper" function, ensuring that public authorities act in an informed and lawful manner.
- 6.3. As already explained, this Council can only use the services of NAFN as the Council's SPoC. Therefore, all applications to access CD will be made through NAFN.
- 6.4. The SPoC will be in a position to:
- Engage proactively with Applicants to develop strategies to obtain CD and use it effectively in support of operations or investigations;
 - Assess whether the acquisition of specific CD from a CSP is reasonably practical or whether the specific data required is inextricably linked to other data;
 - Advise Applicants on the most appropriate method for the acquisition of data where the data sought engages a number of CSPs;
 - Advise Applicants on the type of data that can be obtained to meet their purposes.
 - Provide assurance to DPs that Authorisations and Notices are lawful under the IPA and free from errors;
 - Provide assurance to OCDA that an application has been verified and checked.

- Assess whether CD disclosed by a CSP in response to a Notice fulfils the requirement of the Notice;
- Assess whether CD obtained by means of an Authorisation fulfils the requirement of the Authorisation;
- Assess any cost and resource implications to both the Council and the CSP of data requirements.

7. OCDA AUTHORISING INDIVIDUAL

- 7.1. The OCDA officer receives the application from the NAFN SPoC and checks the application meets the necessary criteria before authorising or rejecting and issuing a Decision Document. NAFN will retain the original of all the documents. These will be retained within the on-line portal. Copies of the documents must be retained by the Applicant, DP or within the relevant department for inspection by the IPC and for audit, filing and disclosure purposes under the Criminal Procedures Investigation Act 1996. (OCDA will only hold the applications and Decision Documents for a limited period of time due to the degree of sensitivity and risk arising from the accumulation of these documents in a central database.)

8. WHAT IS COMMUNICATIONS DATA

- 8.1. CD does not include the content of any communication. It is not lawfully possible for Council employees under any circumstances to obtain the content of communications.
- 8.2. The term 'CD' embraces the 'who', 'when' and 'where' of a communication but not the content - not what was said or written. It includes the manner in which, and by what method, a person or machine communicates with another person or machine. It excludes what they say or what data they pass on within a communication including text, audio and video
- 8.3. CD can include the address to which a letter is sent, the time and duration of a communication, the telephone number or email address of the originator and recipient, and the location of the device from which the communication was made. It covers electronic communications including internet access, internet telephony, instant messaging and the use of applications. It also includes postal services.
- 8.4. CD is generated, held or obtained in the provision, delivery and maintenance of communications services – i.e. postal services or telecommunications services.
- 8.5. Where the provision of a communication service engages a number of providers, the SPoC will determine the most appropriate plan for acquiring the data.
- 8.6. When enquiries regarding CD are being considered within an investigation, it may be advisable that Applicants seek advice and guidance from the SPoC at NAFN. The RIPA Coordinator /DP within the Counter Fraud Unit can provide contact details.

9. COMMUNICATIONS DATA DEFINITIONS

- 9.1. The IPA introduces new terminology for CD – Entity Data and Events Data
- 9.2. Entity Data describes the 'who' involved in the communication – the subscriber and the links between different entities or communicators. Entities could be individuals, groups and objects (such as mobile phones or other communications devices).
- 9.3. Examples of entity data requests include:

- Subscriber checks, such as who is the subscriber of phone number 01234 567 890?
- Who is the account holder of e-mail account example@example.co.uk?
- Who is entitled to post to web space www.example.co.uk?
- Subscribers' or account holders' account information, including names and addresses for installation, and billing including payment method(s), details of payments e.g. for pre-paid mobiles.
- Information about the connection, disconnection and reconnection of services to which the subscriber or account holder is allocated or has subscribed (or may have subscribed) including conference calling, call messaging, call waiting and call barring telecommunications services.
- Information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes.
- Information about selection of preferential numbers or discount calls.

9.4. Event Data identifies or describes events in relation to a telecommunications system which consists of one or more entities engaging in an activity at a specific point or points in time – the 'what, when and where'. For obtaining Event Data there is a Serious Crime Threshold (see 11.1)

9.5. Examples of events data include, but are not limited to:

- Information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- Information identifying the location of apparatus when a communication is, has been or may be made or received (such as the location of a mobile phone);
- Information identifying the sender or recipient (including copy recipients) of a communication from data comprised in or attached to the communication;
- Routing information identifying apparatus through which a communication is or has been transmitted (for example, file transfer logs and e-mail headers – to the extent that content of a communication, such as the subject line of an e-mail, is not disclosed);
- Itemised telephone call records (numbers called)¹²;
- Itemised internet connection records;
- Itemised timing and duration of service usage (calls and/or connections);
- Information about amounts of data downloaded and/or uploaded;
- Information about the use made of services which the user is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services.

10. POSTAL DEFINITIONS

10.1. A postal service is a service which involves one or more of the collection, sorting, conveyance, distribution and delivery of postal items and where its main purpose is to

make available or facilitate the transmission of postal items containing communications. CD in relation to a postal service is defined at section 262(3) of the IPA and comprises three elements:

- Postal data which is or has been comprised in or attached to a communication for the purpose of the service by which it is transmitted;
- Data relating to use made by a person of a postal service;
- Information held or obtained by a postal operator about persons to whom the postal operator provides or has provided a communications service and which relates to the provision of the service.

10.2. Postal data is defined in section 262(4) of the IPA and includes specified categories of data written on the outside of a postal item. All information on the outside of a postal item concerning its postal routing, for example the address of the recipient, the sender and the post-mark, is postal data.

10.3. In the postal context anything included inside a postal, item, which is in transmission, will be content. Any message written on the outside of a postal item which is in transmission may be content and fall within the scope for the interception of communications. For example, a message written by the sender for the recipient will be content but a message written by a postal worker concerning the delivery of the postal item will not. All information on the outside of a postal item concerning its routing, for example the address of the recipient, the sender and the postmark, is postal data and will not be content.

11. WEB BROWSING AND COMMUNICATIONS DATA

11.1. Web browser software provides one way for users to access web content. When using a browser to access the web, a user may enter a web address. These are also referred to as uniform resource locators (URLs).

11.2. Some elements of a URL are necessary to route a communication to the intended recipient and are therefore CD. The URL may also contain the port, which is an extended part of the Internet Provider (IP) address and the user information – including usernames and authorisations. The port and user information will be CD.

12. RELEVANT COMMUNICATIONS DATA

12.1. A data retention notice under the IPA may only require the retention of relevant CD. This is defined at section 87 of the IPAt and is a subset of CD.

It is data which may be used to identify or assist in identifying any of the following:

- The sender or recipient of a communication;
- The time or duration of a communication;
- The type, method or pattern, or fact of a communication;
- The telecommunication system to or through which a communication is transmitted;
- The location of any such system.

13. INTERNET CONNECTION RECORDS

- 13.1. An internet connection record (ICR) is a record of an event held by a telecommunications operator about the service to which a customer has connected on the internet. An ICR is CD.
- 13.2. An ICR will only identify the service that a customer has been using. For example many social networking apps on a device maintain persistent connections to a service. Even in this case the relevant ICR will signpost the service accessed by the device, enabling the authority to make further enquiries of the social networking provider identified.
- 13.3. Further detail on the definitions described above and the types of CD that can be accessed is available in the COP.
- 13.4. The SPoC will provide advice and assistance with regard to the types of data which can be lawfully obtained and how that data may assist an investigation. Where an applicant is unsure of the category of data they are seeking (entity or events data) or what additional types of CD may be retained by a telecommunications operator or postal operator for their own business use, the applicant should discuss this with their Single Point of Contact (SPoC).

14. PREPAID MOBILE PHONES

- 14.1. Unregistered prepaid mobile phones are common amongst criminals as it allows them to avoid detection more easily. It is possible that a subscriber check will identify a number as belonging to one of these devices. This does not necessarily prevent an investigating officer obtaining useful information. The Applicant can ask for further information about the subscriber under section 21(4)(c), including top-up details, method of payment, the bank account used or customer notes etc.
- 14.2. So as to allow for the widening of the data capture, the Applicant should outline in their original application that further information will be required if the phone turns out to be prepaid, this information could be requested in two stages. Firstly, asking for the subscriber details and then, if this turns out to be an unregistered prepaid phone, asking for the further information.
- 14.3. The information that is received can then be developed to try to obtain further information about the user of the phone. Solution Providers such as EasyPay, EPay etc. are the third parties involved in the transaction of credit placed on a mobile phone. If a Solution Provider is provided with the mobile telephone number, the transaction date and the transaction number, they are often able to provide the method of payment and the location of the top-up. Solution Providers are not CSPs and therefore they cannot be issued with a Notice under the IPA; instead the data can be applied for under the Data Protection Act via the SPoC.

15. WHO CAN COMMUNICATIONS DATA BE OBTAINED FROM?

- 15.1. CD can be obtained from a Communications Service Provider (CSP). A CSP is an operator who provides a postal service such as Royal Mail or telecommunications service, such as the usual telephone service providers. However, there may be less obvious companies which may be classed as a CSP. The SPoC at NAFN will determine which CSP they will contact to obtain the data on behalf of the Applicant. However, any intelligence obtained which establishes which CSP may provide the data should be included within the application or by notifying the SPoC.

16. LAWFUL REASONS TO ACCESS COMMUNICATIONS DATA

- 16.1. As mentioned earlier the Council's only lawful reasons to access CD is for the purpose of preventing or detecting crime or of preventing disorder.
- 16.2. Detecting crime includes establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed, the gathering of evidence for use in any legal proceedings and the apprehension of the person (or persons) by whom any crime was committed.
- 16.3. The Council can only lawfully process and consider applications to access CD on behalf of the Council. Under no circumstances will applications be accepted for outside authorities/agencies. However, it may be necessary during joint investigations to obtain CD; in these circumstances the Council can only apply for data which it would usually be allowed to access. It should be clear in the investigation Policy log that it is a joint investigation as it may have to be justified to a Court or Tribunal.
- 16.4. Staff must not apply on behalf of any third parties who do not have lawful authority to obtain CD. Should an organisation make such an approach this must be reported to the Senior Responsible Officer (SRO) who has the responsibility for the Council's working practices in relation to obtaining CD.
- 16.5. Where the Council is contracted to undertake work on behalf of a third party, CD may be obtained if the Council is the investigating and prosecuting body.

17. USING OTHER POWERS

- 17.1. The IPA is the primary legislation for the acquisition of CD and should always be the first option considered due to the rigorous and independent assessment and authorisation process.

18. INTERNAL INVESTIGATIONS

- 18.1. The Codes state 'where an investigation relates to an allegation of criminal conduct by a member of a public authority, that public authority (or another public authority appointed to investigate the complaint) may use their powers under Chapter II to obtain CD for the purpose of preventing and detecting the alleged or suspected crime where the investigating officer intends the matter to be subject of a prosecution within a criminal court. Should it be determined there are insufficient grounds to continue the investigation or insufficient evidence to initiate a prosecution within a criminal court, it will, with immediate effect, no longer be appropriate to obtain CD under the Act'.
- 18.2. If CD is sought in connection with officers of the Council committing crimes against the Council, it is important that the enquiry is a genuine criminal investigation with a view to proceeding criminally as opposed to just a disciplinary matter. Advice may be required from the Council's Legal section if this arises.

19. SERIOUS CRIME THRESHOLD

- 19.1. With effect from 1st November 2018 the IPA introduced a new Serious Crime Threshold to applications for CD. This means the Council may only acquire Events Data where the crime can be defined as a serious crime. Where the crime cannot be defined as serious, only Entity Data may be obtained.
- 19.2. The following definitions of serious crime apply:

- An offence that is capable of attracting a prison sentence of 12 months or more;
- An offence by a person who is not an individual (i.e. a corporate body);
- An offence falling within the definition of serious crime in section 263(1) of the IPA (i.e. where the conduct involves the use of violence, results in substantial financial gain or is by a large number of persons in pursuit of a common purpose);
- An offence which involves, as an integral part of it, the sending of a communication;
- An offence which involves, as an integral part of it a breach of a person's privacy.

20. NECESSITY AND PROPORTIONALITY

- 20.1. The COP states the acquisition of CD under the IPA will be a justifiable interference with an individual's human rights under Article 8 Right to Privacy, only if the conduct being authorised or required to take place is both necessary and proportionate and in accordance with law.
- 20.2. Below is guidance to assist Applicants with factors that impact on necessity and proportionality.

21. NECESSITY

- 21.1. In order to justify the application is necessary, the Applicant needs as a minimum to consider three main points:
1. The event under investigation, such as a crime or disorder offence;
 2. The person, such as a suspect, witness or missing person and how they are linked to the event;
 3. The Communication Data, such as a telephone number or IP address, and how this data is related to the person and the event.
- 21.2. In essence, necessity should be a short explanation of **1) the event, 2) the person and 3) the CD and how these three link together**. The application must establish a link between the three aspects to be able to demonstrate the acquisition of CD is necessary for the statutory purpose specified.
- 21.3. Necessity does not entail explaining 'what will be achieved by acquiring the data' or 'why specific time periods have been requested', these points are relevant to proportionality and should be covered in the relevant section to stop repetition.

22. PROPORTIONALITY

- 22.1. Applicants should include an outline of how obtaining the data will benefit the investigation or operation. If more than one item of data is being sought, the relevance of the additional data should be explained.
- 22.2. This outline should include an explanation of how the level of intrusion is justified when taking into consideration the benefit the data will give to the investigation. This justification should include confirmation that relevant less intrusive investigations have already been undertaken where possible. For example, the subscriber details of a phone number may be obtained from online enquiries or other publicly available sources.

- 22.3. The relevance of any time periods requested must be explained, outlining how these periods are proportionate to the event under investigation. The two basic questions are:
- What are you looking for in the data to be acquired and;
 - If the data contains what you are looking for, what will be your next course of action?
- 22.4. Particular consideration should be given to any periods of days or shorter periods of time which might achieve the objective. They should specify the shortest period in which the objective for which the data is sought can be achieved. To do otherwise will impact on the proportionality of the Authorisation or Notice and impose unnecessary burden upon a CSP.
- 22.5. An explanation as to how CD once acquired will be used, and how it will benefit the investigation or operation will enable the Applicant to set out the basis of proportionality.
- 22.6. An explanation of the proportionality of the application should include a consideration of the rights (particularly to privacy and, in relevant cases, freedom of expression) of the individual and a balancing of these rights against the benefit to the investigation.
- 22.7. An examination of the proportionality of the application should also involve consideration of possible unintended consequences and, when relevant this should be noted. Unintended consequences of an application are outcomes that are not intended by the application.

23. COLLATERAL INTRUSION

- 23.1 Consideration of collateral intrusion forms part of the proportionality considerations and becomes increasingly relevant when applying for Events Data. Applications should include details of what collateral intrusion may occur and how the time periods requested impact on the collateral intrusion.
- 23.2 The question to be asked is 'Will the data set to be acquired result in collateral intrusion to persons outside the line of enquiry the data is being obtained for?' For example, itemised billing on the subject's family home will be likely to contain calls made by the family members.
- 23.3 Applicants should not write about a potential or hypothetical 'error' and if the Applicant cannot identify any meaningful collateral intrusion, that factor should be recorded in the application i.e. 'none identified'.
- 23.4 It is accepted that for a straight forward subscriber check there will be no meaningful collateral intrusion.

24. THE TWO WAYS OF OBTAINING COMMUNICATIONS DATA

- 24.1. The legislation provides two different methods of acquiring CD (see below). The SPoC at NAFN will be responsible for deciding the process for obtaining the data required and passing responses from the service provider to the Council.
- 24.2. The two methods are:

- **Authorisation of conduct, or**
- **Authorisation to give a Notice**

24.3. An authorisation of conduct to acquire CD may be appropriate where, for example:

- there is an agreement in place between a public authority and a telecommunications operator or postal operator to facilitate the secure and swift disclosure of CD. Many telecommunications operators and postal operators have auditable acquisition systems in place to ensure accurate and timely acquisition of CD, while maintaining security and an audit trail;
- where the data can be acquired directly from a telecommunication system and the activity does not constitute interception or equipment interference; or
- a public authority considers there is a requirement to identify a person to whom a service is provided but the specific telecommunications operator or postal operator has yet to be conclusively determined as the holder of the CD.

An authorisation to give a notice may be appropriate where a telecommunications operator or postal operator is known to be capable of disclosing (and, where necessary, obtaining) the CD

25. THE APPLICATION PROCESS

25.1. From April 2019 the IPA removes the requirement to obtain judicial approval. Applications will only require Independent Authorisation.

25.2. Prior to an Applicant applying for CD, they should contact a SPoC at NAFN who will be in a position to advise them regarding the obtaining and use of CD within their investigation. This will reduce the risk of the Applicant applying for data which they are not able to obtain. It will also assist the Applicant to determine their objectives and apply for the most suitable data for those circumstances.

25.3. The Council will use the automated application process provided by NAFN. This automated service contains the relevant documentation for the Applicant to complete the relevant forms.

25.4. To use the system, Applicants and the DP have to individually register on the NAFN website - www.nafn.gov.uk. A number of departments within the Council have contributed towards the NAFN annual membership fee; therefore an Applicant needs to confirm with their Line Manager that they are allowed to register. Should you have any queries, please contact the Counter Fraud Unit.

25.5. With regard to shared services, the Council on whose behalf the request is being made must be a member of NAFN and the request made via login details for that Council. Applicants and DPs cannot make use of one Council's membership to obtain any information on behalf of another. Login details will be necessary for each Council that an individual is employed by or works on behalf of.

25.6. The online application form, once completed by the Applicant will be forwarded electronically to a SPoC at NAFN who will then perform their responsibilities and if required they will contact the Applicant regarding the contents of the application form. The SPoC at NAFN will obtain confirmation from the nominated DP that they are aware of the application before proceeding.

- 25.7. The SPoC confirms that the Council is permitted to use the recorded statutory purpose and determines the conduct to satisfy the Council's need (the type of data that is required). If event data is required the SPoC checks the Applicant has recorded a description of the offence(s) and a justification for the seriousness of the offence(s)
- 25.8. The SPoC can return the application to the Council for a re-work if it does not meet the necessary criteria.
- 25.9. Once approved the SPoC refers the application to OCDA for authorisation. OCDA then return the application to NAFN for the SPoC to obtain the authorised data from the CSP.
- 25.10. If the OCDA officer rejects the application it can be returned to the applicant for a re-work.

26. TIME SCALES

- 26.1. A new Operational Prioritisation has been introduced to enable NAFN to convey to OCDA the operational urgency for the acquisition of data and ensure it is appropriately triaged and handled to meet these demands.
- 26.2. Operational Prioritisation is categorised in Priority Levels 1-4 and for each Priority rating there is an expected Service response time.
- 26.3. The Council will generally be submitting requests that are Priority Level 4 – Routine- for which the response should be within 4 working days or 60 working hours.

27. APPLICATION FORM

- 27.1. The Applicant will complete an application form setting out for consideration the necessity and proportionality of a specific requirement for CD.
An application to acquire CD must:
- describe the CD required, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s);
 - specify the purpose for which the data is required, by reference to a statutory purpose under the Act;
 - include a unique reference number;
 - include the name and the office, rank or position held by the person making the application;
 - describe whether the CD relates to a victim, a witness, a complainant, a suspect, next of kin, vulnerable person or other person relevant to the investigation or operation;
 - identify and explain the time scale within which the data is required;
 - explain why the acquisition of that data is considered necessary and proportionate to what is sought to be achieved by acquiring it;
 - present the case for the authorisation in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation;

- consider and, where appropriate, describe any meaningful collateral intrusion – the extent to which the rights of any individual not under investigation may be infringed and why that intrusion is justified in the circumstances;
- consider and, where appropriate, describe any possible unintended consequences of the application; and
- where data is being sought from a telecommunications operator or postal operator, specify whether the telecommunications operator or postal operator may inform the subject(s) of the fact that an application has been made for their data
- include the operation name (if applicable) to which the application relates;

28. URGENT ORAL AUTHORISATION

28.1. There is no provision within the legislation for the Council to orally provide authority to obtain CD. All requests will be made in writing on the NAFN portal and require authorisation from a DP.

29. ERRORS

29.1. There is a requirement to record or in some instances report to IPCO errors that occur when accessing CD. The thorough checking of operating procedures, including the careful preparation and checking of applications, Notices and Authorisations, should reduce the scope for making errors. Attention to detail will be required by all persons involved in the process.

29.2. Reporting and recording of errors will draw attention to those aspects of the process of acquisition and disclosure of CD that require further improvement to eliminate errors and the risk of undue interference with any individual's rights. Therefore, the SPoC or other persons involved in the process should bring to the immediate attention of the SRO either a recordable error or a reportable error and the necessary action can then be taken in line with the COP.

29.3. Where material is disclosed by a CSP in error, which has no connection or relevance to any investigation or operation undertaken by the public authority receiving it, that material and any copy of it should be destroyed as soon as the report to the Commissioner has been made.

29.4. An error can only occur after:

- The granting of an Authorisation and the acquisition of data has been initiated, or
- Notice has been given and the Notice has been served on a CSP in writing, electronically or orally.

29.5. It is important to apply the procedures correctly to reduce the risk of an error occurring. Where any error occurs, a record will be kept.

29.6. There are two types of errors:

- Reportable
- Recordable

30. REPORTABLE ERROR

- 30.1. Where CD is acquired or disclosed wrongly a report must be made to the IPCO. Such errors can have very significant consequences on an affected individual's rights with details of their private communications being disclosed to a public authority and, in extreme circumstances, being wrongly detained or wrongly accused of a crime as a result of that error.
- 30.2. Examples can include:
- An Authorisation or Notice made for a purpose, or for a type of data which the relevant public authority cannot call upon or seek, under the Act;
 - Human error, such as incorrect transposition of information from an application to an Authorisation or Notice;
 - Disclosure of the wrong data by a CSP when complying with a Notice;
 - Acquisition of the wrong data by a public authority when engaging in conduct specified in an Authorisation;
- 30.3. Any reportable error must be reported to the SRO as soon as it is identified and then a report will be made to the IPCO within five working days. The report must contain the unique reference number of the Notice and details of the error, plus an explanation how the error occurred and indicate whether any unintended collateral intrusion has taken place. It will also provide an indication of the steps that will take place to prevent a reoccurrence. The 'reporting an error by accredited SPoC form' (CD5) should be used for this purpose.
- 30.4. If the report relates to an error made by a CSP, the Authority must still report it. The CSP should also be notified to enable them to investigate the cause.

31. RECORDABLE ERROR

- 31.1. In cases where an error has occurred but is identified by the public authority or the CSP without data being acquired or disclosed wrongly, a record will be maintained by the Council and NAFN of such occurrences. These records must be available for inspection by the IPCO.
- 31.2. The staff involved in the process of acquiring CD must report errors once they have been identified. It will not be acceptable for the error to be ignored.
- 31.3. Examples can include:
- A Notice given, which is impossible for a CSP to comply with and an attempt to impose the requirement has been undertaken by the public authority;
 - Failure to review information already held, for example unnecessarily seeking the acquisition or disclosure of data already acquired or obtained for the same investigation or operation, or data for which the requirement to acquire or obtain it is known to be no longer valid.

32. EXCESS DATA

- 32.1. Where authorised conduct results in the acquisition of excess data, the excess data acquired or disclosed should only be retained by the public authority where appropriate to do so – for example in relation to a criminal investigation.
- 32.2. Where a public authority is bound by the Criminal Procedure and Investigations Act 1996 and the IPA Codes of Practice, there will be a requirement to record and retain

data which is relevant to a criminal investigation, even if that data was disclosed or acquired beyond the scope of a valid authorisation.

- 32.3. If having reviewed the excess data, it is intended to make use of the excess data in the course of the investigation or operation, an applicant must set out the reason(s) for needing to use that material in an addendum to the application upon which the authorisation or notice was originally granted or given. The SRO (or a person of equivalent grade or authority) will review the data and consider whether it is necessary and proportionate for the excess data to be used in the investigation.
- 32.4. As with all CD, the requirements of relevant data protection legislation and data retention policies should be adhered to in relation to excess data.

33. RECORD KEEPING AND SECURITY OF DATA

- 33.1. All the records and any data obtained must be kept secure and confidential.
- 33.2. The Council must retain copies of all Applications, as a printed copy of the online application submitted via NAFN, and any other associated documentation where copies have been provided by the NAFN SPoC. This will be coordinated by the RIPA Coordinating Officer/DP who also holds copies of applications for surveillance as per the Council's overarching RIPA Policy.
- 33.3. The copy application records must be available for inspection by the IPCO. The IPCO will also be able to obtain copies direct from NAFN.
- 33.4. The SRO will have access to all of these forms as and when required.
- 33.5. The Council must also keep a record of the following:
- Number of applications submitted to the NAFN SPoC;
 - Number of applications submitted to the NAFN SPoC which were referred back to the Applicant for amendment or declined by the SPoC;
 - The reason for any amendments being required or application being declined by the SPoC;
 - The reason for any referrals back or rejections;
 - Whether any part of the application relates to a person who is member of a profession that handles privileged or otherwise confidential information (such as a Medical Doctor, Lawyer, Journalist, MP or Minister of Religion (and if so, which profession));

34. CRIMINAL PROCEDURES AND INVESTIGATIONS ACT 1996 (CPIA)

- 34.1. The Criminal Procedure and Investigations Act 1996 (CPIA) requires that material which is obtained in the course of an investigation and which may be relevant to the investigation must be recorded, retained and revealed to the prosecutor. Therefore, all material relating to the accessing of CD falls under these provisions. If the Applicant is not the Disclosure Officer in the case, they must make the Disclosure Officer aware of all of the material relating to the application and acquisition of the CD.
- 34.2. All material which may be relevant to the investigation must be retained until a decision is taken whether to institute proceedings against a person for an offence and if prosecuted, at least until the accused is acquitted or convicted, or the prosecutor decides not to proceed with the case and in line with the Council's Data Retention Policies.

- 34.3. Where the accused is convicted, the data which is relevant must be retained at least for six months from the date of conviction, and where the court imposes a custodial sentence, until the convicted person is released from custody.
- 34.4. If the court imposes a custodial sentence and the convicted person is released from custody earlier than six months from the date of conviction, all material which may be relevant must be retained at least until six months from the date of conviction and in line with the Council's Data Retention Policies.

35. DATA PROTECTION ACT 2018 (DPA) AND THE GENERAL DATA PROTECTION REGULATIONS (GDPR)

- 35.1. CD acquired or obtained under the provisions of the IPA, and all copies, extracts and summaries of it must be handled and stored securely in line with the requirements of data protection legislation and regulations.
- 35.2. There is no provision in the IPA preventing CSPs from informing individuals about the disclosure of their CD in response to a Subject Access Request. However, a CSP may exercise certain exemptions to the right of subject access. If a CSP receives a Subject Access Request they must carefully consider whether in the particular case, disclosure of the fact of the Notice would be likely to prejudice the prevention or detection of crime.
- 35.3. Should a request for advice be made from a CSP to the SPoC regarding a disclosure, the SPoC will consult with the Data Protection Officer for the Council and the Applicant if necessary before a decision is made. Each case should be examined on its own merits.
- 35.4. Equally, these rules will apply should a Subject Access Request be made from an individual where material under this legislation is held by the Council.
- 35.5. A record will be made of the steps taken in determining whether disclosure of the material would prejudice the apprehension or detection of offenders. This might be useful in the event of the data controller having to respond to enquiries made subsequently by the Information Commissioner and the courts etc.

36. OVERSIGHT

- 36.1. The IPA provides for an Investigatory Powers Commissioner (IPC) whose remit includes providing comprehensive oversight of the use of the powers contained within the IPA and adherence to the practices and processes in the Code of Practice. They carry out inspections, and for the purposes of Council applications, carry out inspections of NAFN. Should they have any concerns regarding an application they would contact the relevant staff involved at the Council. It is possible that they could also inspect the Council.
- 36.2. It is important to note that should the Commissioner establish that an individual has been adversely affected by any wilful or reckless failure by any person within a relevant public authority exercising or complying with the powers and duties under the IPA in relation to the acquisition or disclosure of CD, he shall, subject to safeguarding national security, inform the affected individual of the existence of the Tribunal and its role. The Commissioner should disclose sufficient information to the affected individual to enable him or her to effectively engage the Tribunal.

37. COMPLAINTS

37.1. The Information Commissioner is responsible for the oversight of the security, integrity and destruction of data retained in accordance with the Act. Any concerns about compliance with data protection and related legislation should be passed to the ICO at the following address:

37.2. Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
www.ico.org.uk

The Investigatory Powers Tribunal (IPT) has jurisdiction to consider and determine complaints regarding public authority use of investigatory powers, including those covered by the IPA.

The IPT is an independent body made up of members of the judiciary and senior members of the legal profession. Following receipt of a complaint the IPT can undertake its own enquiries and complaints and can demand access to all information necessary. Information regarding the IPT and how to make a complaint can be found at www.ipt-uk.com, or by writing to:

The Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

38. STRATEGY AND POLICY REVIEW

38.1. The Counter Fraud Unit will review and amend this Policy as necessary to ensure that it continues to remain compliant and meets legislative requirements and the vision of the Council.

Responsible Department: Counter Fraud Unit

Date: April 2019

Review frequency as required by legislative changes / every year.

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**Cheltenham Borough Council
Cabinet – 11th February 2020**

Approval to consult on revised Homeseeker Plus Policy

Accountable member	Councillor Peter Jeffries, Cabinet Member - Housing
Accountable officer	Martin Stacy, Lead Commissioner – Housing Services
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The Homeseeker Plus Partnership consists of the six local authorities within Gloucestershire and West Oxfordshire District Council who work in partnership with social landlords to provide affordable homes for people to rent. Properties from these housing providers are advertised on the Homeseeker Plus website, which applicants can then apply for.</p> <p>The purpose of the Homeseeker Plus Allocations Policy is to explain who is eligible to apply for affordable housing and how their housing needs will be assessed. This assessment must be in line with relevant legislation and the statutory code of guidance on the allocation of accommodation, as these set out how applications will be assessed in a fair and transparent way based on housing need.</p> <p>Following the recent implementation of the Homelessness Reduction Act, it is now considered timely to review the current Homeseeker Plus Policy. This report highlights some of the key changes that we will be seeking consultation on. Following consultation, relevant approval will then be sought to adopt the agreed changes. The current Homeseeker Plus policy and the proposed policy are provided at appendix 2 and 3 respectively.</p>
Recommendations	<p>That Cabinet:</p> <p>Authorises this Authority to consult on the proposed changes to the Homeseeker Plus Allocations Policy; and</p> <p>Delegates authority to Executive Director – Place & Growth, in consultation with Cabinet Member – Housing, to approve the new policy after the consultation period has ended; provided that there are no further material changes other than those that have already been identified within this report.</p>
Financial implications	<p>None as a direct result of this report.</p> <p>Contact officer: Martin Burke</p> <p>Martin.burke@publicagroup.uk 01594 812544</p>

Legal implications	<p>As a Local Housing Authority the Authority has a statutory duty in respect of the allocation of housing to applicants with the Borough. These duties are contained in Part VI and VII of the Housing Act 1996 (as amended) and the Homelessness Reduction Act 2017.</p> <p>In addition to these duties the Authority has a duty to ensure that it operates in accordance with its duties under the Equalities Act 2010.</p> <p>When considering changes to the policy the Authority must undertake a fair, reasonable and transparent consultation and consider any responses to that consultation before determining whether or not to make changes to the policy.</p> <p>Contact officer: Sarah Farooqi legalservices@tewkesbury.gov.uk: 01684 272362</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications arising from this report.</p> <p>Contact officer: Kate Righton HumanResourcesCheltenham@publicagroup.uk @cheltenham.gov.uk 01285 623116</p>
Key risks	Please see Risk Register- Appendix 1
Corporate and community plan Implications	The Homeseeker Plus Partnership supports the council's key corporate priority of 'Increasing the supply of housing and investing to build resilient communities'.
Environmental and climate change implications	None as a direct result of this report and it is anticipated that this will have a neutral effect on the council's carbon emissions.
Property/Asset Implications	<p>None as direct result of this report</p> <p>Contact officer: Dominic.Stead@cheltenham.gov.uk</p>

1. Background

- 1.1 Homeseeker Plus is a choice based lettings (CBL) scheme run by the Homeseeker Plus Partnership, which consists of the six local authorities within Gloucestershire along with West Oxfordshire District Council, who work in partnership with social housing landlords to provide affordable homes for people to rent.
- 1.2 The seven local authorities within the Homeseeker Plus partnership are Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council, Gloucester City Council, Stroud District Council, Tewkesbury Borough Council and West Oxfordshire District Council.
- 1.3 Households who wish to apply to go onto Homeseeker are assessed for eligibility, and if eligible, they are then placed into one of four different 'bands' (Emergency, Gold, Silver and Bronze) depending on the nature of their housing need. Those in the highest housing need are placed in the Emergency band, whilst those with the lowest housing need are placed into the Bronze band. Please see Appendix 4 for more information on the banding matrix.
- 1.4 Homeseeker Plus enables affordable housing providers to advertise their homes on the Homeseeker Plus website, and applicants are able to express an interest in them. This is known as placing a "bid" for a property. Once a bid is placed, the system will generate a shortlist, placing applicants in order of: band, band start date and whether they meet the criteria of the advert. Priority for properties goes to those in the highest (i.e. Emergency) band, and then to people who have been waiting the longest within that band. If there are no bids from applicants in the highest band, then the local authority will look to those households in the Gold band, and so on until an applicant is identified. Priority is also initially given to people who have a local connection with the local authority in which the property is located, followed by those who have a local connection with any of the other Homeseeker Plus districts, and finally to anyone else.

2. Reasons for recommendations

- 2.1 The recent implementation of the Homelessness Reduction Act 2017 has introduced a wider focus for local authorities on preventing homelessness for everyone. The Act emphasises

working in partnership with a wider range of organisations and housing providers and changes need to be made to the Homeseeker Plus policy to ensure it reflects the aims of these legislative changes.

- 2.2** It has also become apparent that the Homeseeker Plus policy is open to interpretation and can be implemented differently across the partnership. It is therefore recommended that we provide greater clarification within the policy to ensure consistency throughout the partnership.
- 2.3** In addition, this review gives the Authority an opportunity to conduct a review of the Homeseeker Plus Policy more generally, and to consult on a number of proposed changes and additions to the scheme.

3. Proposed Main Changes

3.1 Local Connection Criteria:

It is proposed that greater clarification is given to the wording around local connection criteria.

These are summarised as follows:

3.2.1 Local Connection and the meaning of 'Normal Residence of Choice'.

It is considered that the wording for 'normal residence' in the current policy is confusing and open to interpretation. The proposed changes therefore seek to clarify that normal residence can include households placed in temporary accommodation by that housing authority. In addition, in the case of a person who is street homeless or insecurely accommodated (i.e. 'sofa surfing'), then provided the housing authority is satisfied that the person has no settled accommodation elsewhere and does in fact reside in the district, then he/she will be considered to be 'normally resident.'

3.2.2 Local Connection and Family Associations.

It is proposed the policy will make it clearer that family associations may extend beyond partners, parents, adult children or siblings, to include other family members such as step-parents,

grandparents, grandchildren, aunts or uncles; provided in all cases that there are sufficiently close links in the form of frequent contact, commitment or dependency, as per the Homelessness Code of Guidance. Family associations will therefore be determined with regard to the specific circumstances of each case.

3.2.3 Local Connection and Employment.

It is proposed the policy makes it clearer that for an applicant to satisfy the local connection criteria, it would not be sufficient that their employer's head office is located in the district within which the applicant intends to reside. Instead, the focus will be on an applicant's actual place of work. In the case of self-employment, local connection would be classified by the address their business is registered. For agency, casual or other types of employment, it will be necessary for the applicant to demonstrate that the employment contract is not short-term, casual or ancillary, reflecting case law and the Homelessness Code of Guidance on what is deemed to be employment for the purposes of local connection.

3.2.4 Local Connection and Special Circumstances.

3.2.5 This local connection provision has been amended to ensure that the need for households to be near special medical or support services which are available only in a particular district, and where transport links would not suffice in the ability to meet those needs, is explicitly covered within this category of local connection. Evaluating local connection as a result of special circumstances will continue to be assessed on the merits of each individual case.

3.2.6 Local Connection and Care Leavers.

3.2.7 The section on care leavers has been expanded to include the new care leaver duty which now states: 'In cases of care leavers who are owed a leaving care duty, they will now have a local connection to all districts within the area of the children services authority'. For care leavers who have been placed in a district which is different from that of their children's services authority, they will nevertheless be considered to have retained a local connection to their children's service authority area, provided that they have previously lived in that area for at least 2 years,

including some time before they turned 16. This local connection will continue to remain in place until they reach 21 years.

3.2.8 Local Connection and Members of the Armed Forces.

Members of the armed forces have a local connection to the district of their choice. This is the same for those currently serving and for those who have served within the immediately preceding 5 years. This provision will also be extended to include a bereaved spouse or civil partner who has to leave Ministry of Defence accommodation following the death of their service spouse, and the death was wholly or partly attributable to their service, as well as to existing or former members of the reserve forces who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service.

In addition, local connection will be awarded for divorced or separated spouses or civil partners of Service personnel who are required to move out of accommodation provided by the Ministry of Defence.

3.2.9 Local Connection and Households that are subject to immigration control.

It is proposed the policy makes it clearer that as soon as an applicant's immigration status entitles him/her to be eligible for assistance, then local connection will apply from the date they began living in the area. In addition, Refugees will be deemed to have a local connection to the area where they were last accommodated by the Home Office under asylum support.

3.3 Inclusion of housing providers delivering affordable housing via 106 affordable housing obligations

3.3.1 Housing providers who currently operate within the Homeseeker Plus boundaries are made up of: Registered Providers, an Arm's Length Management Organisation (i.e. Cheltenham Borough Homes) and a local authority that owns and manages its own housing stock (i.e. Stroud District Council). It is proposed that, in partnership with these housing providers, the policy is amended to also include provision for any housing providers delivering affordable homes via 106 affordable housing obligations, thereby maximising flexibility in accordance with any differing priorities

among our partners.

3.4 Changes relating to the Banding Table.

3.4.1 What we mean by 'Global Banding'

The current policy makes mention of 'global banding' but it does not explain what this is or when it is awarded. It is proposed that more information is provided on what we mean by 'global banding' and the circumstances when it is awarded.

3.4.2 Defining Welfare Needs

The amended policy now seeks to provide more detail regarding the circumstances when Welfare Need will be awarded against the different banding criteria (i.e. emergency, gold and silver bands). (Please see Appendix 4 for further details.)

3.4.3 Priorities for Care Leavers

The gold band criteria for Care Leavers has been amended to reflect the new care leavers duties and now states, 'A young person owed leaving care duties under section 23C of the Children Act 1989 and in a housing need who is deemed ready for independent living, as assessed by the local authority, will be awarded gold banding in the area of the children services authority that owes them the duties'. Homeseeker Plus is made up of both Gloucestershire and West Oxfordshire authorities – and these have different children services authorities. The proposed amendments will therefore ensure that gold banding is awarded within the area of the relevant children services authority.

3.4 Bedroom Eligibility.

3.4.1 The proposals now include more detailed guidance to cover the circumstances when an additional bedroom can be provided for an applicant who needs another person to live with them in order to meet their care and/or support needs. In summary, this need must be evidenced and reasons for the addition room must be provided by the applicant.

3.4.2 Furthermore, where there are two parents or guardians that have joint access to children, the proposed new policy will include wording which states that bedroom eligibility will only be awarded to the main care provider.

3.5 Other general changes/additional points of clarity – key points

3.5.1 A more detailed legal framework has now been provided within the policy, with a list of relevant duties. There is also a detailed paragraph about data retention and how the partnership will comply with all data protection legislation and the appropriate timescales for storing personal data.

3.5.2 The eligibility section of the proposed new policy makes it clearer that an applicant will not qualify for social housing if a local authority has undertaken an affordability check which has shown that the applicant has sufficient financial resources to adequately resolve his/her own particular housing need through outright purchase, lease or mortgage. This check will consider the type of accommodation needed to meet these needs to resolve their own housing need within their district.

3.5.3 It is also proposed that the new policy is revised to make it clearer when applications can be suspended or demoted; e.g. where there are significant rent arrears which have not been cleared and a repayment plan is not in place, or where an applicant has unreasonably disposed of financial resources that could have enabled him/her to purchase/obtain their own accommodation. The policy will also retain flexibility to allow local authorities to consider each case on its own merits. For example, if the rent arrears arose as a result of domestic abuse or affordability issues, an application under these circumstances would not be suspended.

3.5.4 Furthermore, it is proposed that clarification is given when a main homelessness duty is accepted, with the proposed changes now stating that due to limited resources, high demand and duties to provide accommodation to some groups of applicants in urgent housing need, the degree of choice that the local authority is able to offer may be limited. Linked to this is the role of 'direct matching'. The policy now makes it clearer that not all properties becoming available will

be advertised on Homeseeker Plus, where for urgent operational reasons there is a need to make direct offers of housing outside of the normal policy banding and date order criteria. This could be, for example, to alleviate pressures on temporary accommodation and to ensure the use of any emergency Bed & Breakfast accommodation is minimised.

3.6 Alternative options considered

3.6.1 Not to update the Homeseeker Plus policy. However, it is proposed this option is rejected for the reasons given in Section 2 above. The Homeseeker Plus policy needs to be reviewed to ensure it reflects the aims of recent legislative changes and that clarification is added to ensure that the policy is applied more consistently throughout the partnership.

4 How this initiative contributes to the corporate plan

4.1 The Homeseeker Plus Partnership supports the council's key corporate priorities of 'Increasing the supply of housing and investing to build resilient communities.' The proposed policy changes will provide greater consistency over how the policy is interpreted across the districts, whilst ensuring that we make best use of our affordable housing provision in terms of meeting local housing need.

5 Consultation and feedback

These proposals have been developed in collaboration with key stakeholders, including Cheltenham Borough Homes, and the other local authorities and housing providers who make up the Homeseeker Plus Management Board. It is proposed that our next steps will be to put the proposed changes out to consultation in order that we can establish a more fully informed local policy position.

6 Performance management –monitoring and review

6.1 The Homeseeker Plus Co-ordinator will run regular reports to monitor performance of the scheme in meeting the aims of the policy.

6.2 The Homeseeker Plus policy will be regularly reviewed to ensure that it takes into account

changes in demand and need within the district, and that it continues to meet its aims and objectives and complies with any legislative changes.

6.3 Any changes to the Homeseeker Plus Policy will be implemented only with the agreement of the members of the Partnership, as specified within the partnership agreement following any necessary consultation, and the relevant approvals being given by each Authority.

<p>Report authors</p>	<p>Contact officer: Caroline Sutcliffe, Housing Strategy & Enabling Officer</p> <p>caroline.sutcliffe@cheltenham.gov.uk</p> <p>Martin Stacy, Lead Commissioner – Housing Services</p> <p>Martin.stacy@cheltenham.gov.uk</p> <p>01242 264171</p>
<p>Appendices</p>	<ol style="list-style-type: none"> 1. Risk Assessment 2. Homeseeker Plus Policy 3. Homeseeker Plus proposed policy 2019 4. Homeseeker Plus proposed policy banding table
<p>Background information</p>	<p>None</p>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the proposed changes do not take account of the Equalities Act, then the Homeseeker Plus Allocations Policy could be challenged and deemed unlawful.	Martin Stacy	August 2019	3	2	6	Reduce	A communities impact assessment has been carried out to alleviate against this and will be reviewed post consultation and then published once approval is given to make any relevant changes to the Homeseeker Plus Policy. The policy is drafted in such a way as to still enable flexibility to be retained around key issues.	Autumn 2020	Martin Stacy	
	If the proposed changes to Homeseeker Plus Allocations Policy are not consulted on, then opportunities for the changes to be carried out on an informed basis will be missed.	Martin Stacy	August 2019	4	3	12	Reduce	Cabinet approves recommendation to go out for consultation to stakeholders.	February 2020	Martin Stacy	
	If the council does not review the Homeseeker Plus Policy, then opportunities to reduce inconsistency in operational practices across the districts will	Martin Stacy	Sept 2019	2	4	8	Reduce	Recommendation to go out for consultation to reduce this risk.	February 2020	Martin Stacy	

	be missed and the policy will fail to reflect most recent case law and good practice.														

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

Homeseeker *plus*



Homeseeker Plus Policy Document

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Section 1 Policy aims and general rules

1 Introduction.

- 1.1. Homeseeker Plus is a choice based lettings (CBL) scheme run by the seven local authorities in partnership with the majority of Social Housing Landlords operating within Gloucestershire and West Oxfordshire.
- 1.2. It must be recognised that the demand for affordable social housing within the Homeseeker Plus area is very high and cannot be met from the available resources. Only those in the highest housing need, with a local connection to the area are likely to obtain housing through the scheme. Each district's Housing Advice Service will be able to discuss a range of housing options.
- 1.3. The policy takes into account the Localism Act 2012, Welfare Reform Act 2012 and the Statutory Code of Guidance on the Allocation of Accommodation 2012. It also has regard to the Councils' Homelessness, Tenancy Strategies and Housing Policy.

2. The aims and objectives of the Partnership.

- Assist in building more sustainable communities.
- Enable informed choice of housing/ housing options and improve levels of customer satisfaction.
- To operate a common selection system that offers realistic, informed choice for all Applicants.
- To ensure that those who have the greatest need for housing have the greatest opportunity to secure it.
- To ensure that less able applicants are involved in the lettings process and they have choices offering equality of opportunity for all.
- To make best use of available housing resources to meet local need.
- To minimise the refusal of offers of accommodation and reduce rent loss by allowing people to choose where they live thereby supporting sustainable communities.
- To generally give people with a local connection to a district priority in the letting of housing within that district.
- To enable mobility within social housing in Gloucestershire and West Oxfordshire.
- To enable the authorities to meet their statutory duties including where duties are owed to homeless Applicants under Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002.
- To contribute towards tackling discrimination.
- To use a common eligibility criteria.
- To use a common housing application process.
- To co-ordinate housing needs assessments.
- To ensure fairness, simplicity and transparency with a system that is easily understood.
- To give new tenants a feeling of ownership and commitment to their area as they have chosen to live there.

3. Overview of Homeseeker Plus

- 3.1. Homeseeker Plus enables Social Housing landlords to advertise their homes and applicants are asked to express an interest in them. This will be known as a "bid" for a property. Once a bid is placed the computer system will place applicants in order of

band, band start date and whether they meet the criteria of the advert. Priority for properties goes to those who have a local connection with the local authority in which the property is located, then to those who have a local connection with any of the other Homeseeker Plus districts and finally to anyone else. Homeseeker Plus provides a clearer way of letting homes, gives more choice in where people wish to live and information about the homes available.

- 3.2. All applicants seeking social housing across Gloucestershire and West Oxfordshire will complete the same application process and will be assessed against the same clear set of criteria laid out in the Banding table (Section 18). Depending on their circumstances, Applicants will be placed into one of four bands Emergency, Gold, Silver or Bronze subject to final verification by a Homeseeker Plus partner. In some cases an applicant may have more than one band (See section 27a). Local connection will be applied to the majority of vacancies to help each local authority meet their housing demand or where it is a legal requirement.
- 3.3. Once an application has been made, applicants are advised of their banding and application date, together with details of how to access the system. This enables them to bid for social housing vacancies being advertised across the whole of Gloucestershire and West Oxfordshire.
- 3.4. The majority of social rented housing vacancies are advertised as per local nomination agreements, however social housing landlords may choose to apply their own published allocation policies to the remaining vacancies arising.
- 3.5. The method of bidding for properties is via the internet on the Homeseeker Plus website.. Applicants are able to monitor the success of their bid (and their bidding history) via the Homeseeker Plus website.
- 3.6. Once the Bid deadline has passed, the successful applicant is normally the highest priority household matched against the criteria for the property, including where local connection applies. Responsibility for letting each available property lies with the Social housing landlord. The appropriate landlord must confirm that the details on the application are still correct before making an offer. Incorrect information will result in the offer being withdrawn and the applicant re-assessed.
- 3.7. An application for sheltered and extra care housing for certain schemes may need an assessment of the support needs, prior to an offer being made.
- 3.8. The banding and the application date of the successful applicant, together with the total number of bids made for each property, will then be published. This enables as applicants to develop realistic expectations regarding their chances of success and likely waiting period.

4. Equal opportunities.

- 4.1. All partners of Homeseeker Plus are committed to the elimination of discrimination. They promote equality of opportunity for all and work towards this goal in the provision of services.

We are committed to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the act
- Advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it.
- Foster good relations between people who share a protected characteristic and those who do not share it
- Removing or minimising disadvantages suffered by people who share a relevant protected characteristic that are connected to that characteristic
- Taking steps to meet the needs of people who share a relevant protected characteristic that are different from the needs of people who do not share it
- Encouraging those people who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- Making the best possible use of the existing and potential workforce and resources by enabling cross boundary moves.

5. Social inclusion

- 5.1. All partners of Homeseeker Plus agree that applicants should be given every assistance to access the housing register and search for suitable properties.
- 5.2. In order to ensure that all applicants are able to use Homeseeker Plus fully, we have developed an Access and Inclusion strategy, which can be found under the heading "Our Documents" on the Homeseeker Plus website
- 5.3. The Mental Capacity Act 2005 introduced a legal obligation on health and social care commissioners to jointly commission advocacy services. All statutory and voluntary agencies who work within the community either helping or advising applicants are given information and training in order to fully understand the Homeseeker Plus scheme and assist their clients to register and search for suitable housing.
- 5.4. To further assist applicants the following methods may be used: -
- 5.4.1. Applicants potentially disadvantaged by the scheme will initially be identified from the application process. Staff may contact these applicants and offer them a home visit or interview. Staff will seek to establish what the support needs are and identify ways of enabling the applicants to participate in Homeseeker Plus. This may include sending copies of the adverts in large print to an applicant or simply providing advice.
- 5.4.2. Any agencies funded through Supporting People should be in a position to provide their clients with help on housing issues.
- 5.4.3. Disadvantaged applicants are able to nominate a person (including family members, friends or a professional worker) to help them bid or bid on their behalf for suitable properties. Signed consent will be required if requests are made by a 3rd party.

- 5.4.4. Translation services may be provided wherever appropriate (this will reflect the demand for such a service).
- 5.4.5. If no other alternative is available, Homeseeker Plus staff may bid for suitable vacancies on a vulnerable applicant's behalf where they have no support or use the system Autobid function.

6. Who is eligible to register?

- 6.1. Homeseeker Plus is open to almost anyone in housing need. This may include existing tenants looking to transfer to another property, homeless families looking for a permanent home and other households who either rent in the private sector, own (or are buying) a property or lodging with family and friends. A household may include anyone that may reasonably be expected to live with them as part of their application.

7. Who is not eligible to register?

- 7.1. Persons from abroad deemed ineligible through immigration rules and regulations as follows:
- Person subject to immigration control who is an over-stayer or visitor to the country
 - Illegal entrant
 - Asylum seeker
 - Person in the country on condition that they have no recourse to public funds
 - Person from abroad who is in breach of the European Community Right of residence Directive
 - Person whose only right to reside in the UK arises under European law based on their status as a job seeker or an initial 3 months right of residence
 - Person from abroad who has been the subject of a sponsorship agreement for less than 5 years and whose sponsor is still alive
 - Person with limited leave not granted as a result of a claim for asylum
- 7.2. Persons under 16 years of age. (It should be noted that a tenancy would not usually be given to Applicants under the age of 18 years. A guarantor would normally be required for any person under 18 years of age who is offered and accepts a tenancy).
- 7.3. Persons who are ineligible for a tenancy in their own right may still be included within a household application and for determining the bedroom need of the household.

8. Who does not qualify for affordable social housing in Gloucestershire and West Oxfordshire?

- 8.1 Homeseeker Plus has been established under the terms of the Housing Act 1996, as amended and the Localism Act 2012. This gives local authorities the right to decide who will not qualify for social housing.
- 8.2 Anyone found to be non-eligible or non-qualifying will be entitled to a review of the decision with the reasons and actions needed to remedy the situation for future application given in writing. – see section 41 for the review/appeal process.
- 8.3 An applicant may not hold two tenancies at one time. They must be able to end the current tenancy before any further offer is made.

- 8.4 A joint tenancy shall only be granted to eligible and qualifying Applicants subject to the policies of each individual Social housing landlord.
- 8.5 An applicant will not be accepted for social housing if we are satisfied that: -
- a) They have sufficient financial resources to resolve their own housing need.
 - b) Where they have unreasonably disposed of financial resources that could have enabled them to purchase/obtain their own accommodation.
 - c) They own or part own a property which is suitable for their needs, or where those needs can be resolved through adaptation, sale or where, if they sold it, they could afford to buy another property. We may make exceptions to this rule in the case of proven social or medical needs.
 - d) The applicant, or a member of their household, has been responsible for unacceptable behaviour serious enough to make them unsuitable to be a tenant of the Authority or a Social Housing Landlord at the time of application. Each case would be considered upon its own merits and subject to the spirit of the Rehabilitation of Offenders Act 1974 according to individual circumstances.
- 8.6 Behaviour that may be regarded as unacceptable is as follows: -
- Criminal activity in the vicinity of the property,
 - History of anti-social behaviour or disruptive nuisance to neighbours,
 - Racial harassment,
 - Drug use or dealing,
 - Any other breach of the tenancy agreement such that the landlord would be able to apply for a possession order:
 - i. Ground 2a Domestic violence causing a partner or other family member to leave the property
 - ii. Ground 3 Deterioration of the dwelling-house due to waste, neglect or default
 - iii. Ground 4 Deterioration of furniture provided by the landlord due to ill treatment
 - iv. Ground 5 Tenancy induced by a false statement
 - v. Ground 6 Premium received or paid in connection with a mutual exchange
 - vi. Ground 7 Eviction from a dwelling within the curtilage of a building held for non-housing purposes due to conduct such that given the nature of the building it would not be right for occupation to continue
- 8.7 The applicant or any member of the household has former or current rent arrears (8 weeks rent or more) or other housing debts such that the registered social landlord would be able to apply for a possession order. This will apply unless there is evidence that the debt arose directly as a result of a person's disability.
- Existing social housing tenants who are non-qualifying because of rent arrears will be considered as an exception on an individual basis if proved that they cannot afford to stay in their current tenancy as a result of Welfare Reform Act changes.
- 8.8 As part of the assessment consideration will be given to the household's personal circumstances, the level of the debt, the household's history of arrears and any other factors that may be relevant.
- 8.9 Such applicants will be informed of the actions required from them to demonstrate that there has been a change in their behaviour such that they will be become qualifying

e.g. a satisfactory landlord reference for a period of time or regular repayments are made without fail against an agreed repayment plan for a period of time.

9. Reasons for suspending an application.

- 9.1 If we become aware that a household has rent arrears or other housing debt accrued after an application has been registered the applicant will be given the opportunity to clear the debt before an offer proceeds. If the applicant is unable to do this, they may be suspended for a period as required to clear the debt before they can bid for other properties but each case will be considered upon its own merits. If a partner landlord becomes aware of such a debt they will advise the relevant local authority who may suspend or cancel the application as non-qualifying depending on the circumstances.
- 9.2 Applicants who have been awarded time limited bands are expected to bid on all suitable property types in a reasonably wide range of areas. Failure to do so may result in suspension or demotion for a period.
- 9.3 Whilst Homeseeker Plus aims to give applicants choice for good reason it also needs to help social landlords let their available homes in an efficient way. If an applicant refuses 3 properties that the local authority considers were suitable, the application may be demoted or suspended for a period.
- 9.4 An immediate review of an application will be undertaken if an applicant is found to have acted (or failed to act) in a way which deliberately worsened their housing situation. This could lead to the applicant being suspended, or being demoted to a lower band, for a minimum of 6 months.
- 9.5 Applicants will be advised as to what action/s will be necessary to lift the suspension or demotion.

10. Giving false information

- 10.1. Any applicant who knowingly or recklessly gives false information or knowingly withholds information in order to secure a home to which they are not entitled may lose any home provided to them and may also be prosecuted. Where false information is given and the applicant becomes non-qualifying, the application will be removed. Where false information is given and the applicant still qualifies, the application will be suspended. The law imposes severe penalties, including substantial fines up to £5000 or imprisonment, when an offence is proven.
- 10.2. It is the applicant's responsibility to update an application for any change of circumstances which can include moving home, changes to household members, birth of a child, changes in medical condition and changes in welfare situations. Failure to update an application following a change in circumstances could mean the application is inaccurate, contains false information, and has the wrong priority banding.
- 10.3. Any future application would be subject to review before acceptance onto the scheme.

11 Local Connection

- 11.1. Due to the exceptional demand for housing across the Homeseeker Plus area and the difficulty in solving local housing need, preference will usually be given to applicants with a local connection to the appropriate district. Each local authority within Gloucestershire and West Oxfordshire may set quotas of dwellings available for cross boundary moves if necessary, to increase mobility but will balance this against the local connection requirement.
- 11.2. Local Connection is defined in Part VII of the Housing Act 1996 as:
- Those who are normally resident in the local authority area, and that residence is or was of their own choice.
(Local Authority Agreement guidelines suggest this as having resided in the area for six of the last twelve months, or three of the last five years, where residence has been out of choice);
 - Those who are employed in the local authority area.
(Local Authority Agreement guidelines suggest this as employment other than of a casual nature);
 - Those who have family connections in the local authority area.
(Local Authority Agreement guidelines suggest this as immediate family members who have themselves lived in the area for five years).
 - Members of the armed forces have a local connection to the district of their choice
(Those currently serving, served within the immediate preceding 5 years; bereaved spouse or civil partner who has recently or will cease to be entitled to Ministry of Defence accommodation following the death of their service spouse and the death was wholly or partly attributable to their service; existing or former members of the reserve forces who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service).
 - Other special circumstances.
- 11.3. In addition, for certain properties which were developed under restrictions imposed by a Section 106 agreement (Town and Country Planning Act 1990), applicants may need a connection to a defined local area.

12. Multi agency arrangements.

- 12.1. All seven local authorities within the scheme have entered into an agreement to use the Gloucestershire and West Oxfordshire Multi Agency Public Protection Arrangements (MAPPA) in dealing with the exchange of information on any household who has been convicted of a serious offence. Any household that confirms on their application form, or who is suspected, or accused, of being a high-risk offender, will be subject to the provisions set out in the information sharing protocol.
- 12.2. Before any known offender is offered housing, full consultation will be undertaken with the relevant support agencies to assess the risks involved. It does not however guarantee the provision of a tenancy.
- 12.3. Re-housing of high-risk offenders will be carried out in consultation with the relevant agencies to minimise the risk to the public. The long-term aim is to influence the successful accommodation and resettlement of high-risk offenders, thereby minimising the risk of re-offending, protect the public and the victims of offenders. The local authority in partnership with MAPPA may bid on behalf of any household that falls within this category.
- 12.4. The authorities also take part in Multi Agency Risk Assessment Conference (MARAC) meetings which aim to provide risk information for people who have experienced domestic abuse.

13. Balanced communities.

- 13.1. To help maintain balanced and sustainable communities, each local authority may decide the proportion of properties to be allocated to the four housing need bands and where local connection applies.

Section 2 Scheme details-applications

14. How to register

- 14.1. The applicant will be able to register for social housing through the Homeseeker Plus website @ www.homeseekerplus.co.uk
- Assistance can be provided through the Local authority and some Social Housing Landlord offices or through support agencies.
- 14.2. An applicant residing in Gloucestershire or West Oxfordshire who needs advice and assistance with their application will need to contact their own local authority.
- 14.3. Where the applicant lives outside the Gloucestershire or West Oxfordshire boundary they will need to contact the local authority within whose area they wish to live.
- 14.4. Where the applicant lives outside the Gloucestershire or West Oxfordshire boundary and wishes to live in more than one local authority area, they should contact the district with whom they have a local connection. If the applicant has no local connection, they can choose to contact any one of the chosen districts (who will become the lead authority for the application).
- 14.5. When an applicant applies through the Homeseeker Plus website and has registered their household, they will then complete an application for Social Housing explaining their housing situation. If, after completion of the application and provision of any necessary proof or further information, the applicant is eligible, they will be given an effective date and placed in a housing band. They will then be able to bid for suitable properties.
- 14.6. The applicant should make sure that they include all relevant details on the application so that proper consideration can be given to the application. Homeseeker Plus may consult any of the applicants' previous landlords or agencies to check the details they have given.
- 14.7. If a Lead Authority refuses the application on any grounds, the applicant will be notified of the reasons for the decision in writing and be advised of the Homeseeker Plus review / appeal procedure.
- 14.8. The applicant can re-register after a refusal but should be able to demonstrate that they have addressed the reasons for the refusal.
- 14.9. All applicants their own unique user name and password. This will also enable them to access their own application information and easily update any change in their circumstances.

- 14.10. Applicants will be informed if further information or clarification is required. Failure to complete the online application form will result in this being deleted from the system.

15. Assessment of an application.

- 15.1. By registering to join Homeseeker Plus, the applicant will be giving their consent for enquiries to be made to verify their circumstances. Applicants will have to confirm that the information they have given is true and accurate.
- 15.2. The information the applicant has provided will guide the decision on which band they will be placed in. Applicants will be required to provide the lead authority with documentation to evidence the housing need stated.
- 15.3. Applicants will be able to bid for properties advertised, but no tenancy will be offered until verification has been completed.

16 Housing Needs Bands- see table below

- 16.1 Applicants need to meet the criteria in one box to be assessed in that band in the table below. Applicants will be awarded two bands – one for their “local” band (lead authority) and one for their “global” band.(other 6 authorities) In many cases these will be the same but in some circumstances, notably when one local authority has accepted a duty under homelessness legislation, applicants will have a different “local” and “global” band.
- 16.2 Special rules are required for those in the armed forces to comply with The Localism Act recognising the services they have offered the country. On discharge members of the armed forces, as defined in 11.2, with Homeless priority need (dependent children or vulnerable as a result of disability) will be awarded Gold band for 6 months from the discharge date. Homeless with a non - priority need are given Silver band from their discharge date. Should they become homeless again within 5 years of the discharge priority need or unintentionally homeless applicants will be awarded Gold band again for 6 months from Notice being received. Non-priority need or Intentional homeless will get Silver band backdated for 6 months from the Notice being received.
- 16.3 **Right to Move** is for social housing tenants who need to move to another District in order to take up a job or live closer to employment or training.

In order to qualify, social housing tenants must demonstrate that the job/apprenticeship will alleviate significant hardship and that there are no other options available to them.

To determine qualification, the following detail will need to be established:

- The distance and/or time taken to travel between work and home
- The availability of transport, taking into account level of earnings
- The nature of the work and whether similar opportunities are available closer to home
- Other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move
- Whether failure to move would result in the loss of an opportunity to improve their employment circumstances or prospects, for example, by taking up a better job, a promotion or apprenticeship

Those applying for Right to Move must be able to prove that the employment contract is:

- for 12 months or more
- for a minimum of 16 hours per week
- not short-term, ancillary or voluntary

Those who qualify for Right to Move will get an additional banding preference of Silver, identifying that there is a "Significant welfare need that would be alleviated by a move to more suitable accommodation"

Homeseeker Plus expects that a maximum of 1% of the allocations in each district per year would be to assist tenants who need to move for work related reasons.

Please refer to the full Right to Move guidance for more detail
www.homeseekerplus.co.uk

16.4 Property size

Emergency Band

Existing Gloucestershire and West Oxfordshire social housing tenants willing to move to a smaller non family social housing property within the county. This means that the tenants are willing to move to any other non-family property that is smaller than their current home.

Gold Band

Existing Gloucestershire and West Oxfordshire social housing tenants willing to move to smaller family sized accommodation if this has been agreed with your local authority to release a property of higher demand or limited availability.

Or

There is major overcrowding in the current property - lacking 2 or more bedrooms (this will not apply if the applicant has allowed one or more people to move in to the property, this is called deliberately worsening your own situation) - See Section 9.4

Or

Environmental Health has inspected the property and has served a Prohibition Notice (or suspended Prohibition Licence) on the landlord due to overcrowding - subject also to the applicant not deliberately worsening your own situation – see Para 9.4

Silver Band

There is overcrowding in the current property - lacking 1 bedroom - (this will not apply if the applicant has allowed one or more people to move in to the property, this is called deliberately worsening your own situation) - see Para 9.4

16.5 Property condition

Emergency Band

Where Environmental Health has inspected the property and requires immediate vacation of the property because of an imminent risk of harm due to disrepair, major defects or grossly inadequate facilities. They could serve an Emergency Prohibition Order on the landlord in these circumstances.

This award is time limited for 1 month when it will be reviewed. It can be extended if no suitable properties have become available in this time scale or a direct match can be made.

Gold Band

Where Environmental Health has inspected the property and has served a Prohibition Order or Suspended Prohibition Order on the landlord that repairs have to be undertaken but the landlord is unable/unwilling to comply. In most cases the landlord will be required to undertake repairs to remedy the problem and when completed this should resolve the issue. These only apply to the Local band so only when bidding for properties in the home/lead local authority area.

16.6 Homelessness

Gold Band

The applicant has made a homelessness application to one of the Homeseeker Plus local authorities and the full statutory homeless duty to secure accommodation for the applicant has been accepted by that authority.

This is time limited for 1 month when it will be reviewed. It can be extended if no suitable properties have become available in this time scale. A suitable tenancy in the private sector or a direct match into social housing may be made to end the homelessness duty at any time.

Silver Band

Applications to Homeseeker Plus before the commencement of the Homelessness Reduction Act 2017 (3rd April 2018)

The applicant has been assessed as homeless or threatened with homelessness before 3rd April 2018. This was taken as within 28 days of being homeless before the new legislation. Homelessness legislation is complicated so contact should be made through Housing Options/Advice Team to discuss the circumstances if threatened with homelessness.

Applications to Homeseeker Plus after 3rd April 2018

The applicant has made a homelessness application to one of the Homeseeker Plus local authorities and:

A Prevention of Homelessness duty is ongoing or

A Relief of Homelessness duty is ongoing or

The applicant has made a homeless application to one of the Homeseeker Plus local authorities and remains assessed as eligible for assistance and homeless after homeless duties have ended.

Homelessness legislation is complicated so contact should be made through your Housing Options/Housing Advice Team to discuss the circumstances if threatened with homelessness.

16.7 Medical/welfare needs

None of the below refer to having a medical condition in its own right. It is only when the current housing is directly affecting that medical condition that priority is awarded. In other words even when a member of the applicants household has a very severe set of medical conditions, if their housing has little or no bearing on their health then no priority will be awarded.

Emergency Band

The applicant assessed as immediate need of re-housing on medical grounds. This is most likely to be when they have had a major incident, are in hospital or other emergency provision and unable to return to the existing home because of changed medical condition.

Or

Exceptional circumstances where there is proven threat to life or limb. This would normally be based on information provided by the Police or Emergency services.

Or

Exceptional circumstances where the current property has a critical detrimental effect on their welfare. This would normally be based on information provided by Emergency services, multi agency meetings or Social Care services.

These are time limited for 1 month when they will be reviewed. It can be extended if no suitable properties have become available in this time scale or a direct match can be made.

Gold Band

Urgent medical/welfare need or long term disability that would be alleviated by a move to more suitable accommodation. This would apply when the situation is so serious that it would not be reasonable to expect the applicant to continue to live at the property for any length of time, given their particular medical/welfare circumstances but not a life threatening emergency. Proof of the situation would be required from Social Care services, NHS or other medical specialists.

Silver Band

Significant medical or welfare need that would be alleviated by a move to more suitable accommodation. This could be situations/medical conditions that could apply to one or more members of the household which because of the particular household circumstances significant distress is caused. Proof of the situation would be required from Social Care services, NHS or other medical specialists.

Depression and asthma are the most commonly quoted medical conditions. Where these are mild and not directly related to the current property priority is unlikely to be awarded.

16.8 General

Gold Band

Move-on from supported accommodation where a planned move is agreed by the relevant local housing authority. When someone is placed in accommodation based supported housing and is not in their home/lead authority area there is a presumption that they will be reconnected back to their home area when ready to move-on from the supported accommodation. The support provider will also discuss other housing options before putting them forward for social housing.

There are 2 requirements for this priority:-

1. that the supported accommodation provider has confirmed that the resident is ready for independent living by completing the standard move-on form detailing the work they have completed with the resident and assessment of any remaining support needs.;
2. that the local authority has been involved in the move-on planning and accepts that they are the appropriate local authority to re-house this applicant by awarding this priority.

Or

As a result of a multi-agency decision agreed by the relevant housing authority. Where multi agencies including the local housing authority are involved with a particular household and meet to agree a way forward to resolve an urgent housing situation this priority can be awarded to better protect the public/local neighbourhood.

Or

Left in occupation/succession of social rented housing such as succession where the household is required to move. This applies to an applicant who is living in a social rented property but does not have a tenancy. This may be because the household is too big or too small for the accommodation and they are required to move into a property suitable for their size or age. This applies whether or not they have a right of succession. These are time limited for 1 month when it will be reviewed. They can be extended if no suitable properties have become available in this time scale, a direct match may be made.

	Property Size etc.	Property conditions (this only applies to the district where the Notice is made)	Homelessness (this only applies to the district where any duty is owed)	Medical/welfare needs	General
EMERGENCY BAND	Giving up family sized social rented housing in the County to move to smaller non-family accommodation	Where a property has been assessed by Environmental Services as causing an imminent risk of serious harm due to disrepair, major defects, inadequate facilities. e.g. Emergency Prohibition Notice served (Time limit 1 month)		Assessed as immediate need of rehousing on medical grounds OR Exceptional circumstances where there is a proven threat to life or limb OR Exceptional circumstances where the current property has a critical detrimental effect on their welfare (Time limit 1 month)	
GOLD BAND	Giving up family sized social rented housing in the County to move to smaller family sized accommodation based on local housing demand OR Major overcrowding – lacking 2 or more bedrooms OR Where a Prohibition Notice (or Suspended Prohibition Notice) has been served by Environmental Services due to overcrowding (Does not apply if already awarded gold for Homelessness)	Where a Prohibition Notice (or Suspended Prohibition Notice) has been served on a property by Environmental Services due to disrepair, major defects or inadequate facilities and the landlord is unable/unwilling to comply	Full Statutory Homelessness Duty accepted (Time limit 1 month)	Assessed urgent medical/welfare need or long-term disability that would be alleviated by a move to more suitable accommodation	Move-on from Supported Accommodation where a planned move is agreed by the relevant local housing authority OR As a result of a multi-agency decision agreed by the relevant local housing authority OR Left in occupation of social rented housing such as Succession where the household is required to move (Time limit 1 month)
SILVER BAND	Overcrowding – lacking one bedroom (Does not apply if already awarded silver for Homelessness)		Applications before 1 st April 2018 Homeless or threatened with homeless Applications after 1 st April 2018 Homeless prevention or relief duty owed or assessed as homeless after all homeless duties have ended.	Assessed significant medical or welfare need or long-term disability that would be alleviated by a move to more suitable accommodation.	
BRONZE BAND	All other Applicants				

17. Time limited bands.

- 17.1. Certain categories have a time limit of one month. This is given to recognise an urgent need. It is therefore important that Applicants in this category are bidding for all suitable properties each week and in a wide range of locations.
- 17.2. At the end of the one month period the case will be reviewed by the Lead Authority
- 17.3. If the applicant is in a time limited band and has either not bid for suitable properties advertised within the 1 month or has been unsuccessful in obtaining an offer of a tenancy within the one month limit, a direct match of a property may be considered. Where a private sector tenancy is available, suitable and affordable at the time the Local authority or its agents may look to secure a tenancy in the private rented sector.
- 17.4. The Lead Authority may however decide to demote an applicant to the band below at the end of the one month period if it is obvious that the applicant is choosing to wait for a particular type of property or immediate location and not treating their circumstance as urgent.

18 Definition and implication of dates.

- 18.1. The date when the application is registered and assessed into a housing needs band is important as this will form part of the short-listing process.
- 18.2. The application date is the date a fully completed online application form is submitted by the applicant.
- 18.3. The effective date is the date a completed application form is placed into a housing band after verification by the lead local authority.
- 18.4. The band start date is the date of application or the date an applicant moves up to a higher band following a change of circumstances.
- 18.5. If moving to a lower band, normally the original effective date will apply. If however there have been a previous number of changes of band, the effective date will be reviewed by the Lead Local Authority to ensure that the applicant is not disadvantaged (or given an advantage) by the change in circumstances.
- 18.6. Where an applicant has been unable to obtain settled accommodation due to their employment (e.g. Armed Forces Personnel, tied accommodation) the case will be reviewed and the application date may be backdated depending on the circumstances.
- 18.7. If the applicant's circumstances change, they must update their online application to show the change as this may lead to moving up or down the housing needs bands. An offer of a tenancy will be withdrawn if any change is not declared.

19. Bedroom need assessment

19.1. The bedroom need for a household is assessed to match Housing Benefit rules because from April 2013 the same rules apply to all renting households including social housing.

One bedroom is required for;

- An adult couple,
- A person aged 16 or over.
- 2 children aged up to 16 years of age of the same sex.
- 2 children aged up to 10 years of age of different sexes.

19.2 When a child is born, the applicant must provide evidence of the birth as soon as possible and the bedroom need will then be re-assessed to ensure it is still correct.

19.3 An extra bedroom will be considered where the following applies:

- A carer who provides the applicant or their partner with regular overnight care, who is not normally living with you. Evidence will be required to substantiate any claim which may include the care component of DLA (Disability Living Allowance), PIP (Personal Independent Payment) or attendance allowance, or details of a care package from a care providing agency funded by Social Services.
- An independent medical adviser has confirmed the need for an extra bedroom.

In all cases an assessment of affordability will be undertaken, with discretion for the final decision being with the relevant local authority and social housing landlord.

19.4 Potential children of foster or adoptive carers will be considered in the bedroom need assessment on an individual basis once they have been accepted by the appropriate Social Care Panel.

19.5. No visiting children should be included on the application and they will not be included in the bed room need assessment.

20. Medical / Disability assessment.

20.1. Physical disability.

An applicant's (or member of the household included within the an application) physical condition will be assessed by an officer of the local housing authority or its agent or, where deemed necessary and feasible, referred to Children & Families or Adult Social Care for a Occupational Therapist Housing Needs Report. An assessment will then be carried out and a detailed report forwarded to the appropriate local authority or its agent to determine housing need.

20.2. Medical condition.

Applicants will be asked for details of any medical condition and the reasons why their current property affects that condition. An officer of the local housing authority or its agent will assess whether the current property has a detrimental effect on their social and or medical well-being. Where necessary a medical report may be

requested from the appropriate independent medical advisor. The applicant may be required to pay towards the related costs incurred. Their assessment will be based on the applicant's (or member of the household included in the application) medical condition, the affect their property has on that condition and how moving to an alternative property can help.

- 20.3. Following the assessment, the applicant will be informed in writing of the outcome and any change to their banding. If the applicant disagrees with this assessment they may ask for the matter to be reviewed under the Homeseeker Review/Appeal Procedure - See Section 41
- 20.4. Where an applicant's (or member of the household included in the application) medical circumstances change substantially, a new medical assessment form should be submitted along with any supporting evidence.

21. Hazard assessment/disrepair.

- 21.1. The application form asks applicants about the condition of their current home. Where an applicant indicates the property possesses potential risks to Health and Safety they should contact their landlord in the first instance. If unresolved, the applicant may ask the Environmental Health service of the local authority where they live to inspect the property.
- 21.2. Following an inspection the landlord may be required to undertake works to rectify the problem. Where this is not possible or appropriate a level of priority will be awarded which will determine the band in which the applicant is placed. Any damage caused by the applicant may be deemed as deliberate, therefore worsening your circumstances (see section 9).

22. Completed applications.

- 22.1. Once the applicant has been assessed and accepted on to the Homeseeker Plus scheme, they will receive, where possible within 28 days, notification, confirming their application details.

This will include;

- a) The band in which the applicant has been placed (bronze, silver, gold or emergency). In certain cases, applicants may be given different bands for different local authority areas (where a homeless duty is accepted by a local authority or where a prohibition notice is served). This "dual banding" reflects the fact that a higher duty exists in one area and the household will therefore have a higher band just in that area.
- b) The property size for which the applicant is eligible.
- c) The effective date (and band start date if applicable).
- d) A reminder about the importance of notifying any change in circumstances.
- e) A unique reference will enable applicants to make bids.
- f) Details of the documents required before an offer of accommodation can be made.
- g) Details of where to find the Homeseeker Plus appeal procedure.

23. Change of circumstances

- 23.1 It is the responsibility of each applicant to update their own information every time there is a change in their circumstances. (see 10.2)
- 23.2 Applicants will be notified of any effect of a change of circumstances on their banding within 28 days of providing any requested evidence.

24. Annual renewal process

- 24.1 Where an applicant has not made any bid on any property, nor updated their application in any way within the previous twelve months, they will be contacted to see if they still wish to remain on the Homeseeker Plus Register.
If there is no response within 28 days from the date of notification, the application will be cancelled. If the applicant contacts the Local Authority within 28 days of their application being cancelled and indicates that they still wish to be considered for housing, the application will be reinstated from their last effective date.
- 24.2 Applicants must renew their application if requested to do so by Homeseeker Plus.

25. Cancelling applications.

- 25.1 An application will be cancelled from Homeseeker Plus:-
- At the request of the applicant.
 - Where an applicant does not respond to an application review within the specified time limit.
 - Where the applicant moves and does not provide a contact address.
 - Where the applicant has died.
 - Where an applicant ceases to be eligible
- 25.2 An application will be cancelled from the Homeseeker Plus Register and the applicant will be notified where the household has been deemed non qualifying as a result of perpetrating Anti-Social Behaviour or Racial Harassment since registering on Homeseeker Plus.

26. Re-applying to Homeseeker Plus.

- 26.1 Any former applicant will need to make a new application, which will be dated from when it was received.

Section 3 Scheme details - properties

27. Looking for a home.

- 27.1 Once applicants have been registered as active on Homeseeker Plus and notified of banding and log in details, they can start to look and bid for a suitable property of their choice.

28. Advertisements.

- 28.1. All partner landlords are committed to advertising their available properties as widely as possible. Properties will be advertised in a number of ways on a weekly basis including:

Website:

A dedicated website for Homeseeker Plus is accessible to anyone with Internet access. The website will allow applicants to view all available properties across the whole of Gloucestershire and West Oxfordshire and bid 'on-line' for properties of their choice.

Newsletters:

Adverts placed into free Homeseeker Plus newsletters, which can be viewed in a number of localities across the area—details are available from your local authority.

29. Bidding for a property.

- 29.1. Where an applicant meets the eligibility criteria, they may bid for that property within the deadline given. It makes no difference to the final shortlist what time during the week the bid was placed. Property details and information should be carefully read as some properties will have additional requirements that make the property unsuitable for the applicant e.g. the number of people the property is suitable for – some have only single bedrooms.
- 29.2. Applicants may have up to a maximum of three bids in any one week. Until a decision has been made as to who will receive the offer, a bid will remain live. The applicant can withdraw their bid if they wish to bid for another property during the same weekly cycle.
- 29.3. Applicants may bid for properties via the Homeseeker Plus website.
- 29.4. At the time the bid is placed, the applicant will be given their current position on the shortlist. This is only an indication, as the position can change, as other people bid or bids are withdrawn. Even if an applicant's position is shown as number 1, they may not be offered the property if they do not meet the criteria of the advert or the scheme.

30. Advertisement deadlines.

- 30.1. All advertisements will carry a weekly deadline by which time all bids for particular properties must be received - before midnight each Tuesday. The advert will be published on the same day each week starting one minute past midnight on Wednesday morning.

31. Property descriptions.

- 31.1. Properties advertised will carry (where possible) a photograph of the property location and a full description which will include:
- Type of property and eligible Applicants i.e. any restrictions such as age, family size or composition.
 - Number of bedrooms and eligible household size appropriate (taking into account issues such as community sustainment or local lettings plans).
 - Location of property.
 - Any adaptations (e.g. disabled facilities such as stair lift etc.) and if this places a restriction on those who may apply.
 - Services provided (e.g. support, caretaker, cleaning etc.).
 - Heating type.
 - Rent/service charges.
 - Local connection requirement.
 - Additional features and marketing information.
 - Housing Bands that will be given priority.
 - Where rural settlement or local letting policies apply.
 - If a Social Housing Landlord's allocation policy applies.
 - Void start date or new build when it's expected to be ready

32. Rural settlements.

- 32.1. Additional local connection criteria will apply for properties in rural villages where there are particular shortages of housing e.g. villages with populations under 3000 or sites with planning conditions (Section 106 agreements and rural exception sites) attached to them. In these cases, priority will be given to Applicants who are unable to live in their community due to the lack of affordable housing, who have a local connection to the parish or surrounding parishes by means of living in the parish, working in the parish or having immediate family connections to the parish. Where this applies the details will be explained in the property advertisement.

33. Local Letting Plans.

- 33.1. The Homeseeker Plus Partnership is committed to creating balanced communities. For new developments and in areas where there are known problems, such as anti-social behaviour or abandoned properties, a local lettings plan may be applied. The plan will take into account the needs of the current and new residents and the make-up of the block, street or cluster of streets, to ensure a responsible letting is made. The local authorities will review each letting plan periodically with landlords.

34 Short listing for the successful applicant

- 34.1. Once the advert deadline has passed, a shortlist will be produced for each advertised property showing all the applicants who have bid. For each property advertised, the

successful applicant will generally be the applicant who has the highest band and the oldest band start date that is eligible to bid (i.e. who best meets the criteria in the advert and the policy).

- 34.2 The system produces the shortlist by the following sort criteria;
- Local district connection (if specified in the advert).
 - Local ward/parish connection (if specified in the advert).
 - Preferred band (if specified in the advert).
 - Band start date.
 - Application date.
- 34.3. Each Social Housing Landlord is responsible for checking to ensure there has been no change of circumstances including eligibility for social housing to the housing need assessment of the applicant since originally verified. This is to ensure that social housing is not allocated incorrectly to applicants who no longer match the criteria.
- 34.4. Each applicant will be given the opportunity to view the property before signing for a tenancy.
- 34.5 Should an applicant be at the top of the shortlist for more than one property, one of the Social Housing Landlords of the properties will contact the applicant as quickly as possible to ask them to decide which property they wish to be considered for. Once they have made their decision, their other bids will become invalid. In this circumstance, viewing of any of the properties before a decision is taken is unlikely to be available and will be at the Social Housing Landlord's discretion.
- 34.6 If an applicant is direct matched for a property, any other bids they have made will become invalid.

35 By-passing the top of the shortlist

- 35.1. A by-pass is where an applicant has bid for a property but is not offered the tenancy.
- 35.2. The appropriate Social Housing Landlord will inform the household of the by-pass and of any steps needed to prevent further by-passes for the same reason.
- 35.3. There may be a number of reasons for by-passes such as:-
- Family composition unsuitable.
 - Rent or other debt outstanding.
 - Unsuitable for older person/extra care accommodation.
 - An Applicant has not responded to contact to view the property.
 - The Applicant has had a change in circumstances since verification.
 - Unsatisfactory current property inspection.
 - No local connection.
 - Pets not allowed.
 - Local lettings plan.
 - Anti-social behaviour.
 - Unsuitable for property.
 - Support package not in place.
 - Making best use of available housing stock.

- 35.4. Applicants will be required to match the requirements of this policy and match the criteria of the individual property as detailed in the advert. The advert includes details of both the type of applicant that is eligible for the property and any further restriction due to the Social Housing Landlord's own published allocation policy. If the applicant is at the top of the shortlist but does not meet all these criteria, the Social Housing Landlord may not consider the applicant.
- 35.5. Homeseeker Plus partners reserve the right to prevent an offer going ahead where the offer is considered not suitable for the applicant. This could be on the grounds of public safety, risk or sustainability of the tenancy.
- 35.6. Where an offer is being made to a current tenant of a Social Housing Landlord within the partnership, it is made subject to the satisfactory conduct of the present tenancy and approval of that Social Housing Landlord (which may include a home inspection).
- 35.7. If there is an occasion where two or more applicants have the same band start date and application date, the Social Housing Landlord will make a decision which applicant best meets the aims and objectives of Homeseeker Plus.

36. Withdrawal of property.

- 36.1. An offer of a tenancy may be withdrawn at any stage up to the signing of the tenancy agreement.
- 36.2. This may happen in certain circumstances, such as the tenant of that particular property has failed to vacate the property or the property has been incorrectly labelled on the advert.
- 36.3. If this happens, the Social Housing Landlord will inform the successful applicant that the property is no longer available. If the property is not ready for occupation following a successful bid and the applicant is likely to wait some considerable time before being able to sign the tenancy agreement, the Social Housing Landlord will inform the applicant and give them the option to withdraw their bid so they can bid for any other suitable properties. If the property was mis-labelled on the advert it will be re-advertised.

37. Refusals

- 37.1. Applicants are expected to take reasonable care when bidding for a property to ensure it meets their needs. If however an applicant decides to refuse an offer of accommodation, the property will be offered to the next suitable applicant on the shortlist. An application will be reviewed if an applicant refuses 3 offers of accommodation which the local authority or its agents deem suitable. This could lead to the applicant being suspended for a minimum of 6 months or being placed in a lower band.
- 37.2. If an applicant in a time limited band refuses an offer of accommodation the application will be reviewed and may be suspended for a minimum of 6 months or placed in a lower band.

38. Refusals by Applicants to whom the full homeless duty is owed.

- 38.1. The local authority or its agents will normally expect an applicant to whom it has accepted a full homeless duty to bid for a wide range of suitable properties within the one month time limit in the Gold Band.
- 38.2 At the same time the local authority or its agents may be looking to discharge the homeless duty into an affordable and suitable private sector tenancy. If one is identified, the Homeseeker Plus application will be reviewed and any homeless banding priority awarded will be removed whether or not the applicant accepts the private sector property found which will still be subject to the statutory review process.
- 38.3 If a homeless applicant has not been actively bidding for all suitable properties or a suitable private sector property is not available at the end of the one month time limit, the local authority or its agents will secure an offer of suitable, affordable settled accommodation for the household subject to availability. (Also see section 39 – Direct Matching)
- 38.4 If a homeless applicant refuses an offer of suitable settled accommodation, the local authority or its agents is likely to decide that its duty under the Homeless Legislation is discharged, subject to the statutory review process.
- 38.5. Homeless applicants have the right to request a review of certain decisions made by the local authority in respect of their homeless application. This includes the decision to bring to an end the full homeless duty by making a suitable offer of settled accommodation.
- 38.6. If an applicant wishes to request a review of the reasonableness of an offer or the suitability of the property, this should be submitted in writing to the appropriate local authority within 21 days of the offer. The applicant has this right whether or not they refuse or accept the offer of accommodation. If the review finds in favour of the homeless applicant, alternative suitable, affordable and settled accommodation will be offered. However if the suitability of the offer is upheld, the homeless duty is ended and the banding will be reviewed and the applicant may be moved to a lower band. **Applicants are therefore advised to accept an offer, occupy the property and then appeal under these grounds.**

39 Direct matching of properties.

- 39.1. A direct match is a property which is not available through Homeseeker Plus. All the partner social housing landlords are committed to advertising as many of their vacant properties as possible through Homeseeker Plus. There will be occasions when certain properties will not be advertised and the reasons for these exclusions will be monitored. Some examples are: -
- Over-riding social reason to move the household for safety reasons, as recommended by the Police, partner organisations, or as agreed through multi-agency need and risk assessment panels.
 - Those let to discharge statutory duties to Homeless applicants in certain circumstances.
 - Properties required for existing tenants whose properties are subject to major works requiring them to vacate their own properties (either on a temporary or permanent basis).

- Extra-care vacancies and any supported accommodation where there is an applicant with a Care package that needs a specific property.
- Applicants who have succeeded to a tenancy or, in certain circumstances such as following the death of a family member, left in occupation but who need to move to alternative accommodation.
- Where a property has been adapted and meets the specific needs of a client.
- Applications subject to the Rent (Agriculture) Act 1976.

40. Feedback/Recent lets.

40.1. Recent Lets on the web page gives details of the properties previously let once the new tenancy has actually been set up. This will be some weeks after the property was advertised but can help applicants see how long they may have to wait for the size of property they want in the locations of choice. Applicant's personal details will not be included.

The feedback given will include:

- Property size and type.
- Property location.
- Number of Applicants who applied for each property.
- Band of successful applicant.
- Effective date/ Band start date of successful applicant.

40.2. Using this information, Applicants will be able to see where properties are more likely to become available and where they may have the best chances of making a successful bid in order to help them make an informed evaluation of their housing options.

Section 4 Monitoring and review

41. Review/appeal procedure. (The Homeseeker Plus Appeal Process can be found at www.homeseekerplus.co.uk)

41.1. All applicants have the right to request a review of any Homeseeker Plus decisions. The review/appeal should include the reason why the applicant believes the decision is incorrect, together with any additional information.

41.2. Stage One – Internal Review

If you disagree with the way we have assessed your application for housing, or with the housing need band in which we have placed your application, you may request a review with a senior housing officer (who was not involved in the original decision) from the local authority or the agent dealing with your application. To request a review:

- You must complete an Stage 1 - Internal Review Request Form which can be downloaded from the Homeseeker Plus website www.homeseekerplus.co.uk and when completed in full, send to the Homeseeker Plus Co-ordinator within 14 days of receiving your letter or notification.
- We will deal with your request within 14 days or let you know if we will require additional time.
- We will write to you with the outcome of the review within a further 7 days of being determined.

41.3. Stage Two –Homeseeker Plus Appeal Panel

If you disagree with the outcome of the review, you can request that your case be taken to the Homeseeker Plus Appeal Panel. The Homeseeker Panel is made up of 3 Senior Housing Officers from 3 of the Partner Councils. These Officers will not have been involved in the original decision or the Senior Housing Officer decision on internal review. The applicant must submit a request for an appeal in writing and send to their Local Authority or the agent that is dealing with the application within 14 days of the review notification letter. The local authority or its agent will acknowledge receipt of the request for an appeal within 14 days and provide the applicant with contact details of the officer dealing with the request and the time it will take to reply to the applicant. If the review cannot be completed within 56 days, the applicant will be informed and the timescales for the review set out.

The panel will be made up of senior housing officers from three of the other local authorities. The appeal will consider the facts surrounding the case and your request should specify whether there are additional facts the Panel should take into consideration or whether you feel that the original facts you submitted with your application have not been fully taken into account. If you have additional evidence, such as additional medical reports, then these should also be submitted.

The Panel will consider the review on the papers submitted by the applicant and the housing officer from the local authority involved in the case. The applicant does not need to attend this review hearing but occasionally the Panel may require additional information from either party and, should this be the case, the applicant and the relevant Housing Officer will be asked to personally attend a further review Hearing. The applicant can bring a representative.

The Homeseeker Plus Co-ordinator (or a nominated representative) will be present at the Hearing to ensure that all relevant information has been presented and is dealt with correctly.

Once the appeal has been determined, or if the Panel require the applicant to attend a further Hearing, the Homeseeker Plus Co-ordinator will write to the applicant giving full details within 14 days or as soon as reasonably practicable thereafter.

41.4. Local Authority Complaints Procedure

If you feel that you have been treated unfairly or you believe the process has not been carried out as described above you can use your Local Authority's (or its agents) Complaints Procedure to make a formal complaint.

41.5. The complaint must be made in writing to the appropriate authority within 14 days of the date of the written notification of the decision of the Homeseeker Plus Appeal Panel.

41.6. If the applicant is still dissatisfied, they may complain directly to the Local Government Ombudsman. The Oaks, 2 Westwood Way, Westwood Business Park, Coventry. CV4 8JB. Telephone 024 7682 0000.

42. Access to personal Information.

- 42.1. Applicants are entitled under the Data Protection Act (1998) to request details of their personal data held by the seven local authorities. A charge will be made for providing this information.

43. Use of statistical information.

- 43.1. The information supplied by Applicants on their housing application may also be used for housing management and research purposes within legal guidelines (such as identifying what size and where new housing is required). No individual will be identified in collating such information.

44. Policy monitoring and review

- 44.1 The Housing Advice/Options Manager of each local authority will run regular reports to monitor performance of the scheme in meeting the aims of the policy.
- 44.2 The Homeseeker Plus policy will be regularly reviewed and at least annually to ensure that it takes into account change in demand and need within the district, that it continues to meet its aims and objectives and that it complies with any legislative changes.
- 44.3 Any changes to the Homeseeker Plus Policy will be implemented only with the majority agreement of the members of the Partnership. An interested party may contact any of the local authority partners to make observations to be considered at the next review.

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Consultation draft 102

Homeseekerplus

Common Allocations Policy Document



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1. Introduction and policy statement

Introduction

1.1 Homeseekerplus is a choice based lettings (CBL) scheme run by the seven local authorities in partnership with social housing landlords and any other housing providers that are required to deliver affordable homes through section 106 affordable housing obligations within Gloucestershire and West Oxfordshire.

1.2 The seven local authorities are Tewkesbury Borough Council, Gloucester City Council, Cheltenham Borough Council, Stroud District Council, Forest of Dean District Council, Cotswold District Council and West Oxfordshire District Council.

1.3 Demand for affordable social housing within the Homeseekerplus area is very high and cannot be met from the available social housing resources. Only those in the highest housing need with a local connection to the area are likely to obtain housing through the Homeseekerplus scheme. Each district's Housing Advice Service will be able to advise on a range of housing options including the private rented sector.

1.4 This policy explains who is eligible and qualifies to apply on Homeseekerplus and sets out how applications will be assessed based on housing need.

1.5 Homeseekerplus aims to allocate social housing in the partner council areas in a fair and transparent way while complying with all legal requirements.

Overview of how the partnership functions

1.6 Homeseekerplus enables social housing landlords and other housing providers (as detailed in 1.1 above) to advertise their homes. Applicants are able to express an interest in them; this is known as placing a "bid" for a property. Once a bid is placed the system generates a shortlist, sorting applicants in order of band, band start date and whether they meet the criteria of the advert. Priority for properties goes to those who have a local connection with the local authority in which the property is located, then to those who have a local connection with any of the other Homeseekerplus districts and finally to anyone else.

1.7 All applicants seeking social housing across Gloucestershire and West Oxfordshire will complete the same application process and will be assessed against the same clear set of criteria. Depending on their circumstances, applicants will be placed into one of four bands: Emergency, Gold, Silver or Bronze subject to final verification by a Homeseekerplus partner.

1.8 Once an application has been made, applicants are advised of their banding and banding start date, together with details of how to access the system. This enables applicants to bid for suitable social housing vacancies being advertised across the whole of Gloucestershire and West Oxfordshire.

1.9 Once the bid deadline has passed, the successful applicant will be the highest priority household at the point of shortlisting. This is assessed against the criteria for the property, including where local connection applies, and taking into account any local letting plans.

1.10 Responsibility for letting each available property lies with the social housing landlord. The appropriate landlord must confirm that the details on the application are still correct and may undertake their own assessment to ensure the property is right for the applicant before making an offer. Incorrect information may result in the offer being withdrawn and the applicant's circumstances being re-assessed.

1.11 Applications for sheltered and extra care housing schemes may require an assessment of the household's support needs, prior to any offer being made.

Policy statement

1.12 This policy aims to:

- Assist in building sustainable communities.
- Enable informed choice of housing/ housing options and improve levels of customer satisfaction.
- Operate a common selection system that offers realistic, informed choice for all applicants.
- Ensure that those who have the greatest need for housing have the greatest opportunity to secure it.
- Ensure that less able applicants are involved in the lettings process and have choices, offering equality of opportunity for all.
- Make best use of available housing resources to meet local need.
- Minimise the refusal of offers of accommodation and reduce rent loss by allowing people to choose where they live, thereby supporting sustainable communities.
- Where possible, give people with a local connection to a district priority in the letting of housing within that district.
- Enable mobility within social housing in Gloucestershire and West Oxfordshire.
- Enable the authorities to meet their statutory duties including where duties are owed to homeless Applicants under Part VII of the Housing Act 1996, as amended and the homelessness reduction act 2017.
- Contribute towards tackling discrimination.
- Use a common eligibility criteria and housing application process.
- Ensure fairness, simplicity and transparency with a system that is easily understood.
- Promote a feeling of ownership and commitment to their area as they will have chosen to live there.
- Assess applications according to the applicant's needs under the framework of the policy.

Equal opportunities and social inclusion

1.13 All partners of Homeseekerplus agree that applicants should be given every possible assistance to access the housing register and search for suitable properties. Applicants who are identified as being potentially disadvantaged by the scheme may be contacted to discuss alternative options.

1.14 All partners of Homeseekerplus are committed to the elimination of discrimination. They promote equality of opportunity for all and work towards this goal in the provision of services.

1.15 We are committed to:

- Eliminating discrimination, harassment, victimisation and any other conduct prohibited by the Equalities Act 2010.
- Advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it.
- Foster good relations between people who share a protected characteristic and those who do not share it
- Removing or minimising disadvantages suffered by people who share a relevant protected characteristic that are connected to that characteristic
- Taking steps to meet the needs of people who share a relevant protected characteristic that are different from the needs of people who do not share it
- Encouraging those people who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- Making the best possible use of the existing and potential workforce and resources by enabling cross boundary moves.

1.16 Applicants potentially disadvantaged by the scheme will initially be identified from the application process and they may be offered a home visit or interview. Staff will seek to establish any support needs and identify ways of enabling the applicants to fully participate in Homeseekerplus. This may include sending copies of the adverts in large print to an applicant or simply providing advice. Translation services may be provided where appropriate.

1.17 Disadvantaged applicants are able to nominate a person (including family members, friends or a professional worker) to help them bid, or to bid on their behalf for suitable properties. Signed consent will be required if requests are made by a third party.

1.18 The local authority may bid for suitable vacancies on a vulnerable applicant's behalf if they are at risk of being disadvantaged by the scheme and have no support to enable them to make bids themselves. This may include the use of the 'Autobid' function.

1.19 Agencies providing support maybe able to assist their client with help on housing issues.

2. Legal

Legal Framework

2.1 Homeseekerplus complies with the local authorities' statutory duties under Part VI and VII of the Housing Act 1996 as amended, and the Homelessness Reduction Act 2017, in addition to any other relevant legal duties, and has regard to the following:

- Allocation of accommodation: guidance for local housing authorities in England 2012
- Equalities Act 2010
- Public Sector Equality Duty
- Data Protection Act 2018
- Localism Act 2011
- Immigration Act 2014
- Local letting plans
- S.106 agreements

Data retention

2.2 As part of the application process, personal data is required to support any housing application. We will comply with all data protection legislation. This includes:

- For active applications, data is stored for as long as the application is active.
- For housed applications, data is stored for three years
- If Homeseekerplus is not accessed for a period of one year, then the case will be set to 'removed' and removed after six months.
- Homeless applications are stored for three years.

Definition of social housing providers for Homeseekerplus

2.3 For the purposes of this policy, affordable housing is defined as being social rented and affordable rented housing provided to eligible households who otherwise would be unable to secure alternative provision, and who have been assessed under this policy. Housing providers who operate within the Homeseekerplus boundaries are defined as being registered providers, arm's length management organisations or stock owning Councils. owned stock, Eligibility and qualifying criteria for providers is set by this policy.

2.4 All partners have a common goal to provide homes for local people in housing need with eligibility determined within this policy framework.

Types of tenancies

2.5 Depending on the landlord and applicants' circumstances, an applicant may be offered either an introductory, secure, starter, assured, fixed term, assured short hold or flexible tenancy.

Who is eligible to register?

2.6 Homeseekerplus is open to anyone in housing need who is not subject to immigration rules which would otherwise exclude them. Eligible households may include, but are not limited to, existing tenants looking to transfer to another property, homeless households looking for a permanent home and other households who might, for example, reside in the private sector or lodge with family and friends. A household includes anyone that may reasonably be expected to live together with them as part of their application.

Who is not eligible to register?

2.7 Persons from Abroad:

Consistent with Right to Rent Regulations within the Immigration Act 2014, Persons from Abroad who do not have leave to remain are ineligible to register for Homeseekerplus This includes those who are:

- Subject to immigration control and has over stayed their visa or is a visitor
- Illegal entrants
- Asylum seekers
- People in the UK on condition that they have no recourse to public funds
- A person from abroad who is in breach of the European community right of residence directive
- A person whose only right to reside in the UK arises under European law based on their status as a job seeker or an initial 3 months right of residence
- A person from abroad who has been the subject of a sponsorship agreement for less than five years and whose sponsor is still alive
- A person with limited leave not granted as a result of a claim for asylum

2.8 If the local authority decides that an applicant is not eligible to register for any of these reasons, they will notify the person of the decision in writing, including the reason.

2.9 Other:

- Applicants under 16 years of age at the date they apply are not eligible to register for Homeseekerplus.

2.10 Persons who are ineligible for a tenancy in their own right may still be included within a household application and for determining the number of bedrooms needed for the household.

3. Scheme conditions

Who does not qualify?

3.1 Homeseekerplus has been established under the terms of the Housing Act 1996, as amended, and the Localism Act 2011. This gives local authorities the right to decide who will not qualify for social housing.

3.2 Applicants who may initially be eligible to register on Homeseekerplus but , following assessment, do not qualify, will be excluded from Homeseekerplus. Others may be eligible and qualify to be included but are subsequently suspended from bidding

3.3 The following are persons who do not qualify for Homeseekerplus:

An applicant may not hold two tenancies at one time, applicants must be able to end their current tenancy within a reasonable period from being made an offer.

- An applicant will not qualify for social housing if the local authority has undertaken an affordability check which has shown that they have sufficient financial resources to adequately resolve their own particular housing need through outright purchase, lease or mortgage. This check will consider the type of accommodation needed to meet these needs to resolve their own housing need within their district.
- Homeowners who own or part own a property which is suitable for the household's needs or where those needs can be resolved through adaptation, and where it is safe to remain.

3.4 If the local authority decides that an applicant does not qualify, they will notify the applicant of their decision in writing and the reasons for it.

3.5 Applicants who do not qualify will need to reapply in full if they feel their circumstances have changed to the extent that they may now qualify.

Suspending and demoting an application

Applications to Homeseekerplus may be suspended or demoted if any of the following circumstances are identified:

3.6 Former Tenancy Debts

If an applicant has rent arrears or other housing debt with a social landlord or any other housing provider (as detailed in 1.1 above) , which accrued less than 6 years ago, the applicant will be given the opportunity to clear the debt before a decision to suspend the application is made. If the applicant is unable to do this, they may be suspended for a period sufficient to reduce the debt to

below the equivalent of eight weeks arrears, as well as having a repayment plan in place and payment being made before they can bid for properties.

Each case will be considered on its own merit, For example, an application would not be suspended if rent arrears arose as a result of domestic abuse.

Existing social housing tenants who are suspended because of rent arrears will be considered as an exception on an individual basis if proved that they cannot afford to stay in their current tenancy as a result of Welfare Reform Act changes.

If a partner landlord becomes aware of such a debt they will inform the relevant local authority when arrears are reduced. The local authority may unsuspend the application or advise the applicant to submit a change of circumstances for their application to be reassessed.

3.7 Time Limited Bands

Applicants who have been awarded time limited bands are expected to bid on all suitable property types available within their local connection area. Failure to do so may result in suspension or demotion for a period the local authority deems appropriate.

3.8 Repeated Refusal of Properties

Whilst Homeseekerplus aims to give applicants choice, it also needs to help social landlords let their available homes in an efficient way. If an applicant refuses three properties that the local authority considers suitable, the application will be demoted or suspended for a period of 6 months from the time of their last offer. This provision does not apply to final offers of accommodation made in order to discharge homeless duties under part VII of the Housing Act 1996 (as amended) or Homelessness Reduction Act 2017.

3.9 Financial

Applicants who have unreasonably disposed of financial resources that could have enabled them to purchase/obtain their own accommodation will be suspended.

3.10 Unreasonable behaviour/rent arrears

An applicant will be non-qualifying if the applicant, or a member of their household, has been responsible for unacceptable behaviour serious enough to make them unsuitable to be a tenant of the local authority or a social housing landlord at the time of application.

Behaviour that may be regarded as unacceptable is as follows: -

- Criminal activity in the vicinity of the property
- History of anti-social behaviour or disruptive nuisance to neighbours
- Racial harassment
- Illegal drug use or dealing
- Any other breach of the tenancy agreement such that the landlord would be likely to apply for and obtain a possession order.

As part of the assessment, consideration will be given to the household's personal circumstances, the severity of the situation and any other factors that may be relevant.

Such applicants will be informed of the actions required from them to demonstrate that there has been a change in their behaviour such that they will become qualifying e.g. obtaining a satisfactory landlord reference for a period of six months or where regular repayments are made without fail against an agreed repayment plan for a period of six months.

3.11 Deliberately worsening their circumstances

An immediate review of an application will be undertaken if an applicant is found to have acted (or failed to act) in a way which deliberately worsened their housing situation. This could lead to the applicant being suspended, or being demoted to a lower band, for a minimum of 6 months.

Exceptions

Exceptions to these qualifying criteria include:

- Those people fleeing harassment or violence where the Police, Independent Domestic Violence Advocates (IDVA) or Multi Agency Risk Assessment Conference (MARAC) support a move
- proven social or medical/welfare needs

In exceptional circumstances where the applicant has an urgent need to move, the local authority may waive this qualification and suspension criteria.

3.12 Requesting a review of a suspension / demotion

Applicants will be advised as to what action/s will be necessary to lift the suspension or demotion.

Applicants who are suspended will need to contact their relevant local authority to ask for a review of this suspension if they feel their circumstances have changed. If agreed, their application will be reactivated and reassessed.

Providing false information and change of circumstances

3.13 Any applicant who knowingly or recklessly gives false information or knowingly withholds information in order to secure a home to which they are not entitled may lose any home provided to them and may also be prosecuted. Where false information is given and the applicant becomes non-qualifying or ineligible, the application will be removed. Where false information is given and the applicant still qualifies, the application will be suspended for a period of 3 months and the applicant will have to reapply with correct information. The law imposes severe penalties, including substantial fines up to £5000 or imprisonment, when an offence is proven.

Local Connections

3.14 Due to the exceptional demand for housing across the Homeseekerplus area and the difficulty in solving local housing need, preference will normally be given to applicants with a local connection to the appropriate district.

3.15 Homeseekerplus local connection is defined by any of the following:

- Those who are, or were in the past, normally resident in the local authority area, and that residence was of their own choice during six out of the past 12 months or during three out of the past five years.
- those who are employed in the local authority area
- Those who have immediate family connections in the local authority area for five years
- Members of the armed forces
- Other special circumstances

3.16 Local connection will be awarded by the lead authority only.

Local connection clarification

3.17 Normal residence

‘Normal residence’ is to be understood as meaning ‘the place where, at the relevant time, the person in fact resides.’ Residence in temporary accommodation provided by a housing authority can constitute normal residence of choice and contribute towards a local connection. In the case of a person who is street homeless or insecurely accommodated (‘sofa surfing’) within their district, the housing authority will need to satisfy themselves that the applicant has no settled accommodation elsewhere, and if from inquiries the authority is satisfied that the applicant does in fact reside in the district, then the applicant will be considered as normally resident.

Where the applicant raises family associations, this may extend beyond partners, parents, adult children or siblings. They may include associations with other family members provided there are sufficiently close links in the form of frequent contact, commitment or dependency. Family associations should be determined with regard to the fact-specific circumstances of the individual case.

3.18 Employment

For the purposes of employment, a member of the application should work in the district they are applying too: it would not be sufficient if the employer’s head office is located in the relevant district but their place of work is not. In the case of self-employment, local connection will be defined by the address at which their business is registered. For agency, casual or other types of employment, proof must be provided that the employment contract is not short-term, casual or ancillary.

3.19 Special Circumstances

Special circumstances include but are not limited to the need to be near special medical or support services which are available only in a particular district and where transport links are not sufficient to meet those needs. Special circumstances will be assessed on their own individual merits.

3.20 Care leavers

Care leavers who are owed a ‘Leaving Care’ duty, will have a local connection to all districts within the area of the Children’s Services Authority. Care leavers who have been placed in accommodation

in a different district to that of the Children's Services Authority, and they have lived in the other district for at least 2 years, including some time before they turned 16, they will also have the same local connection until they are 21.

3.21 Armed Forces

Members of the armed forces will have a local connection to a district of their choice. This applies to:

- Those currently serving, or having served within the immediately preceding five years.
- Bereaved spouses or civil partners who have recently, or will cease to be, entitled to Ministry of Defence accommodation following the death of their service spouse and the death was wholly or partly attributable to their service.
- Existing or former members of the reserve forces who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service.

Local connection will also be awarded to divorced or separated spouses or civil partners of Service personnel who are required to move out of accommodation provided by the Ministry of Defence.

3.22 Persons from Abroad

If an applicant has been subject to immigration control where they would not have been deemed eligible and subsequently become eligible, the date of where a local connection would apply is the date they moved into the area. Refugees would have a local connection outside of these criteria to the last area they were housed in by the Home Office under asylum support.

Local connection will not be awarded if your accommodation was not of the applicant's own choice. This includes but is not limited to:

- Approved premises
- Rehabilitation units

3.23 Decisions on local connection will be made based on the facts at the date of the decision and not the date of application.

4. Assessment of applications

How to register

4.1 Applicants are able to register for social housing through the Homeseekerplus website at www.homeseekerplus.co.uk. Homeseekerplus is an online application only and has been designed to be accessible to all with speech, reading and translation tools. Applicants needing advice and assistance with their application are advised to contact the authority they are applying to.

4.2 When an applicant applies through the Homeseekerplus website and has registered their household, they will complete an application for social housing, giving details of their housing situation. If, after completion of the application and provision of any necessary proof or further information, the applicant is assessed as being eligible, they will be given a band start date and placed in a local housing band.

4.3 Applicants should make sure that they include all relevant details on the application so that proper consideration can be given to the application. Homeseekerplus may contact any of the applicants' previous landlords or agencies to check the details given.

4.4 All applicants will be given unique login details which can be updated from the account.

4.5 Applicants will be informed if further information or clarification is required. Failure to complete the online application form will result in it being deleted from the system.

Assessment of an application

4.6 By registering to join Homeseekerplus, the applicant will need to freely give their consent for enquiries to be made to verify their circumstances. Applicants will need to confirm that the information they have given is true and accurate.

4.7 The information the applicant has provided will guide the decision on which band they will be placed in. Applicants will be required to provide the lead authority with documentation to evidence the stated housing need.

Bedroom need assessment

4.8 The bedroom need for a household is assessed to match housing costs guidance to ensure suitability and affordability for low income households.

4.9 One bedroom is required for:

- An adult couple
- A person aged 16 or over
- 2 children aged up to 16 years of age of the same sex
- 2 children aged up to 10 years of age of different sexes

4.10 When a child is born, the applicant must provide evidence of the birth as soon as possible and the bedroom need will then be re-assessed. This may not change the bedroom need or banding and any additional award will not be given until evidence of the birth is provided.

4.11 Visiting children will not be counted in this assessment.

Verification

4.12 Applicants will be able to bid for properties advertised, but no tenancy will be offered until verification has been completed by the relevant local authority. The purpose of this verification is to establish the accuracy or validity of the application.

4.13 Documents required for verification will depend upon individual circumstances. Documents must be provided to verify medical needs, eligibility and qualifying status.

4.14 Key documents will remain valid for 6 months or for the length of validity of the document, whichever is the longer.

4.15 Key standard documents can include, but are not limited to:

- Identification for all household members on the application
- 2 months bank statements of all household members over the age of 18
- Proof of Child Benefit or an appropriate court order
- Proof of residency to support 'right to rent' checks

Banding reasons

4.16 Applicants will be awarded a band appropriate to the household circumstances assessed from the information provided in their application.

4.17 To qualify for a particular band, applicants need to meet at least one of the criteria set out in the banding table below.

4.18 Applicants will be awarded two bands – one for their “local” band (lead authority) and one for their “global” band (other 6 authorities). In some cases, these may be with same authority, depending on circumstances. However, having a local connection to another authority would not automatically deem a household to have a higher banding in that district.

4.19 An applicant’s banding may be time- limited due to the type of housing need, therefore, the household would be expected to bid for and accept any suitable property offered within that time limit. Failure to do so may lead to a direct match or demotion.

Right to move

4.20 Right to Move is for social housing tenants who need to move to another district in order to take up a job or live closer to employment or training. In order to qualify, social housing tenants must demonstrate that the job/apprenticeship will alleviate significant hardship and that there are no other options available to them.

4.21 To determine qualification, the following detail will need to be established:

- The distance and/or time taken to travel between work and home
- The availability of transport, taking into account level of earnings
- The nature of the work and whether similar opportunities are available closer to home
- Other personal factors, such as medical conditions and child care options, which would be affected if the tenant could not move
- Whether failure to move would result in the loss of an opportunity to improve employment circumstances or prospects, for example, by taking up a better job, a promotion or apprenticeship

4.22 Those who qualify for Right to Move will get a local banding preference of Silver, identifying that there is a “Significant welfare need that would be alleviated by a move to more suitable accommodation”.

Clarification of Band criteria

Property size

4.23 Emergency Band

Existing Gloucestershire and West Oxfordshire social housing tenants willing to move from family accommodation to non-family social housing property within the partnership area.

4.24 Gold Band

Existing Gloucestershire and West Oxfordshire social housing tenants willing to move to smaller family sized accommodation if this has been agreed with the relevant local authority to release a property of higher demand or limited availability.

or

There is major overcrowding in the current property - lacking 2 or more bedrooms (this will not apply if the applicant has unreasonably allowed one or more people to move in to the property, as this is deliberately worsening the situation).

or

Environmental Health has inspected the property and has served a Prohibition Notice (or suspended Prohibition Licence) on the landlord due to overcrowding - subject also to the applicant not deliberately worsening the situation.

4.25 Silver Band

There is overcrowding in the current property - lacking 1 bedroom - (this will not apply if the applicant has unreasonably allowed one or more people to move in to the property, this is deliberately worsening the situation).

Property condition

4.26 Emergency band

Where Environmental Health has inspected the property and requires immediate vacation of the property because of an imminent risk of harm due to disrepair, major defects or grossly inadequate facilities. An Emergency Prohibition Order can be served on the landlord in these circumstances.

This award is time limited for 1 month when it will be reviewed. It can be extended if no suitable properties have become available in this time scale, or a direct match can be made.

4.27 Gold band

Where Environmental Health has inspected the property and has served a Prohibition Order or a Suspended Prohibition Order on the landlord that repairs have to be undertaken but the landlord is unable/unwilling to comply. In most cases the landlord will be required to undertake repairs to remedy the problem and when completed this should resolve the issue. These only apply to the Local band so only when bidding for properties in the home/lead local authority area.

Homelessness

4.28 Homelessness is defined by Part 7 of the Housing Act 1996 but was significantly updated by the Homelessness Reduction Act 2017. The Homelessness Reduction Act set out new duties to local authorities to, amongst other things, prevent or relieve homeless.

4.29 Therefore applications to Homeseekerplus from those who are homeless or threatened with homelessness will fall into the following categories:

- A Prevention of Homelessness duty is ongoing or
- A Relief of Homelessness duty is ongoing or
- The applicant has made a homeless application to one of the Homeseeker Plus Local Authorities and remains assessed as eligible for assistance and homeless after the relief duties have ended.

4.30 More information on these duties can be found here:

<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

For the purpose this policy and how banding will be assessed should the local authority owe you a duty under this legislation, banding will fall into either:

4.31 Gold banding (Main Duty)

The applicant has made a homelessness application under part VII of the housing act 1996, (as amended) to one of the Homeseekerplus local authorities, the 56 days of the Relief Duty have expired and the full s193 statutory homeless duty to secure accommodation for the applicant has

been accepted by that authority. If this duty applies to an applicant, the applicant will receive a letter from the relevant local authority advising of this.

This is time limited for 1 month when it will be reviewed. It can be extended if no suitable properties have become available in this time scale. A suitable tenancy in the private sector or a direct match into social housing may be made to end the homelessness duty at any time.

4.32 Silver banding (Prevention or Relief Duties)

The applicant has made a homeless application to one of the HomeSeekerplus local authorities and either:

- A Prevention of Homelessness duty has been accepted
- A Relief of Homelessness duty has been accepted

or

The applicant has made a homeless application under part VII of the housing act 1996, as amended to one of the HomeSeekerplus local authorities and remains assessed as eligible for assistance and homeless but has been found either non-priority or intentionally homeless.

Medical Need

4.33 None of the below refer to having a medical condition in its own right. It is only when the current housing is directly affecting that medical condition that priority is awarded. In other words, even if a member of the applicant's household has a very severe set of medical conditions, if their housing has little or no bearing on their health then no priority will be awarded.

4.34 Emergency band

The applicant is assessed as in immediate need of re-housing on medical grounds. This may be when they have had a major incident, are in hospital or another emergency provision and unable to return to the existing home because of their medical condition and immediate adaptations are not available.

This award is time limited for 1 month when it will be reviewed. It can be extended if no suitable properties have become available in this time scale or a direct match can be made.

4.35 Gold band

Urgent medical need or long-term disability that would be alleviated by a move to more suitable accommodation. This would apply when the situation is so serious that it would not

be reasonable to expect the applicant to continue to live at the property for any length of time, given their particular medical circumstances but not a life-threatening emergency.

Proof of the situation would be required from Social Care services, NHS or other medical specialists.

For example, a member of the household seeking accommodation is disabled and re-housing will enable that person to overcome physical barriers created by current accommodation and it has been established that the home cannot be adapted to meet needs e.g. steps and stairs.

4.36 Silver band

Significant medical need that would be alleviated by a move to more suitable accommodation. This could be situations/medical conditions that could apply to one or more members of the household which because of the particular household circumstances significant distress is caused. Proof of the situation would be required from Social Care services, NHS or other medical specialists.

Depression and asthma are the most commonly quoted medical conditions. Where these are mild and not directly related to the current property, priority is unlikely to be awarded.

Welfare Need

4.37 Emergency band

The applicant assessed as in immediate need of re-housing on welfare grounds where there has been a major incident and there is proven threat to life or limb. This would normally be based on information provided by the Police or other specialists.

4.38 Gold banding

Exceptional circumstances where the current property has a critical long-term detrimental effect on their welfare. This would normally be based on information provided by multi agency meetings or Social Care services.

4.39 Silver banding

Significant welfare need that would be alleviated by a move to more suitable accommodation. Proof of the situation would be required from Social Care services, housing association or other specialists to establish that a management move would not be appropriate.

This banding would only be used if the housing provider is unable to provide a management move.

Move on/care leavers

4.40 Gold band

A young person owed leaving care duties under section 23C of the Children Act 1989 and in a housing need will be awarded gold banding to the area of the Children Services Authority that owes them the duties. Homeseekerplus comprises of Gloucestershire and West Oxfordshire which have different Children Services Authorities, therefore gold will only be awarded to housing authority districts falling within the area of the Children Services Authority.

Move-on from supported accommodation funded County Council commissioned services and where a local connection was agreed at point of referral by the relevant local housing authority.

When someone is placed in accommodation based supported housing and is not in their home/lead authority area there is a presumption that they will be reconnected back to their home area when ready to move-on from the supported accommodation.

The requirements for this priority are:

- that the supported accommodation provider has confirmed that the resident is ready for independent living by completing the standard move- on form detailing the work they have completed with the resident and assessment of any remaining support needs;
- that the local authority has been involved in the move-on planning and accepts that they are the appropriate local authority to re-house this applicant by awarding this priority;
- The accommodation is not low support, temporary or emergency provision or intensive housing management (unless subject to local individual arrangements).

Multi-Agency

4.41 Gold band

As a result of a multi-agency decision agreed by the relevant housing authority. Where multi agencies including the local housing authority are involved with a particular household and agree on a way forward to resolve an urgent housing situation, this priority can be awarded to better protect the public or local neighbourhood.



Banding Table

Property Size etc.	Property conditions (this only applies to the district where the Notice is made)	Homelessness (this only applies to the district where any duty is owed)	Medical needs	Welfare needs	General
<p>Existing Gloucestershire and West Oxfordshire social housing tenants willing to move from family accommodation to non-family social housing property within the partnership area.</p> <p>EMERGENCY BAND</p>	<p>Where Environmental Health has inspected the property and requires immediate vacation of the property because of an imminent risk of harm due to disrepair, major defects or grossly inadequate facilities.</p>	<p>The applicant assessed as immediate need of re-housing on welfare grounds where there has been a major incident and there is proven threat to life or limb.</p>	<p>The applicant assessed as immediate need of re-housing on welfare grounds.</p>	<p>A young person owed leaving care duties under section 23C of the Children Act 1989 and in a housing need or</p> <p>Move-on from supported accommodation funded County Council commissioned services and where a local connection was agreed at point of referral</p>	<p>Right to move</p>
<p>Existing Gloucestershire and West Oxfordshire social housing tenants willing to move to smaller family sized accommodation if this has been agreed with your local authority to release a property of higher demand or limited availability.</p> <p>or</p> <p>There is major overcrowding in the current property - lacking 2 or more bedrooms</p> <p>or</p> <p>Environmental Health has inspected the property and has served a Prohibition Notice</p> <p>GOLD BAND</p>	<p>The applicant has made a homelessness application under part VII of the Housing Act 1996, as amended to one of the Homelessness local authorities and the full statutory homelessness duty to secure accommodation for the applicant has been accepted by that authority.</p>	<p>Urgent medical need or long-term disability that would be alleviated by a move to more suitable accommodation.</p>	<p>Significant welfare need that would be alleviated by a move to more suitable accommodation.</p>	<p>Significant welfare need that would be alleviated by a move to more suitable accommodation.</p>	<p>Significant welfare need that would be alleviated by a move to more suitable accommodation.</p>
<p>There is overcrowding in the current property - lacking 1 bedroom</p> <p>SILVER BAND</p>	<p>A Prevention or relief duty has been accepted</p> <p>or</p> <p>The applicant remains assessed as eligible for assistance and homeless but has either has been found either Non-priority, intentionally homeless.</p>	<p>All other Applicants</p>	<p>All other Applicants</p>	<p>All other Applicants</p>	<p>All other Applicants</p>
<p>BRONZE BAND</p>	<p>All other Applicants</p>	<p>All other Applicants</p>	<p>All other Applicants</p>	<p>All other Applicants</p>	<p>All other Applicants</p>

Additional bedroom needs criteria

4.42 Households will also be assessed to consider the need for one additional bedroom for each of the following, if they are assessed as being included as part of the household:

- A tenant requiring a non-resident overnight carer
- Disabled child who cannot share a bedroom with their sibling due to their disability
- An adult child who is serving away with the armed forces
- A room for a foster child or children

4.43 Households can include someone on the application if there is a need for them to live with the household in order to give or receive care or support, where no one in the immediate household is able to provide that care. Evidence will be required to demonstrate:

- That the household is dependent upon this care or support that other satisfactory arrangements cannot be made
- that the arrangement is 'permanent'

4.44 We will also require evidence that the person requires your support or care; for example, proof that you/they are providing care, are in receipt of care allowances and are able to meet any costs associated with the additional bedroom either through benefits, income or savings.

4.45 We will usually only include members of the household that currently living with you or that the Council can be satisfied will be reasonably expected to reside (if not currently residing) with you on your application

4.46 In cases where two parents or guardians have joint access to children, bedroom eligibility will be awarded to the main care provider. Applicants will need to demonstrate that :

- they are the main care provider (children live with you for more than half the week -four nights or more) and are in receipt of child benefit and, if applicable, child tax credits
- that the arrangement is 'permanent'

4.47 Please note the protections afforded by the Equality Act 2010 are intended to be available to all, including children and adolescents. Any required additional bedroom need will be awarded on a case by case basis in line with housing benefit rules and an assessment of affordability.

Time limited bands

4.48 Certain categories have a time limit of one month or more. This is given to recognise an urgent need. It is therefore important that applicants in this category are bidding for all suitable properties each week and in a wide range of locations.

4.49 At the end of the period the case will be reviewed by the Lead Authority.

4.50 If the applicant is in a time limited band and has either not bid for suitable properties advertised within one month or has been unsuccessful in obtaining an offer of a tenancy within the limit, a direct match of a property may be considered. Where a private sector tenancy is available, suitable and affordable at the time the Local authority or its agents may look to secure a tenancy in the private rented sector.

Demotion

4.51 The Lead Authority may decide to demote an applicant to the band below at the end of the time-limited period if it is apparent that the applicant is choosing to wait for a particular type of property or location, and not treating their circumstances as being urgent.

4.52 Applicants are encouraged to make full use of their bids and seek all housing options available to them. Applicants will be assessed by a senior officer if they have unreasonably refused a property or to bid in a reasonable time if the following criteria have been met:

- they deliberately do or fail to do anything and as a consequence they miss out on suitable properties
- it would have been reasonable for them to do so, and there is no other good reason why they have not

4.53 The demotion period will be what the local authority deems reasonable up to 12 months and will be considered on a case by case basis.

Global banding criteria

4.54 Applications will be awarded a global band equal to that of their local banding in all but the below cases:

- Where the lead authority has accepted a full statutory homeless duty to secure accommodation for the applicant. The global banding in this circumstance will be silver.
- Where the lead authority has a gold move on agreement from supported accommodation, the global banding will be bronze.
- Where the lead authority has assessed the property as having a prohibition notice, the global band will be bronze.
- Where the lead authority has awarded a downsizing band, the global band will be silver.

5. Scheme Details

Completed applications

5.1 Once the applicant has been assessed and accepted on to the Homeseekerplus scheme, a notification will be sent, where possible within 28 days, confirming the application details.

This will include:

- a) The band in which the applicant has been placed
- b) The property size for which the applicant is eligible
- c) The registration date
- d) Band start date
- e) Reminder about the importance of notifying any change in circumstances
- f) A unique reference
- g) Details of the verification documents required
- h) Details of the appeal procedure

Annual Review process

5.2 Where an applicant has not made any bid on any property, nor updated their application in any way within the previous twelve months, they will be contacted to see if they still wish to remain on the Homeseekerplus Register. If there is no response within 28 days from the date of notification, the application will be closed. If the applicant contacts the Local Authority within 28 days of their application being closed and indicates that they still wish to be considered for housing, the application will be reinstated.

Applicants must renew their application if requested to do so by Homeseekerplus.

Removing applications

5.3 An application will be removed from Homeseekerplus:-

- At the request of the applicant
- Where an applicant does not respond to an application review within the specified time limit
- Where the applicant moves and does not provide a contact address
- Where the applicant has died
- Where an applicant ceases to be eligible

Bidding

5.4 Once applicants have been registered as active on Homeseekerplus and notified of banding and log in details, they can start to look and bid for a suitable property of their choice subject to their banding criteria.

5.5 Applicants may bid for eligible properties at any time before the deadline. It makes no difference to the final shortlist what time during the week the bid was placed. Property details and

information should be carefully read as some properties may have additional requirements that make the property unsuitable for the applicant; for example the number of people the property is suitable for – some have only single bedrooms.

5.6 Applicants may have up to a maximum of three active bids at any one time. Until a decision has been made as to who will receive the offer, a bid will remain live. The applicant can withdraw their bid if they wish to bid for another property during the same cycle.

5.7 At the time the bid is placed, the applicant will be given their current position on the shortlist. This is only an indication, as the position can change, as other people bid, or bids are withdrawn. All shortlists are live and subject to change.

Advertisements

5.8 All partner landlords are committed to advertising their available properties as widely as possible. Properties will be advertised in several ways on daily basis.

- A dedicated website for Homeseekerplus is accessible to anyone with internet access. The website will allow applicants to view all available properties across the whole of Gloucestershire and West Oxfordshire and bid 'on-line' for properties of their choice.
- Adverts displayed in a number of localities across the Homeseekerplus partnership including local authority offices.
- In any other format on request to aid those with particular needs, in line with the public sector equality duty.

Property descriptions

5.9 Properties advertised will carry (where possible) a photograph of the property location and a full description which will include the following details if applicable:

- Type of property and eligibility criteria
- Number of bedrooms and eligible household size appropriate
- Location of property
- Any adaptations and therefore restrictions on who may apply
- Services provided
- Heating type
- Rent/service charges
- Local connection requirement
- Additional features, marketing information and pet restrictions
- Details on those who will be given priority
- Where rural settlement or local letting policies apply
- If a Social Housing Landlord's allocation policy applies
- Void start date or, for new build, when it is expected to be ready for occupation
- Any rent in advance payable
- Floor level of property

Rural settlements and local letting plans

5.10 Additional local connection criteria will apply for properties in rural villages where there are particular shortages of housing sites with planning conditions (Section 106 agreements and rural exception sites) attached to them. In these cases, priority will be given to Applicants who are unable to live in their community due to the lack of affordable housing, who have a local connection to the parish or surrounding parishes by means of living in the parish, working in the parish or having immediate family connections to the parish. Where this applies the details will be explained in the property advertisement.

5.11 The Homeseekerplus Partnership is committed to creating balanced communities. For new developments and in areas where there are known problems, such as antisocial behaviour or abandoned properties, a local lettings plan may be applied. The plan will take into account the needs of the current and new residents and the makeup of the block, street or cluster of streets, to ensure a responsible letting is made. The local authorities will review each letting plan periodically with landlords.

6. Allocations

Shortlisting

6.1 Once the advert deadline has passed, a shortlist will be produced for each advertised property showing all the applicants who have bid. For each property advertised, the successful applicant will generally be the applicant who has the highest band and the oldest band start date that is eligible to bid (i.e. who best meets the criteria in the advert and the policy)

6.2 The system will produce a shortlist based on the applicant's banding, banding start date, local connection and any other criteria stipulated in the advert.

6.3 Each Social Housing Landlord is responsible for checking to ensure there has been no change of circumstances including eligibility for social housing to the housing need assessment of the applicant since originally verified. This is to ensure that social housing is not allocated incorrectly to applicants who no longer match the criteria.

6.4 Each applicant will be given the opportunity to view the property before signing for a tenancy.

6.5 Should an applicant be at the top of the shortlist for more than one property, one of the Social Housing Landlords of the properties will contact the applicant as quickly as possible to ask them to decide which property they wish to be considered for. Once they have made their decision, their other bids will become invalid. In this circumstance, viewing of any of the properties before a decision is taken is unlikely to be available and will be at the Social Housing Landlord's discretion.

6.6 If an applicant is direct matched for a property, any other bids they have made will become invalid.

6.7 Any applicant who has a propriety interest in a property must be able and willing to dispose of that interest in a reasonable period.

By-passing

6.8 A by-pass is where an applicant has bid for a property but is not offered the tenancy.

6.9 The appropriate Social Housing Landlord will inform the household of the reason for the by-pass and of any steps needed to prevent further by-passes for the same reason.

6.10 By-passing will be carried out in line with the Social Housing Landlord's lettings policy, local letting plans and Homeseekerplus policy and applicant's will be informed where reasonable.

6.11 Applicants will be required to match the requirements of this policy and match the criteria of the individual property as detailed in the advert. The advert includes details of both the type of applicant that is eligible for the property and any further restriction due to the Social Housing Landlord's own published allocation policy. If the applicant is at the top of the shortlist but does not meet all these criteria, the Social Housing Landlord may not consider the applicant.

6.12 Where an offer is being made to a current tenant of a Social Housing Landlord within the partnership, it is made subject to the satisfactory conduct of the present tenancy and approval of that Social Housing Landlord (which may include a home inspection).

6.13 If there is an occasion where two or more applicants have the same band start date and application date, the Social Housing Landlord will make a decision which applicant best meets the aims and objectives of Homeseekerplus.

Withdrawal

6.14 A property shortlist may be withdrawn at any stage during advertising or shortlisting or an offer of a tenancy may be withdrawn at any stage up to the signing of the tenancy agreement.

6.15 This may happen in certain circumstances, such as the tenant of that particular property has failed to vacate the property or the property has been incorrectly labelled on the advert.

6.16 If this happens, the Social Housing Landlord will inform the successful applicant that the property is no longer available. If the property is not ready for occupation following a successful bid and the applicant is likely to wait some considerable time before being able to sign the tenancy agreement, the Social Housing Landlord will inform the applicant and give them the option to withdraw their bid so they can bid for any other suitable properties. If the property was mis-labelled on the advert it will be re-advertised.

Refusals

6.17 Applicants are expected to take reasonable care when bidding for a property to ensure it meets their needs. If however an applicant decides to refuse an offer of accommodation, the property will be offered to the next suitable applicant on the shortlist. An application will be reviewed if an applicant refuses three offers of accommodation which the local authority or its agents deem suitable. This could lead to the applicant being suspended for a minimum of six months or being placed in a lower band.

6.18 If an applicant in a time limited band refuses an offer of accommodation the application will be reviewed and may be suspended for a minimum of six months or placed in a lower band.

Homelessness

6.19 The local authority or its agents will normally expect an applicant to whom it has accepted a full homeless duty to bid for a wide range of suitable properties within the time limit in the Gold Band.

6.20 If the main homeless duty is accepted, the applicant will be placed onto autobid from the start of this duty.

6.21 At the same time the local authority or its agents may look to discharge the homeless duty into an affordable and suitable private sector tenancy. If one is identified, the Homeseekerplus application will be reviewed and any homeless banding priority awarded will be removed whether or not the applicant accepts the private sector property found. This will still be subject to the statutory review process.

6.22 If a homeless applicant has not been actively bidding for all suitable properties or a suitable private sector property is not available at the end of the one month time limit, the local authority or

its agents will secure an offer of suitable, affordable settled accommodation for the household, subject to availability.

6.23 Due to limited resources, high demand, and duties to provide accommodation to some groups of applicants in urgent housing need the degree of choice that the local authority is able to offer may be limited.

6.24 Applicants will be able to express a preference regarding the area in which they would like to live and the property type they would like, but should be aware that the local authority ability to satisfy a preference is limited. Expressing a preference over where an applicant would like to live does not mean that this preference can be met, or that the local authority will not offer suitable accommodation outside of a preferred area. The local authority will consider whether the property is suitable and is a reasonable offer in order to meet its duties under Section 189B (2) relief of homelessness duty or the main section 193 (2) duty under Part VII of the Housing Act 1996.

6.25 Not all properties that become available will be advertised and offered through the Band and date order procedure

Direct matching

6.26 A direct match is a property which is not available through Homeseekerplus. All the partner social housing landlords are committed to advertising as many of their vacant properties as possible through Homeseekerplus. There will be occasions when certain properties will not be advertised and the reasons for these exclusions will be monitored. Some examples are: -

- Over-riding social reason to move the household for safety reasons, as recommended by the Police, partner organisations, or as agreed through multiagency need and risk assessment panels.
- Those let to discharge statutory duties to Homeless applicants in certain circumstances.
- Properties required for existing tenants whose properties are subject to major works requiring them to vacate their own properties (either on a temporary or permanent basis).
- Extra-care vacancies and any supported accommodation where there is an applicant with a Care package that needs a specific property.
- Applicants who have succeeded to a tenancy or, in certain circumstances such as following the death of a family member, left in occupation but who need to move to alternative accommodation.
- Where a property has been adapted and meets the specific needs of a client.
- Applications subject to the Rent (Agriculture) Act 1976.

6.27 There will be circumstances where for urgent operational reasons there is a need to make direct offers of housing outside of the normal policy banding and date order criteria.

6.28 This may also restrict the time an applicant is able to bid for accommodation. The offer of accommodation would be in any area of the district that is considered reasonable and the property is suitable and safe for the applicant to live in.

A decision to make a direct match offer could be where:

- An applicant is not being realistic in the areas they are bidding for accommodation and as a result they may be occupying accommodation provided as homeless longer than they need to.

or

- To assist the local authority in effective management (including financial) of its homeless accommodation

7. Monitoring and review

Review/appeal procedure

7.1 All applicants have the right to request a review of any Homeseekerplus decisions. The review/appeal should include the reason why the applicant believes the decision is incorrect, together with any additional information.

7.2 Stage One – Internal Review

If you disagree with the way we have assessed your application for housing, or with the housing need band in which we have placed your application, you may request a review which will be decided by a senior housing officer who was not involved in the original decision from the local authority or the agent dealing with your application. To request a review:

- You must complete a Stage 1 - Internal Review Request Form which can be downloaded from the Homeseekerplus website www.homeseekerplus.co.uk and when completed in full, send to the council you applied to within 14 days of receiving your letter or notification.
- We will deal with your request within 14 days or let you know if we will require additional time.
- We will write to you with the outcome of the review within a further seven days of being determined.

7.3 Stage Two – Homeseekerplus Appeal Panel

If you disagree with the outcome of the stage 1 internal review, you can request that your case be taken to the Homeseekerplus Appeal Panel. This Panel is made up of three or more Senior Housing Officers from three of the Partner Councils. These Officers will not have been involved in the original decision or the Officer decision on internal review. The applicant must submit a request for an appeal in writing and send to the Homeseekerplus Co-ordinator within 14 days of the review notification letter. The local authority or its agent will acknowledge receipt of the request for an appeal within 14 days and provide the applicant with contact details of the officer dealing with the request and the time it will take to reply to the applicant. If the review cannot be completed within 56 days, the applicant will be informed and the timescales for the review set out.

The panel will be made up of senior housing officers from three or more of the other local authorities. The appeal will consider the facts surrounding the case and your request should specify whether there are additional facts the Panel should take into consideration or whether you feel that the original facts you submitted with your application have not been fully taken into account. If you have additional evidence, such as additional medical reports, then these should also be submitted up to one week before the panel meet.

The Panel will consider the review on the papers submitted by the applicant and the housing officer from the local authority involved in the case. If determined by the Homeseekerplus Co-ordinator the applicant or the relevant Housing Officer may be asked to attend this review hearing in person if additional information from either party is required. The applicant can bring a representative.

The Homeseekerplus Co-ordinator will chair this panel and a nominated representative for the applicant will be present at the Hearing to ensure that all relevant information has been presented and is dealt with correctly.

The panel must come to a majority decision, should this not be the case, the Homeseekerplus Co-ordinator and chair of the panel will arbitrate.

Once the appeal has been determined, or if the Panel require the applicant to attend a further Hearing, the Homeseekerplus Co-ordinator will write to the applicant giving full details within 14 days or as soon as reasonably practicable thereafter.

7.4 Local Authority Complaints Procedure

If you feel that you have been treated unfairly or you believe the process has not been carried out as described above you can use your Local Authority's (or its agents) Complaints Procedure to make a formal complaint.

The complaint must be made in writing to the appropriate authority within 14 days of the date of the written notification of the decision of the Homeseekerplus Appeal Panel.

If the applicant is still dissatisfied, they may complain directly to the Local Government Ombudsman.

Subject access requests

7.5 Applicants are entitled under the Data Protection Act 2018 or any superseding legislation to request details of their personal data held by the seven local authorities.

Use of statistical information

7.6 The information supplied by Applicants on their housing application may also be used for housing management and research purposes within legal guidelines (such as identifying what size and where new housing is required). No individual will be identified in collating such information.

Policy management

7.7 The Homeseekerplus Co-ordinator will run regular reports to monitor performance of the scheme in meeting the aims of the policy.

The Homeseekerplus policy will be regularly reviewed and at least annually to ensure that it takes into account change in demand and need within the district, that it continues to meet its aims and objectives and that it complies with any legislative changes.

Any changes to the Homeseekerplus Policy will be implemented only with the majority agreement of the members of the Partnership. An interested party may contact any of the local authority partners to make observations to be considered at the next review.

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	Property Size etc.	Property conditions (this only applies to the district where the Notice is made)	Homelessness (this only applies to the district where any duty is owed)	Medical needs	Welfare needs	General
EMERGENCY BAND	Existing Gloucestershire and West Oxfordshire social housing tenants willing to move from family accommodation to non-family social housing property within the partnership area.	Where Environmental Health has inspected the property and requires immediate vacation of the property because of an imminent risk of harm due to disrepair, major defects or grossly inadequate facilities.		The applicant assessed as immediate need of re-housing on medical grounds.	The applicant assessed as immediate need of re-housing on welfare grounds where there has been a major incident and there is proven threat to life or limb.	
GOLD BAND	Existing Gloucestershire and West Oxfordshire social housing tenants willing to move to smaller family sized accommodation if this has been agreed with your local authority to release a property of higher demand or limited availability. or There is major overcrowding in the current property - lacking 2 or more bedrooms or Environmental Health has inspected the property and has served a Prohibition Notice	Where Environmental Health has inspected the property and has served a Prohibition Order or Suspended Prohibition Order on the landlord that repairs have to be undertaken but the landlord is unable/unwilling to comply.	The applicant has made a homelessness application under part VII of the housing act 1996, as amended to one of the HomeSeekerplus local authorities and the full s193 statutory homeless duty to secure accommodation for the applicant has been accepted by that authority.	Urgent medical need or long-term disability that would be alleviated by a move to more suitable accommodation.	Exceptional circumstances where the current property has a critical long-term detrimental effect on their welfare.	A young person owed leaving care duties under section 23C of the Children Act 1989 and in a housing need or Move-on from supported accommodation funded County Council commissioned services and where a local connection was agreed at point of referral
SILVER BAND	There is overcrowding in the current property - lacking 1 bedroom		A Prevention or relief duty has been accepted or The applicant remains assessed as eligible for assistance and homeless but has either has been found either Non-priority, Intentionally homeless.	Significant medical need that would be alleviated by a move to more suitable accommodation.	Significant welfare need that would be alleviated by a move to more suitable accommodation.	Right to move
BRONZE BAND	All other Applicants					

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Cheltenham Borough Council

Cabinet – 11 February 2020

Budget Monitoring Report 2019/20 – position as at December 2019

Accountable member	Councillor Rowena Hay, Cabinet Member for Finance
Accountable officer	Paul Jones, Executive Director Finance and Assets
Accountable scrutiny committee	All
Ward(s) affected	All
Key Decision	Yes
Executive summary	To update Members on the Council's current financial position for 2019/20 based on the monitoring exercise at the end of December 2019. The report covers the Council's revenue, capital and treasury management position. The report identifies any known significant variations (minimum £50,000) to the 2019/20 original budget and areas with volatile income trends.
Recommendations	<ol style="list-style-type: none"> 1. Cabinet note the contents of this report including the key projected variances to the 2019/20 budget and the expected delivery of services within budget. 2. Cabinet recommend that Council approve the budget virements to the 2019/20 budget, as part of the revised budget 2019/20, as detailed in Appendix 4.

Financial implications	<p>As detailed throughout this report.</p> <p>Contact officer: Andrew Knott, andrew.knott@publicagroup.uk , 01242 264121</p>
Legal implications	<p>None specific directly arising from the recommendations.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@tewkesbury.gov.uk, 01684 272012</p>
HR implications (including learning and organisational development)	<p><i>The Council continues to monitor vacancies and recruitment. All recruitment activity decisions are based on a business case outlining the impact on the service delivery and/or loss of income generation if the post were to remain unoccupied. In addition, the Council also continues to monitor its capacity to deliver on key projects.</i></p> <p>Contact officer: Julie McCarthy julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	As outlined in Appendix 1.

Corporate and community plan Implications	Key elements of the budget are aimed at delivering the corporate objectives within the Corporate Business Plan.
Environmental and climate change implications	None.

Background

- 1.1 This report provides the third monitoring position statement for the financial year 2019/20. The purpose of this report is to notify members of any known significant variations to budgets for 2019/20 and highlight any key issues, allowing Members to take action if required.
- 1.2 Publica Financial Services carry out a regular budget monitoring exercise for services in liaison with Directors and cost centre managers. This identifies any major variations from the current approved budget that are anticipated to occur in the financial year. The current approved budget is the original budget for 2019/20 agreed by Council on 18th February 2019, subject to any amendments made under delegated powers (for example supplementary estimates, virement, etc). Possible significant variations to revenue budgets are outlined in this report.

2. Net revenue position

- 2.1 The table below summarises the net impact of the variances identified at this stage in the financial year, projecting the position to the end of the financial year for all budget variances in excess of £50,000 and areas with volatile income trends, details of which are provided in paragraphs 2.3 to 3.1 below.

Significant budget variances	Overspend / (Underspend) £	para. ref:
Saving from Employee costs	(30,000)	2.2
Place & Growth Directorate		
Car Parking	(355,000)	2.3
Cemetery & Crematorium	230,000	2.4
Ubico Limited	(162,000)	2.5 - 2.8
Waste & Recycling	275,000	2.9 - 2.15
Planning	87,000	2.16
Arle Nursey	127,000	2.17
Total Place & Growth Directorate	202,000	
MRP Savings	(194,000)	2.18
Non Domestic Rates – Levy and Section 31	90,000	2.19 - 2.20
Other Small Transactions under £50,000	49,000	

Total projected overspend for the year	117,000	
Contribution from Cemetery income Equalisation reserve	(117,000)	9.1
Total Forecast Outturn	-	

Saving from Employee costs

- 2.2** A target of £372.8k from employee related savings to be made throughout the Council during the year is embedded within individual service budgets, allocated in proportion to existing service salary budgets to improve accountability and budget monitoring within council services. An assessment of vacant posts (i.e. staff turnover) and restructures in the first three quarters of the year indicate that there will be a likely surplus of £30k against this target for the financial year. This will continue to be monitored during the remainder of the year and any surplus reported at service level as part of the Outturn report.

Off-street Car Parking

- 2.3** It is estimated that we will have an additional £355k from Car parking within this financial year. This is split by an additional £545k in car parking income due to greater demand across all car parks. However staffing resource costs have increased by £114k along with additional expenditure of £76k for pay by phone and card charges due to the way that the car parks are now operating.

Cemetery & Crematorium

- 2.4** It is anticipated that the Cemetery, Crematorium will be in deficit by around £230k by the end of the financial year 2019/20. This is due to lower income than budgeted by £200k and £30k of additional expenditure. Income has fluctuated throughout the year but demand for the services provided isn't at the budgeted levels. We usually expect a slightly increased demand for services through the final quarter of the year.

Ubico Limited

- 2.5** Ubico Limited estimate an outturn position of £162k underspend against current budget for 2019/20 based on the period to the 31st December 2019.
- 2.6** Corporate Ubico support services are anticipating a deficit of £60k. "Previous finance reports presented have focussed on the contract specific costs, overlooking the corporate costs of the business and the potential cost of these to our shareholder councils at the end of the year." The grounds maintenance service is anticipating a surplus of £95k, due to lower than budgeted staffing costs. Waste Tipping charges are expected to be in deficit by £38k due to the service not tipping as efficiently as it could. These issues have been addressed and no further unbudgeted costs will be incurred for the remainder of the financial year.
- 2.7** A delay in procurement/purchase of vehicles operated by Ubico has resulted in a lower asset charge than budgeted to Ubico from CBC. Due to the significant value of the vehicles scheduled for replacement in 2019/20 that has been delayed a surplus of £215k will occur during 2019/20. This is simply down to timing of the vehicle purchases and will not continue into 2020/21. As a result of delays in the above vehicles purchases, expenditure on hire vehicles and maintenance is

anticipating a deficit of £15k.

- 2.8** Within the total contract sum with Ubico which is just over £8.9m there are a large number of small variances which total an anticipated deficit of £35k.

Waste & Recycling

- 2.9** Waste and Recycling is anticipating an overspend of £275k.
- 2.10** A savings target of £200k was included within the waste and recycling services budget to be achieved in 2019/20 through service redesign, efficiencies and investment in new vehicles. This is a joint target between CBC and Ubico; progress has been made to identify potential savings and great deal of work has been undertaken. Some efficiencies/service delivery changes have been made during the first two quarters of 2019/20. However any saving generated by these changes has been offset by an additional refuse round that was introduced in June 2019.
- 2.11** Recycling Credits income which is received from Gloucestershire County Council is anticipated to have a surplus of 50k. This has reversed from the position at 30th September 2019 due to a number of vehicles not being included within the calculation of the recycling credits income which has now been corrected.
- 2.12** Recycling wood disposal costs are anticipated to have a deficit of £60k. This is due to a higher than budgeted volume of wood disposals and delays in procurement of a new wood disposal contractor which has now been awarded to a contractor.
- 2.13** Recycling material sales income is anticipated to be in deficit by £28k. Reducing prices per tonne across Steel, Cardboard, Glass, Paper and Textiles that are sold is negatively impacting on income. The only exception is the price per tonne of plastics which has increased throughout 2019/20.
- 2.14** Income from garden and bulky waste collections is higher than budgeted due to more customers than budgeted taking up the service. This is resulting in a higher than budget surplus of £30k. However this is being offset by lower than budget income from the trade waste service, a shortfall of £57k against budget.
- 2.15** The marketing and management team for Waste & Recycling are anticipating a deficit of £10k. The timing of leaving the JWT has caused additional expenditure.

Planning

- 2.16** Planning applications are down on budget meaning a reduction of £141k, however we have grant income of £70k meaning that income is down by £71k. There are staff savings of £15k after the salary contingency however there are additional 3rd party costs on non-staff advertising and IT license meaning an overall overspend of £87k.

Arle Nursery

- 2.17** Removal of Income and Costs that were included in the budget for 2019/20 as if the nursery was still open. This has been removed from the budget for 2020/21. This has caused an overspend of £127k in 2019/20.

MRP Savings

- 2.18** It is anticipated that there will be an underspend of £194k within the MRP payable for 2019/20. This has been caused due to the delay in procuring vehicles for Ubico and the vehicles being purchased in 2019/20 and not 2018/19. This is just a timing issue and now that the vehicles are

purchased then the MRP will be payable in 2020/21.

Non Domestic Rates – Levy and Section 31 compensation grant (net effect +£90k)

- 2.19** Under the business rates system introduced in 2013, a levy is payable to the government on growth over the authority's baseline. The levy is reduced by the 'surplus' generated by any local business rates Pool. In year monitoring of the performance of the Gloucestershire Business Rates Pool indicates that the 'surplus' will not be as high as originally estimated, resulting in a likely increased net levy for the year.
- 2.20** Offsetting the increased levy, it is anticipated that section 31 business rates compensation grant receivable in 2019/10 will be £121k higher than originally estimated. The grant compensates authorities for loss of business rates income due to additional reliefs introduced by the government. The increase in estimated grant is due to higher than originally estimated business rate reliefs being awarded by the council and a technical change made by the government in the formula for compensating authorities.

3. Treasury Management

- 3.1** Borrowing Costs are in line with the revised budget. This includes both short term (temporary borrowing), long term and brokerage costs.
- 3.2** Investments as of 31st December are forecast to come in on budget based on performance so far. Average weighted investments for the three quarters of the year are £20.743m achieving a rate of return of 2.39%.

4. Capital

- 4.1** A detailed exercise has been carried out to ensure that capital schemes, approved by Council on 18th February 2019, are being delivered as planned within allocated capital budgets, some of which are timetabled to straddle two or more financial years. The following variances to capital budgets are expected upon completion of the scheme:
- 4.2** Following the purchase of land for the Cyber Hub, the Council has now spent £39.6m of the £44m capital budget for this programme of which £11.5m was charged to the HRA.
- 4.3** The Council has also invested £1.42m in new Vehicles & recycling equipment so far this year against a budget of £2.8m. The target is for the remainder of this to be spent this financial year however if there are delays in procurement of these vehicles then they will be purchased in 2020/21, therefore any unspent money will need to be carried forward.
- 4.4** There are no significant variance against any current capital programmes or projects.

5. Programme maintenance expenditure

- 5.1** A detailed exercise has been carried out to ensure that programme maintenance work, approved by Council on 18th February 2019, is being delivered as planned within the allocated budgets. Some programme maintenance expenditure is not expected to be utilised in the current year and will be transferred back into the Property Maintenance reserve. However, there is a requirement for additional budget to meet higher than expected reactive repairs in the year, which will be funded from this reserve.. Any slippages in schemes or underspend against budget at the end of the year will be transferred to the Programme Maintenance reserve to fund future programme maintenance expenditure.

6. Housing Revenue Account (HRA)

6.1 Significant variations to HRA revenue and capital budgets identified to 31st December 2019 are detailed as below:-

HRA Revenue:

The HRA Revenue Account has the following significant variances (over £50,000): -

		£'000
Dwelling Rents	Additional rent arising from fewer Right to Buy sales and increased number of acquisitions	94
Bad Debt Provision	Reduction in budget based on current position. Arrears held constant despite growing number of tenants receiving Universal Credit.	130
Interest Payable	Loan interest payable on HRA share of land acquisitions.	(77)
Management	Includes additional recharges to HRA for revenue costs of land acquisition (£45,000) and professional fees for new build programme (£25,000)	(78)
Depreciation	Increased forecast for higher number of dwellings being retained through lower RTB and higher level of acquisitions.	(117)
Other net		(45)
Reduction in Operating Surplus (net)		(93)

6.2 HRA Capital (Existing Stock):

The current forecast for capital expenditure on existing stock is £9,650,000, an increase of £67,000 in comparison to budget (£9,583,000). Within that figure there have been the following significant project variations: -

		£'000
Major Voids	Increased expenditure on significant voids partially offset by listed building consent/planning delays on Belmont Lodge.	(86)
External Works	Roofing works are progressing well. Works previously scheduled for 2020/21 are being brought forward to offset underspend in the overall capital budget. Now forecast at £886,000 compared to	(257)

	budget of £629,000.	
Internal Works	The shower installation programme will not start until later this year due to delays in staff recruitment. Now forecast at £498,600 compared to budget of £827,000.	328
Door Entry	This project will be delayed into 2020/21 so that Leaseholder consultation can take place.	209
Asbestos	Additional asbestos has been identified following works to roofing, non-traditional homes, lighting and paths works. Now forecast at £319,000 compared to budget of £190,000.	(129)
Energy Saving	Low level of work for upgrading loft and cavity insulation. Other improvements carried out within windows and boiler renewal budgets.	70
Communal improvements	Additional follow up electrical works have been required to maintain compliance.	(115)
Disabled Adaptations	A significant increase in demand. Costs are now forecast to be £550,000 for the year, budget originally £400,000.	(150)
Other net		63
Increase in Capital Forecast		(67)

HRA Capital (New Build/Acquisitions)

6.3 Expenditure on new HRA build and acquisitions for the year is now forecast at £20,196,000, an increase of £12,565,000 against the original budget of £7,631,000. This primarily results from the HRA share of West Cheltenham land purchase (£11,495,000).

7. Council tax and Business rates collection

7.1 The monitoring report for the collection of council tax and business rates (NNDR) income is shown in Appendix 2. This shows the position at the end of December 2019 and the projected outturn for 2019/20.

8. Sundry debt collection

8.1 The monitoring of aged sundry debts and recovery is shown at Appendix 3.

9. Conclusion

9.1 The impact on the general fund of the variances reported above is that there is a forecast net overspend against the budget of £117,000 for 2019/20. This will be met from the Cemetery income

equalisation reserve due to the demand driven under achievement of Bereavement Services income.

9.2 The continued impact of the changes in government funding arrangements and the economic climate present particular concerns for the Council's budgets. It is clearly important to ensure that budgets continue to be closely monitored over the coming months with a view to taking action at a future date, if necessary, in order to ensure that the Council delivers services within budget.

9.3 It will be for Cabinet and Council to decide in June 2020, when the financial outturn is finalised, how to apply any potential savings. However it is recommended that any underspend identified on outturn be transferred firstly to the Budget Deficit (Support) Reserve and secondly to support general balances, bearing in mind the need to keep the level of reserves robust and the uncertainty surrounding future budget funding gaps, as outlined in the Council's Medium Term Financial Strategy.

10. Consultation

10.1 The work undertaken to produce this report has involved consultation with a wide number of services and cost centre managers.

Report author	Contact officer: Andrew Knott Andrew.knott@publicagroup.uk, 01242 264121
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Council Tax and NNDR collection to 31st December 2019 3. Aged Debt Report as at 31st December 2019 4. Budget Virements for approval – 2019/20 budget
Background information	<ol style="list-style-type: none"> 1. Section 25 Report – Council 18th February 2019 2. Final Budget Proposals for 2019/20 – Council 18th February 2019

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.	If we are unable to take corrective action in respect of reduced income streams then there is a risk that Council will not be able to deliver its budget	Cabinet	June 2010	3	3	9	Reduce	In preparing the budget for 2017/18, SLT to consider the options for offsetting reduced income streams by analysing and reducing the level of expenditure across the Council.	February 2017	SLT	Corporate Risk Register
2.	If the Budget Deficit (Support) Reserve is not suitably resourced insufficient reserves will be available to cover anticipated future deficits resulting in the use of General Balances which will consequently fall below the minimum required level as recommended by the Chief Finance Officer in the Council's Medium Term Financial Strategy.	Cabinet	October 2015	4	3	12	Reduce	In preparing the budget for 2018/19 and in ongoing budget monitoring, consideration will be given to the use of fortuitous windfalls and potential future under spends with a view of strengthening reserves whenever possible.	February 2018	Chief Finance Officer	Corporate Risk Register

Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;

- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 4 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

Either: Reduce / Accept / Transfer to 3rd party / Close

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring, or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on.

**Council Tax and Business Rates
Collection Rates 2019-20**

Council Tax 2019/20

Current Year Charges - 2019/20			
Monitoring Period	% Collected at 31.12.2019	Target 31.12.2019	2019/20 Target
	85.51%	85.78%	98.32%
Comparison with 2018/19	As at 31.12.2018		% Collected 31.03.2019
	85.78%		98.32%

The collection rate for the end of December is slightly below the target. We are working with any council tax payers struggling to pay and will continue to monitor this closely .

Previous Years Charges Outstanding in 2019/20			
Monitoring Period	Amount outstanding at 31.12.2019	Target 31.12.2019	2019/20 Target
	£1,504,271	£1,425,000	£1,250,000
Comparison with 2018/19	As at 31.12.2018		Amount o/s 31.03.2019
	£1,383,392		£1,206,270

The arrears outstanding have not reduced to the target level for the end of December. We will continue to monitor this closely and are working with any council tax payers struggling to pay

Business Rates 2019/20

Current Year Charges - 2019/20			
Monitoring Period	% Collected at 31.12.2019	Target 31.12.2019	2019/20 Target
	83.85%	84.50%	98.85%
Comparison with 2018/19	31.12.2018		% Collected 31.03.2019
	85.12%		98.83%

The collection rate for the end of December is below the target. We continue to monitor the position closely

Previous Years Charges Outstanding in 2019/20			
Monitoring Period	Amount outstanding at 31.12.2019	Target 31.12.2019	2019/20 Target
	£445,745	£575,000	£500,000
Comparison with 2018/19	Amount outstanding at 31.12.2018		Amount outstanding at 31.03.2019
	£671,301		£540,658

The arrears outstanding have reduced to well below the target level for the end of December.

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Cheltenham Borough Council: Aged Debt Report - as at 02 January 2020																	
			No. Outstanding Invoices	Value of Invoices in Payment Plans	Value of Invoices with Halted Recovery *	Value of Invoices with Legal	Value of Invoices awaiting Credit Notes **	Value of Invoices for Write Off ****	Customer Credits ***	Not Due	0-30	1-3 Mths	3-6 Mths	6 mth - 1 Yr	1 - 2 Yrs	2 Yrs+	Total
Cost centre manager	CostC	CostC (T)															
Dominic Stead	ADB101 Total	Cheltenham Municipal Offices	1	-	-	-	-	-	-	-	25,998.00	-	-	-	-	-	25,998.00
Dominic Stead	ADB103 Total	Cheltenham Depot	5	-	12.48	-	-	-	-	-	57,358.50	-	-	29.67	-	-	57,400.65
Dominic Stead	ADB104 Total	Miscellaneous Operational Properties	24	3,002.13	-	-	-	1.00	-	393.34	7,070.49	3,523.89	-	-	-	-	13,988.85
Paul Jones	BAL100 Total	General Fund Balance Sheet	34	79.76	360.00	3,751.00	-	-	9,620.70	-	274.00	-	-	-	-	-	5,155.94
Ian Smith	BUC001 Total	Building Control - Fee Earning Work	1	-	-	-	-	-	-	-	2,820.00	-	-	-	-	-	2,820.00
Benjamin Jenkins	CCM001 Total	Cemetery, Crematorium and Churchyards	117	-	915.00	-	-	-	55.00	38,134.00	73,174.00	4,095.00	6,275.00	2,950.00	-	-	125,488.00
Richard Gibson	COM101 Total	Oakley Resource Centre	9	660.00	-	-	-	-	-	6,250.00	12,472.00	-	-	-	-	-	19,382.00
Richard Gibson	COM103 Total	St. Margaret's Hall	1	-	-	-	-	-	-	202.50	-	-	-	-	-	-	202.50
Paul Jones	COR001 Total	Corporate Management	1	-	-	-	-	-	-	-	4,618.00	-	-	-	-	-	4,618.00
Adam Reynolds	ESR001 Total	Highways Agency verges and trees	2	-	-	-	-	-	-	-	66,298.55	66,298.55	-	-	-	-	132,597.10
Dominic Stead	FIE040 Total	Income and Expenditure on Investment Prop	17	7,808.77	845.15	-	-	-	-	3,837.92	189,556.88	2,218.75	-	-	-	-	204,267.47
Richard Gibson	GBD001 Total	Community Welfare Grants	1	-	-	-	-	-	-	-	300.00	-	-	-	-	-	300.00
Paul Jones	HLD102 Total	Ubico Intercompany Account	1	-	-	-	-	-	-	-	4,641.41	-	-	-	-	-	4,641.41
Andrew Knott	HLD170 Total	Cheltenham Trust Intercompany Account	1	-	-	-	-	-	-	-	-	7,490.71	-	-	-	-	7,490.71
Mark Nelson	HOS004 Total	Housing Standards	9	-	602.70	1,422.80	-	-	-	-	-	-	-	-	-	-	2,025.50
Dominic Stead	NDC001 Total	Non Distributed Costs	5	-	-	-	-	-	-	-	4,560.83	475.00	-	-	-	-	5,035.83
Adam Reynolds	OPS001 Total	Parks & Gardens Operations	9	25,401.50	-	-	-	-	-	-	14,265.60	-	-	-	-	-	39,667.10
Adam Reynolds	OPS002 Total	Sports & Open Spaces Operations	13	7,907.84	-	-	-	-	-	1,970.44	4,769.92	347.09	3,125.00	146.49	-	-	18,266.78
Adam Reynolds	OPS004 Total	Allotments	703	-	-	-	-	-	-	42,474.28	-	20.00	-	-	870.54	20.00	43,384.82
Helen Thomas	PUT102 Total	Shopmobility	1	-	-	204.00	-	-	-	-	-	-	-	-	-	-	204.00
Yvonne Hope	REG001 Total	Environmental Health General	3	3,175.00	1,668.98	-	-	-	-	-	-	1,150.00	-	-	-	-	5,993.98
Louis Krog	REG002 Total	Licensing	22	-	-	-	180.00	-	-	2,203.14	1,005.82	1,070.00	-	-	-	-	4,458.96
Mark Nelson	REG003 Total	Animal Control	1	-	101.72	-	-	-	-	-	-	-	-	-	-	-	101.72
Karen Watson	RYC004 Total	Recycling Centres	3	-	-	-	-	-	-	-	3,372.96	-	-	-	-	-	3,372.96
Karen Watson	RYC006 Total	Recycling Collection Schemes	3	-	-	-	-	-	-	60,878.52	53,321.34	-	-	-	-	-	114,199.86
Karen Watson	RYC008 Total	Bulking Facility	9	-	-	-	-	-	7,156.13	30,000.00	30,091.11	22,697.26	-	-	-	-	75,632.24
Martin Stacey	SPP001 Total	Supporting People	1	43.54	-	-	-	-	-	-	-	-	-	-	-	-	43.54
Chris Morrall	SPP002 Total	Community Alarms	911	27,097.62	130.67	-	159.58	29.11	-	-	100.93	100.93	129.64	14.53	27.15	-	1,941.00
Mark Nelson	STC011 Total	Abandoned Vehicles	9	-	-	932.00	-	1,212.00	-	-	-	96.00	-	-	-	-	1,000.00
Dominic Stead	SUP025 Total	Property Services	1	-	-	-	-	-	-	-	6,210.00	-	-	-	-	-	6,210.00
Paul Jones	SUP034 Total	Fleet Management	1	-	-	-	-	-	-	-	362.88	-	-	-	-	-	362.88
Helen Thomas	SUP040 Total	Built Environment	1	-	-	-	-	-	-	-	50.00	-	-	-	-	-	50.00
David Jackson	TOU002 Total	Tourist / Vistor Information Centre	12	-	7,593.30	3,600.00	-	-	-	1,521.00	-	-	15,736.00	-	-	-	18,778.30
Karen Watson	TRW001 Total	Trade Waste	502	81,035.80	204.75	490.60	204.75	536.45	291.63	119.05	49,022.00	420.75	1,767.92	908.49	-	-	50,955.39
Cost centre manager	CostC	CostC (T)															
Matt Ward	HRA100 Total	Repairs and Maintenance	58	23,526.91	-	226.50	-	-	-	-	-	-	-	260.00	-	-	24,013.41
Matt Ward	HRA210 Total	Non-dwelling Rents	35	1,202.15	-	-	-	-	-	8,208.13	16,308.35	2,722.00	105.55	-	10.00	20.00	28,576.18
Matt Ward	HRA221 Total	Service Charges to Leaseholders	101	58,775.23	1,035.35	-	-	-	-	-	-	-	-	-	2,708.02	3,135.81	65,654.41
		This Month's Position	2,628	239,716	13,470	10,627	544	1,718	17,123	196,192	628,024	112,726	27,139	4,309	3,616	3,176	1,224,134
		Last Month's Position	1,760	214,259.90	19,250.29	11,644.90	5,371.98	-	27,244.21	156,543.45	229,808.73	52,922.18	53,031.24	210,090.34	2,851.02	3,155.81	931,685.63

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Costc	Costc Description	Account(T)	VIREMENT		Report Reference
			2018/19	Reason	
			£		
Various		Salary Contingency	-30,000	Additional Salary Contineny	2.2
CPK001	Car Parks - Off Street Operations	Car Park Fees	-355,000	Forecast surplus income	2.3
CCM001	Cemetery income	Cemetery and cremation fees	230,000	Net shortfall in income	2.4
RYC***	Waste and Recycling	Ubico contract costs	-162,000	Additional Ubico expenditure 2018/19	2.5 - 2.8
RYC007	Waste and Recycling Marketing and Management	Ubico Saving challenge	200,000	Ubico Saving challenge not achieved	2.10
RYC***	Recycling / Bring Banks / Recycling Centre	Recycling credits income	-50,000	Increased tonnages	2.11
RYC008	Bulking Facility	Tipping Charges	60,000	Wood Disposal Costs	2.12
RYC008	Bulking Facility	Material Sales Income	28,000	Reduced Commodity Charges	2.13
TRW001	Trade Waste	Trade Waste Income	57,000	Reduced Customers	2.14
RYC002	Green Waste	Green Waste Income	-30,000	Increased Customers	2.14
RYC007	Waste and Recycling Marketing and Management	Professional Fees	10,000	JWC additional costs	2.15
DEV001	Planning	Planning Applications	87,000	Planning Application Fees	2.16
OPS101	Arle Nursery	Arle Nursery	127,000	Arle Nursery	2.17
BAL103	Capital Charges	MRP Savings	-194,000	MRP Savings	2.18
TGI018	Non-domestic rates income and expenditure	NNDR Levy	211,000	NNDR Levy	2.19
TGI020	Non-ringfenced Government Grants	S31 NDR compensation grants	-121,000	S31 NDR compensation grants	2.20
Various	Interest / Housing Benefits / Rent Allowances & Reb	Other Small Transactions under £50K	49,000	Other Small Transactions under £50K	
			<u>117,000</u>		
RES109	Cemetery income Equalisation reserve	Contribution from reserve	-117,000	net overspend contributed from reserve	9.1
Net Virements for approval			<u>0</u>		

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