

Public Document Pack

MID DEVON DISTRICT COUNCIL

A MEETING of the **MID DEVON DISTRICT COUNCIL** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 24 April 2019 at 6.00 pm

ALL MEMBERS of the **COUNCIL** are summoned to attend for the purposes of transacting the business specified in the Agenda which is set out below:

[The next meeting is scheduled to be held in Tiverton on Wednesday, 22 May 2019 at 6.00 pm]

STEPHEN WALFORD

Chief Executive

16 April 2019

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

Reverend Simon Talbot (St Mary's Church Willand) will lead the Council in prayer.

AGENDA

1 Apologies

To receive any apologies for absence.

2 Public Question Time

To receive any questions relating to items on the agenda from members of the public and replies thereto.

3 Declarations of Interest under the Code of Conduct

Councillors are reminded of the requirement to declare any interest, including the type of interest, and the reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.

4 Minutes (*Pages 7 - 22*)

Members to consider whether to approve the minutes as a correct record of the meeting held on 27 February 2019.

The Council is reminded that only those Members present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate record.

5 **Chairman's Announcements**

To receive any announcements which the Chairman of the Council may wish to make.

6 **Petitions**

To receive any petitions from members of the public.

7 **Notices of Motions**

(1) Motion 533 (Councillor R B Evans – 13 February 2019)

The following Motion had been referred to the Planning Committee for consideration and report:

Background

Members are aware that a number of planning applications need to go to Planning Committee for consideration; these applications have an array of detail and associated information for members to consider along with an officer recommendation and report.

Within this suite of reports there is often a detail on affordable housing and the section 106 agreement outlining jointly agreed contributions that will be applied to the build should the application be successful, these agreements are evidently part of the detail members are asked to consider and naturally will assist members in making their informed decision .

It has become apparent that after approval has been received, it is not uncommon for developers/ applicants to seek to alter such agreements retrospectively via negotiations with officers, common reasons sited are funding/ budget related.

This motion is sought to be applied to any planning application that has been considered by the planning committee and evidently agreed where a retrospective application to alter the affordable housing or the section 106 agreement is then received.

Proposed motion

Any planning application that is approved by Committee giving specific affordable housing provision and or a detailed section 106 agreement as part of the information for members to consider that subsequently receives any application to alter all or part of these agreements must be referred to the relevant ward member/s for their consideration and input.

Should both the officer dealing and the ward member/s agree to the changes these can be allowed to form the new affordable housing agreement and or section 106 agreements.

Should the ward member/s and officer dealing fail to agree on the proposed changes or cannot negotiate agreeable alternatives then the application to change the affordable housing and or section 106 agreement should be referred back to the committee for their consideration and agreement / disagreement .

The Planning Committee at its meeting on 3 April considered the Motion and recommended that it be supported.

(2) Motion 544 (Councillor R J Chesterton – 20 March 2019)

The Council had before it a **MOTION** submitted for the first time:

In light of recent press articles on the subject, this Council believes that

- (i) Parish and town councils should, in reply to any street naming proposal from a developer, be allowed to recommend to this Council that a street be named after an individual, including the living.

In accordance with Procedure Rule 14.4, the Chairman of the Council has decided that this Motion (if moved and seconded) will be referred without discussion to the Community Policy Development Group.

(3) Motion 555 (Councillor F W Letch – 8 April 2019)

The Council had before it a **MOTION** submitted for the first time:

Mel Stride MP recently said: “Central Devon has market towns with a wonderful variety of high street shops selling high-quality local produce and offering a range of services. Many are doing very well, but others face stiff competition from out of town and online retailers. I know that the margin between success and failure can be very small and even a small increase in the number of people who make it a priority to shop locally more often can make a big difference.”

High Street Saturday was on 16th of March. I propose that:- In order to encourage the high street shops in Mid Devon's 3 main towns, this council will not charge for Saturday parking in the long stay car-parks of Tiverton, Cullompton and Crediton.

In accordance with Procedure Rule 14.4, the Chairman of the Council has decided that this Motion (if moved and seconded) will be referred without discussion to the Economy Policy Development Group.

(4) Motion 556 (Councillor N A Way – 8 April 2019)

Mid Devon District Council has a record of environmental protection and protecting wildlife.

Council is greatly concerned by the growing trend across the country of developers using netting over hedgerows and trees at development

sites to stop birds nesting and other wildlife using the hedges and trees.

This is wrong and runs against the best interests of supporting and enhancing local wildlife.

We call on all developers not to use netting in Mid Devon. Additionally, we call on Government to ban the use of netting at all sites with planning consent, those sites identified in the Local Plan and the emerging Greater Exeter Strategic Plan.

In accordance with Procedure Rule 14.4, the Chairman of the Council has decided that this Motion (if moved and seconded) will be referred without discussion to the Environment Policy Development Group.

8 Reports (Pages 23 - 228)

To receive and consider the reports, minutes and recommendations of the recent meetings as follows:

(1) Cabinet

- 7 March 2019
- 4 April 2019

(2) Scrutiny Committee

- 18 March 2019
- 15 April 2019 (to follow)

(3) Audit Committee

- 19 March 2019

(4) Environment Policy Development Group

- 5 March 2019

(5) Homes Policy Development Group

- 12 March 2019

(6) Economy Policy Development Group

- 14 March 2019

(7) Community Policy Development Group

- 15 March 2019 – Joint Committee
- 19 March 2019

(8) Planning Committee

- 6 March 2018
- 3 April 2019
- 17 April 2019 (to follow)

(9) Licensing Committee

- 1 March 2019

(10) Regulatory Committee

- 1 March 2019

9 **Questions in accordance with Procedure Rule 13**

To deal with any questions raised pursuant to Procedure Rule 13 not already dealt with during the relevant Committee reports.

10 **Special Urgency Decisions**

Decisions taken under Rule 16 (of the Constitution) Special Urgency – January to March 2019.

There have been no such decisions in this period.

11 **Annual Reports of Audit Committee, Scrutiny Committee and the Policy Development Groups** *(Pages 229 - 246)*

To receive the Annual reports (attached) of the Audit Committee, Scrutiny Committee (to follow) and the four Policy Development Groups.

12 **Appointment of IRP Members** *(Pages 247 - 250)*

To consider a report of the Group Manager for Legal Services and Monitoring Officer seeking approval of the recommended appointment to the Independent Remuneration Panel for Members' Allowances in Mid Devon.

13 **Questions to Cabinet Members**

Cabinet Members will answer questions from Members on their Portfolios.

14 **Members Business**

To receive any statements made and notice of future questions by Members.

Note: the time allowed for this item is limited to 15 minutes.

15 **Invitation for Retiring Members to address the Council**

Members who have chosen not to be re-elected are invited to address the Council.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

Tel: 01884 234229

Fax:

E-Mail: sgabriel@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COUNCIL** held on 27 February 2019 at 6.00 pm

Present

Councillors

P J Heal (Chairman)
Mrs E M Andrews, Mrs H Bainbridge,
Mrs J B Binks, K Busch, A Bush,
R J Chesterton, Mrs C Collis,
Mrs F J Colthorpe, D R Coren, N V Davey,
W J Daw, Mrs C P Daw, R M Deed,
Mrs G Doe, R J Dolley, J M Downes,
C J Eginton, R Evans, S G Flaws,
Mrs S Griggs, P H D Hare-Scott,
T G Hughes, Mrs B M Hull, D J Knowles,
F W Letch, B A Moore, R F Radford,
F J Rosamond, Mrs E J Slade, C R Slade,
T W Snow, J D Squire, R L Stanley,
L D Taylor and Mrs N Woollatt

Apologies

Councillors

Mrs A R Berry, L G J Kennedy,
Mrs M E Squires, N A Way and R Wright

114 Apologies

Apologies were received from Councillors: Mrs A R Berry, L G J Kennedy, Mrs M E Squires, N A Way and R Wright.

115 Public Question Time

There were no questions from members of the public present.

116 Declaration of Interests under the Code of Conduct (00-03-48)

Members were reminded of the need to declare any interests when appropriate:

The following Members declared interests:

Councillor	Interest	Reason
C J Eginton	Personal - Cabinet Minute 121,122	Through his position in the Council, he sat on the Governance Board for the Culm Garden Village
R J Chesterton	Personal - Cabinet Minute 121,122	Through his position in the Council, he sat on the Governance Board for the Culm Garden Village

C J Eginton	Personal – Cabinet Minute 138	As he owned a shop in Tiverton
C J Eginton	Personal – Cabinet Minute 148	As he received a pension from Lloyds Banking Group
C J Eginton	Personal – Cabinet Minute 153	As he owned a shop in Tiverton
Mrs E M Andrews	Personal – Cabinet Minute 131	As Vice Chairman of the CCA and a Garden Village Representative
Mrs N Woollatt	Personal – Cabinet Minute 131	As she lived nearby to 2 of the proposed relief road routes and close to Station Road

117 Minutes (00-04-50)

The minutes of the meeting held on 19 December 2018 were agreed as a correct record and signed by the Chairman.

118 Chairman's Announcements (00-05-23)

The Chairman informed the meeting that he had attended the following events:

- The awards ceremony at Petroc
- The reopening of the Lords Meadow Leisure facilities
- He had chaired the State of the District debate which he felt had been a successful event
- Teignbridge District Council Civic Service
- The Tiverton Army Cadet Drill Hall where he had witnessed an award being presented to the team and wished his congratulations to be recorded.

119 Petitions (00-08-06)

There were no petitions from members of the public.

120 Notices of Motions (00-08-30)

(1) Motion 533 (Councillor R B Evans – 13 February 2019)

The Council has before it a **MOTION** submitted for the first time:

Background

Members are aware that a number of planning applications need to go to Planning Committee for consideration; these applications have an array of detail and associated information for members to consider along with an officer recommendation and report.

Within this suite of reports there is often a detail on affordable housing and the section 106 agreement outlining jointly agreed contributions that will be applied to the build should the application be successful, these agreements are evidently part of the

detail members are asked to consider and naturally will assist members in making their informed decision .

It has become apparent that after approval has been received, it is not uncommon for developers/ applicants to seek to alter such agreements retrospectively via negotiations with officers, common reasons cited are funding/ budget related.

This motion is sought to be applied to any planning application that has been considered by the planning committee and evidently agreed where a retrospective application to alter the affordable housing or the section 106 agreement is then received.

Proposed motion

Any planning application that is approved by Committee giving specific affordable housing provision and or a detailed section 106 agreement as part of the information for members to consider that subsequently receives any application to alter all or part of these agreements must be referred to the relevant ward member/s for their consideration and input.

Should both the officer dealing and the ward member/s agree to the changes these can be allowed to form the new affordable housing agreement and or section 106 agreements.

Should the ward member/s and officer dealing fail to agree on the proposed changes or cannot negotiate agreeable alternatives then the application to change the affordable housing and or section 106 agreement should be referred back to the committee for their consideration and agreement / disagreement .

The **MOTION** was **MOVED** by Councillor R B Evans and seconded by Councillor R J Dolley.

In accordance with Procedure Rule 14.4, the Chairman of the Council ruled that the **MOTION STAND REFERRED** to the Planning Committee for consideration and report.

121 Report - Cabinet meeting held on 3 January 2019 (00-08-50)

The Leader presented the report of the meeting of the Cabinet held on 3 January 2019

1. Tax Base Calculation (Min 120)

The Leader **MOVED** seconded by Councillor P H D Hare-Scott:

THAT the recommendations of the Cabinet as set out in Minute 120 be **ADOPTED**.

Upon a vote being taking, the **MOTION** was declared to have been **CARRIED**.

Notes:

- i) Councillors R J Chesterton and C J Eginton declared personal interests in Minutes 121 and 122 as through their positions in the Council, they sat on the Governance Board for the Culm Garden Village;
- ii) Councillor K I Busch requested that his abstention from voting be recorded.

122 **Cabinet - Report of the meeting held on 31 January 2019 (00-10-00)**

The Leader presented the report of the meeting of the special meeting of the Cabinet held on 31 January 2019.

Notes:

- i) Councillor Mrs E M Andrews addressed the Council with regard to Minute 131, Cullompton Town Centre Relief Road Route. The Cabinet Member for Planning and Regeneration responded;
- ii) Councillor Mrs N Woollatt drew attention to the Devon County Council Cabinet meeting due to take place in March;
- iii) Councillor Mrs Andrews declared a personal interest in Minute 131 as she was Vice Chairman of the CCA and a member of one of the Garden Village stakeholder groups;
- iv) Councillor Mrs N Woollatt declared a personal interest in Minute 131 as she lived nearby to 2 of the proposed routes for the relief road and close to Station Road.

123 **Cabinet - Report of the meeting held on 7 February 2019 (00-23-48)**

The Leader presented the report of the meeting of the Committee held on 7 February 2019.

(1) Unauthorised Encampment Procedure for Managing or Enforcing Unauthorised Encampments (Minute 143)

The Leader **MOVED**, seconded by Councillor R L Stanley:

THAT the recommendation of the Cabinet as set out in Minute 143 be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

(2) National Non Domestic Rates (Minute 145)

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Cabinet as set out in Minute 145 (a) – (c) be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

(3) Budget (Minute 146)

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Cabinet as set out in Minute 146 (a) – (h) be **ADOPTED**.

The Chairman **MOVED** in accordance with Procedure Rule 19.7:

“THAT the vote in respect of this **MOTION** shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, J D Squire, R L Stanley and Mrs N Woollatt.

Those **ABSTAINING** from voting: Councillors: Mrs E M Andrews, J M Downes, T W Snow and L D Taylor.

The **MOTION** was declared to have been **CARRIED**.

Note: The Leader and the Cabinet Member for Finance praised the finance team for their work with the budget.

(4) Capital Programme (Minute 147)

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Cabinet as set out in Minute 147 (a) – (b) be **ADOPTED**.

The Chairman **MOVED** in accordance with Procedure Rule 19.7:

“THAT the vote in respect of this **MOTION** shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors: Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, J M Downes, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, T W Snow, J D Squire, R L Stanley, L D Taylor and Mrs N Woollatt.

Those **ABSTAINING** from voting: Councillor Mrs E M Andrews.

The **MOTION** was declared to have been **CARRIED**.

(5) Treasury Management Strategy and Annual Investment Strategy (Minute 148)

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Cabinet as set out in Minute 148 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(6) Capital Strategy (Minute 149)

The Leader **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Cabinet as set out in Minute 149 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(7) Policy Framework (Minute 150)

The Leader **MOVED**, seconded by Councillor C R Slade:

THAT the recommendation of the Cabinet as set out in Minute 150 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(8) Establishment (Minute 151)

The Leader **MOVED**, seconded by Councillor R J Chesterton:

THAT the recommendation of the Cabinet as set out in Minute 151 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(9) Pay Policy (Minute 152)

The Leader **MOVED**, seconded by Councillor C R Slade:

THAT the recommendation of the Cabinet as set out in Minute 152 be **ADOPTED**.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Notes:

- i) Councillor C J Eginton declared a personal interest in Minute 138 as he owned a shop in Tiverton;
- ii) Councillor C J Eginton declared a personal interest in Minute 148 as he received a pension from Lloyds Banking Group;
- iii) Councillor C J Eginton declared a personal interest in Minute 153 as he owned a shop in Tiverton;

124 **Council Tax Resolution 2019/2020 (00-34-37)**

The Chairman **MOVED**,

“THAT the Council Tax for 2019/20 be increased by 2.996% being £203.84 (in accordance with the revised referendum limit ability of 3% or £5 per Band D property)”

With regard to the draft Council Tax resolution in respect of the year 2019/20:

The Chairman **MOVED** the resolutions to confirm the requirement from the Collection Account for the year 2019/20.

The Chairman then **MOVED** in accordance with Procedure Rule 19.7:

“THAT the vote in respect of this item shall be by Roll Call”

A roll call of Members present at the meeting was then taken.

Those voting **FOR** the **MOTION**: Councillors: Mrs E M Andrews, Mrs H Bainbridge, Mrs J B Binks, A Bush, K I Busch, R J Chesterton, Mrs C A Collis, Mrs F J Colthorpe, D R Coren, N V Davey, Mrs C P Daw, W J Daw, R M Deed, Mrs G Doe, R J Dolley, J M Downes, C J Eginton, R Evans, S G Flaws, Mrs S Griggs, P H D Hare-Scott, P J Heal, T G Hughes, Mrs B M Hull, D J Knowles, F W Letch, B A Moore, R F Radford, F J Rosamond C R Slade, Mrs E J Slade, T W Snow, J D Squire, R L Stanley, L D Taylor and Mrs N Woollatt.

The **MOTION** was declared to have been **CARRIED** and it was accordingly:-

RESOLVED that the recommendations within the report be approved.

Note: *Report previously circulated, copy attached to the minutes.

125 **Reports - Scrutiny Committee - Report of the Meeting held on 14 January 2019 (00-38-48)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 14 January 2019.

The Council had before it questions referring to Minute 120 submitted by Councillor Mrs N Woollatt in accordance with Procedure Rule 13.2, together with a response from the Deputy Chief Executive (S151).

Councillor Mrs N Woollatt made the following statement following responses to her questions: she understood that mistakes could happen, she was surprised that she had been given an incorrect answer with regard to question 2 and with regard to question 3, the decision maker was given incorrect information which had not been amended on the decision form and that the correct information could have been added to the Monitoring Officer's report at agenda item 11.

126 Scrutiny Committee Report - 18 February 2019 (00-47-05)

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 18 February 2019.

127 Audit Committee - Report of the meeting held on 22 January 2019 (00-47-47)

The Chairman of the Audit Committee presented the report of the meeting of the Committee held on 22 January 2019.

(1) Financial Regulations Review (Minute 60)

The Chairman of the Audit Committee **MOVED**, seconded by Councillor P H D Hare-Scott:

THAT the recommendation of the Committee as set out in Minute 60 be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

128 Environment Policy Development Group - Report of the meeting held on 8 January 2019 (00-48-59)

The Chairman of the Environment Policy Development Group presented the report of the meeting of the Group held on 8 January 2019.

129 Homes Policy Development Group - Report of the meeting held on 15 January 2019 (00-49-39)

The Chairman of the Homes Policy Development Group presented the report of the meeting of the Group held on 15 January 2019.

130 Economy Policy Development Group - Report of the meeting held on 10 January 2019 (00-50-21)

The Chairman of the Economy Policy Development Group presented the report of the meeting of the Group held on 10 January 2019.

131 Economy Policy Development Group- Report of the special meeting held on 29 January 2019 (00-51-53)

The Chairman of the Economy Policy Development Group presented the report of the special meeting of the Group held on 29 January 2019.

132 Community Policy Development Group - Report of the meeting held on 22 January 2019 (00-51-30)

The Chairman of the Community Policy Development Group presented the report of the meeting of the Group held on 22 January 2019.

133 Planning Committee - Report of the meeting held on 9 January 2019 (00-52-12)

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 9 January 2019.

134 Planning Committee - Report of the meeting held on 6 February 2019 (00-52-52)

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 6 February 2019.

135 Special Urgency Decisions (00-53-40)

The Council had before it and **NOTED** a * report of the Leader (and Monitoring Officer) reporting special urgency decisions taken in the preceding quarter.

The Chairman informed the meeting that one urgent decision had been made.

Consideration was given to:

- the timing of the report and the delay in reporting a decision that was made the day before the previous meeting of the Council.
- Whether the decision form contained all of the correct information
- Concerns regarding the borrowing arrangements
- Why the decision was urgent
- The risk of such an arrangement
- The due diligence tests that were taking place and if the decision moved away from the principle agreed then another decision would be required.

Note: * Report previously circulated, copy attached to minutes

136 Questions in accordance with Procedure Rule 13 (0-08-00)

There were no questions submitted under Procedure Rule 13.2 that had not been previously answered.

137 Independent Remuneration Panel Report (1-08-16)

The Council had before it a * report of the Group Manager for Legal Services and Monitoring Officer informing Members of a review undertaken by the Independent Remuneration Panel and their recommendations.

The Chairman **MOVED, THAT:**

- a) That the Basic Allowance to be paid to all Councillors remains at the current level of £5011.91 p.a. with any increases being linked to the staff pay award.
- b) That Special Responsibility Allowances be paid to the following Members at the unchanged levels indicated below:

Position	Weighting x basic	SRA
Leader of the Council	3.00	£15035.77
Deputy Leader	1.50	£7518.40
Cabinet Member	1.25	£6264.65
Scrutiny Committee Chair	1.25	£6264.65
PDG Chair	0.75	£3759.20
Audit Committee Chair	0.75	£3759.20
Planning Committee Chair	1.25	£6264.65
Licensing/Regulatory Chair	0.25	£1252.72
Standards Chair	0.25	£1252.72
Chairman of the Council	0.50	£2506.48

- c) To confirm that no Member should be entitled to claim more than **one** Special Responsibility Allowance.
- d) Carers' allowances be calculated on the current basis namely, the actual expenditure up to the national living wage of a person over 25.
- e) That travel allowances be linked to HMRC rates and calculated at the national levels indicated, currently:

- 45p per mile for the first 10,000 miles
- 25p per mile thereafter
- 5p per mile per passenger carried (up to a maximum of 4 passengers payable to the driver)
- 25p per mile for pushbikes
- 24p per mile for motorcycles

NB: To be increased in line with HMRC rates from 1 April 2019 once known.

- f) That the subsistence allowances be linked to those of the staff, currently these are as follows:

- Breakfast - £7.50
- Lunch - £10.35
- Tea - £4.07
- Dinner - £12.80

NB: To be increased in line with HMRC rates from 1 April 2019 once known.

- g) That all claims for travel and subsistence reimbursement be accompanied by an appropriate receipt.
- h) That an annual digital allowance of £150 continued to be paid to Members using digital devices only.

- i) That Members of the Authority are not entitled to pensions and therefore neither the basic allowance nor SRA be treated as an allowance in respect of which pensions are payable.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: *Report previously circulated, copy attached to minutes.

138 **Questions to Cabinet Members (1-09-00)**

Councillor F W Letch addressing the Leader asked if any consultation had taken place in the 3 main towns with regard to the new weed spraying venture. He was not aware that Crediton had been asked and that weed spraying could only take place for 10 weeks in the year, what would the team be doing for the other 42 weeks and would there be a timetable of work? The Town Council already had a contract in place to deal with weed spraying in Crediton which had been precepted for.

The Leader responded stating that no consultation had taken place as issues had arisen in Tiverton and Cullompton since Devon County Council had stopped spraying weeds, it was therefore felt that the District Council should provide the service, if the Crediton area did not wish to use the service, then the Group Manager for Street Scene and Open Spaces should be informed. With regard to the other 42 weeks when the weeds could not be sprayed then they would be addressed manually; There was a programme of works and he urged individual towns and parishes to identify areas of concern and inform the Group Manager for Street Scene and Open Spaces. He would also ask the officer to contact Town and Parish Councils.

Councillor L Taylor again addressing the Leader asked about weed issues in the small towns and associated parishes. Bradninch arranged for its own spraying, could all town and parish councils be advised of the service?

The Leader stated that he would pass on the request.

Councillor F J Rosamond addressing the Cabinet Member for Housing stated that the Chief Executive was speaking at a conference where the Housing Minister would be present, had the Cabinet Member had the opportunity to meet with the Minister yet?

The Cabinet Member stated that he would be attending the conference however; he still wished to meet with the Minister on a one to one basis.

139 **Meeting Management**

The Chairman indicated that he would take item 17 as the next item of business.

140 **Members Business (1-19-00)**

Councillor F J Rosamond stated that a senior officer from Devon County Council would be attending the next meeting of the Scrutiny Committee to answer questions with regard to broadband issues. If Members had any questions then could they be passed to Member Services.

Councillor R J Dolley welcomed the 5 houses for rent in the Westex Area, he stated that this highlighted the issues at Palmerston Park, could he please have some answers to his questions about the costs?

Councillor K I Busch informed the meeting of the work that he had been doing in the past 2 years and the ventures he had been involved in.

Councillor Mrs N Woollatt responded stating that she was pleased to see her fellow Ward Member and commended him on the work that he had been doing, however this was not in his role as a Ward Member and that her casework had increased since his absence.

141 **Access to Information - Exclusion of the Press and Public (1-30-00)**

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Cabinet decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 6 respectively of Part 1 of Schedule 12A of the Act, namely information which reveals that the authority proposes –

a) To give under any enactment a notice under or by virtue of which requirement are imposed on a person; or

b) To make an order or direction under any enactment

(Proposed by the Chairman)

142 **Potential Dissolution of a Parish Council**

The Council had before it a *report of the Returning Officer and Group Manager for Legal Services and Monitoring Officer regarding a Parish Council.

The Chairman **MOVED** that:

The recommendation within the report be approved.

Following discussion and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: *Report previously circulated.

(The meeting ended at 7.47 pm)

CHAIRMAN

This page is intentionally left blank

WRITTEN QUESTIONS – FULL COUNCIL – 27 FEBRUARY 2019

1. MINUTE 120 – SCRUTINY COMMITTEE 14 JANUARY 2019

Questions submitted by Councillor Mrs N Woollatt and the responses of the Chief Executive and Deputy Chief Executive (S151)

I specifically asked during that meeting for a response to the issue of inaccurate information being published in the Decision Recording form (i.e. stating that the project had the benefit of planning permission when it had no planning permission at that time, outline or otherwise). I was told Members would receive a response and that was minuted. I have not been given any response to my query. The information still remains published as fact and is included as one of the reasons for the decision.

1. Please will Council explain why the notice stated that the project had the benefit of planning permission when it did not?
2. Why was I told by the Chief Executive in an email of 21.12.18 , in response to my raising this issue of no planning permission, that the site had the benefit of outline planning permission when it did not?
3. Were the decision makers informed that the site had planning permission when they were making their decision?

RESPONSES

1. *The Council received a new planning application 19/00244/MOUT on 27 November 2018 for a NHS Hub surgery building. This is now likely to be considered by the Planning Committee at a meeting on 3 April 2019; prior to this the area was covered by an application 06/02670/MOUT which covered the overall site for mixed use on the land to the south of Exeter Road. However, this earlier application lapsed on the 15 October 2013. Therefore at the point of completing the urgent business decision the site in question did not have the benefit of a live planning permission. I apologise for this error, however it would remain that the Council would not enter into any loan arrangement until after planning permission for this development was granted.*
2. *While the site had previously secured outline planning consent, this has now lapsed. This was not highlighted to the Chief Executive until after he had responded to Cllr Mrs Woollatt on 21.12.18.*
3. *As previously mentioned in my response to question 1, the urgent decision specified that the site had planning permission, so this is what the decision makers used when making their “in principle” decision, subject to officers finalising all the relevant due diligence that would be necessary.*

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 7 March 2019 at 2.15 pm

Present

Councillors

C J Eginton (Leader)
R J Chesterton, P H D Hare-Scott,
C R Slade, Mrs M E Squires and
R L Stanley

Also Present

Councillor(s)

Mrs C P Daw, F W Letch, F J Rosamond and N A Way

Also Present

Officer(s):

Andrew Jarrett (Deputy Chief Executive (S151)), Andrew Pritchard (Director of Operations), Jill May (Director of Corporate Affairs and Business Transformation), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Jenny Clifford (Head of Planning, Economy and Regeneration), David Green (Group Manager for Development), Stuart Noyce (Group Manager for Street Scene and Open Spaces), Adrian Welsh (Group Manager for Growth, Economy and Delivery), Jane Lewis (Communications and Engagement Manager) and Carole Oliphant (Member Services Officer)

157. APOLOGIES (00.00.58)

There were no apologies.

158. PUBLIC QUESTION TIME (00.01.09)

There were no questions raised by members of the public.

159. DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.01.25)

The following interests were declared:

Councillor	Interest	Reason
C J Eginton	Personal	Item 9 – owned a shop in Tiverton
R L Stanley	Personal	Item 16 – Director of 3 Rivers Development Ltd

160. MINUTES OF THE PREVIOUS MEETING (00.01.53)

The minutes of the previous meeting were approved as a correct record and signed by the Leader.

161. S106 GOVERNANCE (00.02.09)

The Leader advised that the item had been deferred to a future meeting.

162. COSTS IN THE PLANNING SERVICE (00.03.12)

The Cabinet had before it and **NOTED** a * report of the Head of Planning, Economy and Regeneration highlighting some of the headline findings of the recent costs exercise to provide Members with background information on suggested service improvements and changes.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that a review of planning service costs was required. He explained that at the last review there had been buy in and collaboration with other local authorities but that they were reluctant to join in with a review of their services on this occasion. He explained that the report gave a comprehensive view of the planning service and what it cost to run.

Consideration was given to:

- Full on costs to reflect the true cost of service provision
- Efficiency savings
- Cost of applications determined under delegated powers by officers verses those which went through the democratic process via Planning Committee
- Inability to recover all costs as planning fees were determined by the Government and legislation
- Number of planning appeals

Note: *Report previously circulated, copy attached to minutes.

163. DISCRETIONARY FEE SETTING IN DEVELOPMENT MANAGEMENT (00.13.21)

The Cabinet had before it a * report of the Head of Planning, Economy and Regeneration regarding discretionary charges.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that officers had been tasked with suggesting ways to reimburse some costs. He explained that the charge was for face to face consultations only and that the Planning service would continue to provide a free Planning Duty Officer Service by telephone and over the internet.

In response to questions, the Group Manager for Development explained that South Hams District Council had trialled the fee for 12 months and it had proved to be popular with customers who liked the set 30 minute time slot with a Planning Officer rather than having to wait for them to become available after dealing with other applicants.

RESOLVED that the introduction of a fee for the Planning Duty Officer Service be initially set at £30 (plus VAT)

(Proposed by Cllr R J Chesterton and seconded by Cllr R L Stanley)

Note: *Report previously circulated, copy attached to minutes.

164. CREDITON TOWN CENTRE MASTERPLAN (00.16.22)

The Cabinet had before it a * report of the Head of Planning, Economy and Regeneration outlining the scope for the commissioning of consultants to assist in the preparation of a Masterplan Supplementary Planning Document and Delivery Plan (SPD) for Crediton Town Centre in the budget years 2020/21.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that the initial work was primarily to define the scope of the Crediton Town Centre Masterplan. He said the key to focus growth in the main towns was to develop a Masterplan which sat alongside and supplemented the Neighbourhood Plan. He explained that the engagement of the local community was essential for it to succeed and there would be two stages of public consultation.

The local ward members for Crediton welcomed the focus on the town and acknowledged that local people and organisations should be involved in the very early stages of the development of a Masterplan.

Consideration was given to:

- Local Ward Members being consulted
- Inclusion of the local Parishes in the consultation

RESOLVED that

- i) The scope and geographical area of the Masterplan be agreed.
- ii) Delegated authority be given to the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to engage consultants to assist with the preparation of a Crediton Town Centre Masterplan and Delivery Plan in the budget year 20/21.

(Proposed by Cllr R J Chesterton and seconded by Cllr Mrs M E Squires)

Note: *Report previously circulated, copy attached to minutes.

165. **FUTURE HIGH STREETS FUND (00.31.04)**

The Cabinet had before it a * report of the Head of Planning, Economy and Regeneration analysing the three market towns and seeking to prioritise which of them should be selected to form the basis of the single expression of interest which is allowable under this fund. It also identified the potential for a further expression of interest to be submitted for the separate heritage part of the fund.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that the Government had released a pot of money to regenerate Town Centres and that all three of the districts towns, Tiverton, Cullompton and Crediton, were eligible. He explained that only one town could be applied for and that because the Tiverton Town Centre Masterplan was so well advanced that it was felt that this would be the sensible option.

He explained that the Council could attempt to raise funds for Cullompton from a grant from an architectural heritage fund and now that the recent delivery of a plan for a relief road was complete it was felt that an application would be looked upon favourably by Historic England.

Consideration was given to:

- Stage one of the Tiverton regeneration was ongoing.
- Crediton did not currently qualify for grant funding but this could be revisited in the future.
- Working closely with the County Council to deliver regeneration in the event of a successful bid.

RESOLVED:

- i) That delegated authority be given to the Deputy Chief Executive (S151) in consultation with the Cabinet Member for Planning and Economic Regeneration and the Cabinet Member for Housing to submit an Expression of Interest to the Future High Streets Fund and to determine the financial amount sought under the fund;
- ii) That the expression of interest is made for Tiverton Town Centre; and
- iii) That further delegated authority be given to the Deputy Chief Executive (S151) in consultation with the Cabinet Member for Planning and Economic Regeneration and the Cabinet Member for Housing to submit a further Expression of Interest (or equivalent) if the opportunity presents for the regeneration of Cullompton's historic High Street through the Heritage element of the Future High Streets Fund and to determine the financial amount sought under the fund.

(Proposed by Cllr R J Chesterton and seconded by Cllr C R Slade)

Note:

- a) Cllr C J Eginton declared a personal interest as he owned a shop in Tiverton.
- b) *Report previously circulated, copy attached to minutes.

166. VEHICLE SUPPLY AND MAINTENANCE CONTRACT (00.39.49)

The Cabinet had before it a *report of the Group Manager for Street Scene and Open Spaces advising Members on the results of the procurement exercise for the provision of fleet supply and maintenance and seeking approval to award the contract to the successful bidder.

The Cabinet Member for Finance outlined the contents of the report stating that the Vehicle Hire Contract would be more efficient than the current practice of purchasing and servicing vehicles outright.

Consideration was given to:

- Any extension to the contract at the end of the term would be by mutual consent with Exeter City Council
- The contract had been tendered jointly but there would be two separate contracts run independently with MDDC and Exeter City Council

RESOLVED that

- (i) The contract be awarded jointly with Exeter City Council for fleet supply and maintenance to Supplier C with effect from 1 June 2019 for a term of 7 years with an option for a 7 year extension.
- (ii) The Group Manager for Street Scene & Open Spaces explores further opportunities for joint working for Fleet Management.

(Proposed by Cllr P H D Hare-Scott and seconded by Cllr R L Stanley)

Note: *Report previously circulated, copy attached to minutes.

167. SUPPORTING THE FORMATION OF A SOUTH WEST MUTUAL BANK (00.43.09)

The Cabinet had before it a * report of the Chief Executive seeking approval to invest £49,995 to support the next stage in the setting up of South West Mutual.

The Deputy Chief Executive (S151) outlined the contents of the report stating that a number of Local Authorities were making investments including South Hams, West Devon, East Devon and Teignbridge. There were ongoing discussions with Plymouth, Devon County, Somerset and Dorset who were likely to consider investing in round two. The cost of officers working on the scheme was being met by the social investment business fund and not borne by MDDC.

Consideration was given to:

- The reduction in numbers of High Street Banks servicing our Towns and Parishes
- The importance of Local Authorities supporting their communities with initiatives which benefitted them
- The risks associated with the scheme
- The need for the Council to be regularly updated by the bank

RECOMMENDED to Council that:

1. The investment of £49,995 in South West Mutual Bank for the reasons set out in the report be approved, the investment to be funding from the additional funds received from the 100% Business Rates Pilot Scheme.
2. Delegated authority be given to the Deputy Chief Executive (S151 to conclude the ordinary share acquisition.

(Proposed by The Chairman)

Note: *Report previously circulated, copy attached to minutes.

168. **FINANCIAL MONITORING (01.02.35)**

The Cabinet Member for Finance provided a verbal report stating that the financial deficit had reduced to £45k and this was extremely encouraging.

169. **CABINET MEMBER DECISIONS (01.03.14)**

The following Cabinet Member decisions were **NOTED**:

Cllr P H D Hare-Scott:

To close the bottom half of the Station Road pay and display Car Park Cullompton on Saturday 13th April 2019 between 6am and 2pm.

REASON FOR DECISION:

The Cullompton Farmers Market Committee Group have approached the Council with a request to close part of the Station Road car park in Cullompton to host Cullompton Spring Festival.

They have requested on Saturday 13th April from 6am until 4pm to close and erect stalls to the lower part of the car park so stalls can be erected, this would mean the upper car park would be still available for pay and display and permit holders to use but the reduced number of spaces would result in a reduced income.

Cllr R J Chesterton:

Increase Building Control Fees by approximately 3%.

REASON

To maintain cost recovery for Building Control activity. Building Control fees were last changed in 2018 and this change keeps fees in line with inflation and ensures that the service continues to cover its costs.

170. NOTIFICATION OF KEY DECISIONS (01.04.11)

The Cabinet had before it, and **NOTED**, its rolling plan * for March 2019 containing future key decisions.

Note: *Plan previously circulated, copy attached to minutes.

171. ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (01.04.25)

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Cabinet decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

172. 3 RIVERS DEVELOPMENT LIMITED - BUSINESS PLAN

The Cabinet had before it a * report of the Deputy Chief Executive (S151) and the 3 Rivers Developments Limited Acting Managing Director requesting approval of the draft 5 year business plan for 3 Rivers Developments Limited.

The Cabinet Member for Housing outlined the contents of the report.

Returning to open session the Cabinet:

RESOLVED that the draft 5 year business plan for 3 Rivers Developments Limited be approved.

(Proposed by the Chairman)

Notes:

- i) Cllr R L Stanley declared a personal interest as a Director of 3 Rivers Developments Limited;
- ii) *Report previously circulated.

(The meeting ended at 3.37 pm)

CHAIRMAN

CABINET

7 MARCH 2019

SUPPORTING THE FORMATION OF SOUTH WEST MUTUAL

Cabinet Member Councillor Clive Eginton (Leader)
Responsible Officer Stephen Walford, Chief Executive

Reason for Report: To seek approval to invest £49,995 to support the next stage in the setting up of South West Mutual as detailed in Section 3 and Appendix A, and confidential Appendices B and C (exempt information) to this report.

RECOMMENDATION: That the Cabinet recommend to Full Council:

- 1. To approve the investment of £49,995 in South West Mutual for the reasons set out in this report, the investment to be funded from the additional funds received from the 100% Business Rates Pilot Scheme.**
- 2. Delegate authority to the Deputy Chief Executive (S151) to conclude the ordinary share acquisition.**

Financial Implications: These are outlined throughout the report.

Legal Implications: If the investment is not covered by the Council's current investment strategy, it is outside the Policy Framework and therefore requires a recommendation to Council.

The proposal is consistent with the Council's powers to invest under the Local Government Act 2003 and the Localism Act 2011.

South West Mutual is a co-operative society registered with the Financial Conduct Authority, but yet to commence trading. The rules have been examined. If the Society is wound up, the members of the Society have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities. The liability of a shareholder is limited to the value of its shareholding i.e. it stands to lose out on its investment. A shareholder is not automatically a member of the Society – an application has to be made. The Board of the Society has the right to cancel any shares held by non- members without repaying the principal amount. The shares are non-withdrawable – this means that the Council cannot withdraw its share capital from the Society.

There are no state aid implications from the proposed investment. It is not aid, because it is not assistance which confers an advantage from the state – it is an investment being offered on the same terms to all with the share price fixed in the Society's rules. It is therefore a financial relationship in the normal course of business.

Members should note that there are two appendices which are classified as exempt information under paragraph 3 of Schedule 12A to the Local Government Act 1972 (Access to information: exempt information). Accordingly, if they wish to discuss this information in Cabinet (and/or subsequently at Full Council), it will be necessary to pass a resolution to move into Part II business for that part of the discussion.

Risk Assessment: [start text here and continue without indenting]

Equality Impact Assessment: No equality issues identified for this report. The project could provide a positive contribution by making banking services more readily available in the district.

Relationship to Corporate Plan: The proposal supports the Corporate Plan priority of Economy, encouraging business development and growth and also Community by helping the local community to access banking services, which are disappearing from the high streets across the District.

1.0 Introduction/Background

- 1.1 On 19 December 2018 Tony Greenham, of South West Mutual, delivered a presentation to Mid Devon District Council Cabinet Members and Leadership Team about the proposal to form South West Mutual – a regional bank for inclusive growth. A copy of the presentation can be found at Appendix A.
- 1.2 It is envisaged that this economic grant would align with the Corporate Plan priorities. See Appendix A, Page 15.
- 1.3 A series of questions have been answered by the Mutual as part of the Council's due diligence. The responses can be found at Confidential Appendix C. Members should note that this contains exempt information and is not for disclosure.

2.0 Proposals

- 2.1 The mutual is seeking an initial investment of £500,000 in order to progress its Banking licence application. It will then need to find an estimated £2.5m in 2019 to set up operations and complete the banking authorisation process, and finally a further investment of £17.5m in 2020 to capitalise the bank and enable it to commence trading.
- 2.2 It is envisaged that local authorities within the South West, who believe in the ethos behind the mutual and the benefits this could bring to the local economy, may wish to participate in all stages of investment including capitalising the bank once a provisional banking licence has been granted and the investment carries a lower risk.
- 2.3 South West Mutual launched its initial fundraising on 19 November 2018 seeking investment from private and institutional investors within the region. It is considered that the commitment of local authorities to invest in the initial Founder Share Offer will reinforce the confidence of private sector investor, make a significant statement of support for the social and economic mission of South West Mutual, and potentially shorten the timetable to opening branches and commencing trading within Mid Devon and the wider South West region.
- 2.4 The issue of retail banking disappearing from local communities across the district is one that has been highlighted at various council committees, with a

strong view that this disproportionately hits rural communities and rural businesses who need access to banking facilities. It is considered that supporting the formation of a new mutual bank would provide an opportunity to see new banking options come to fruition for local communities that might see branches of the big retail banks disappearing.

- 2.5 It is proposed that the Council uses funds from the predicted business rate pilot dividend to invest in the Mutual. In return for this investment of £49,995, the Council will receive 3,333 ordinary shares. Members will recognise that the investment may not necessarily be returned to the Council. This should not be viewed as a normal investment made for purely financial return but one which supports the local economy. Hence, at this stage, officers **do not recommend investing in the mutual explicitly to derive a financial return** as this is deemed too much of a financial risk.
- 2.6 These shares will receive a dividend of 7.5% if the new bank becomes profitable and this dividend will rise over time if South West Mutual is successful. In view of the higher risk of investment at this early stage, if a banking licence is obtained and the bank starts trading, Founder Shareholders will also receive an additional 2 shares for every share held. The combination of these two returns generates an estimated “internal rate of return” (being a measure of investment returns widely used within business and finance) of approximately 20% per annum.
- 2.7 Members will appreciate that this investment is risky, but without the funding, the proposed benefits to the local economy may never be realised.
- 2.8 It is envisaged that the Council would be one of the first to provide support to the mutual. At the time of writing this report three other authorities have signed up for Founder shares.

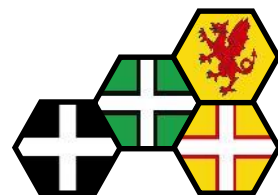
3.0 Conclusion and Recommendations

- 3.1 There are risks that should not be discounted. Members will need to be satisfied that the investment of £49,995 to South West Mutual, in return for 3,333 ordinary founder shares is consistent with the Council’s corporate strategy.
- 3.2 As the Council will receive ordinary shares, over the long term this initiative could be considered as an investment. However, this transaction should be viewed in the short term as akin to an economic grant.
- 3.3 Members recognise that this transaction is not without risk and therefore do not expect to re-coup the grant, nor a profit on any shares acquired. Confidential Appendix B contains the detailed Founder Share Offer document – members are to note that this document is exempt information and not for disclosure.
- 2.4 By making this “investment”, the Council will be forgoing potential return on the business rate pilot gain monies. The current investment return achieved by the Council is circa. 0.8% per annum. This equates to forgoing £400 per annum, if interest rates and returns were to remain the same.

- 2.5 The **recommendations** are therefore to approve the investment of £49,995 to support the further establishment of South West Mutual as a founder shareholder and to fund this through the use of the “dividend” from being a Business Rates Pilot Authority in 2018/19. We estimate this Business Rates dividend to be in the region of £330k.
- 2.6 The second recommendation is to delegate authority to the Deputy Chief Executive (S151) to complete the documentation associated with the share acquisition. The form is shown at Confidential Appendix B which is exempt information.

Contact for more Information: Andrew Jarrett, Deputy Chief Executive (S151)
01884 23(4242) ajarrett@middevon.gov.uk
Jo Nacey, Group Manager for Financial Services
01884 23(4254) jnacey@middevon.gov.uk

Circulation of the Report: Cabinet Member, Leadership Team
List of Background Papers:



South West Mutual

Regional banking for inclusive growth

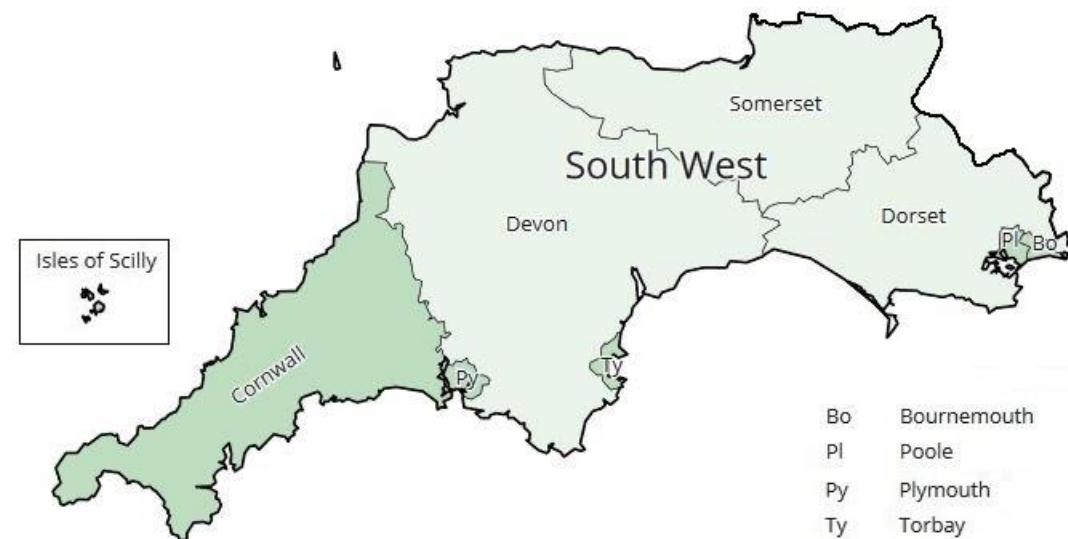


Introducing South West Mutual



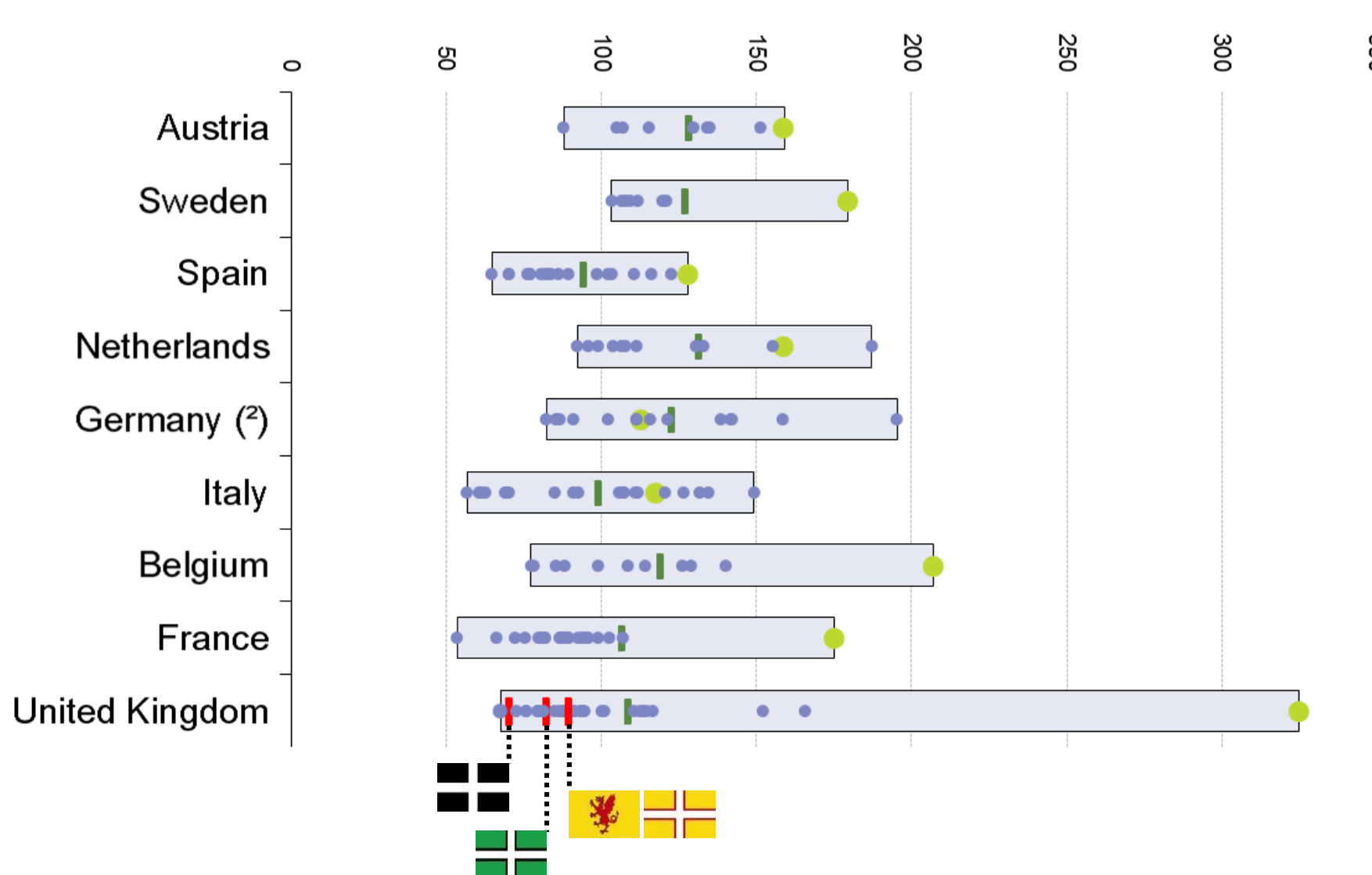
Mission-led business promoting sustainable and equitable prosperity for the South West

- First **customer-owned** full service bank
- **Financial inclusion** in the rules
- **SME and social enterprise** focus
- Multi-channel, committed to **branches** and **relationship banking**
- **Scale and efficiency** – part of the CSBA network
- **Financial strength**: Profits £15m pa / loan book £380m by year 9



Helping tackle regional inequalities

Page 37

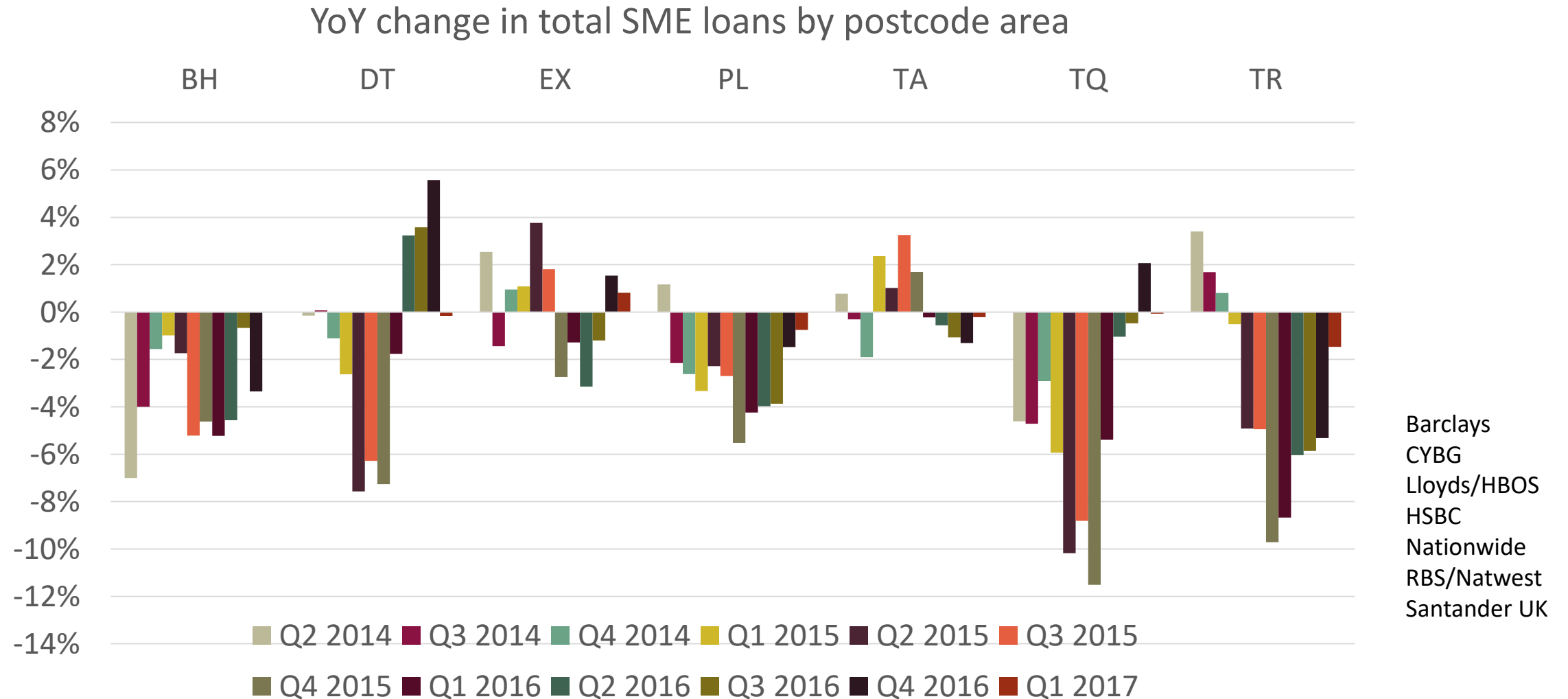


SWM is an anchor institution

Supporting equitable and sustainable prosperity for the South West is our mission

SME finance is an ongoing issue

Page 38



Lending to the real economy where you live

SME deposits and loans in
Devon districts

Deposits **£853m**

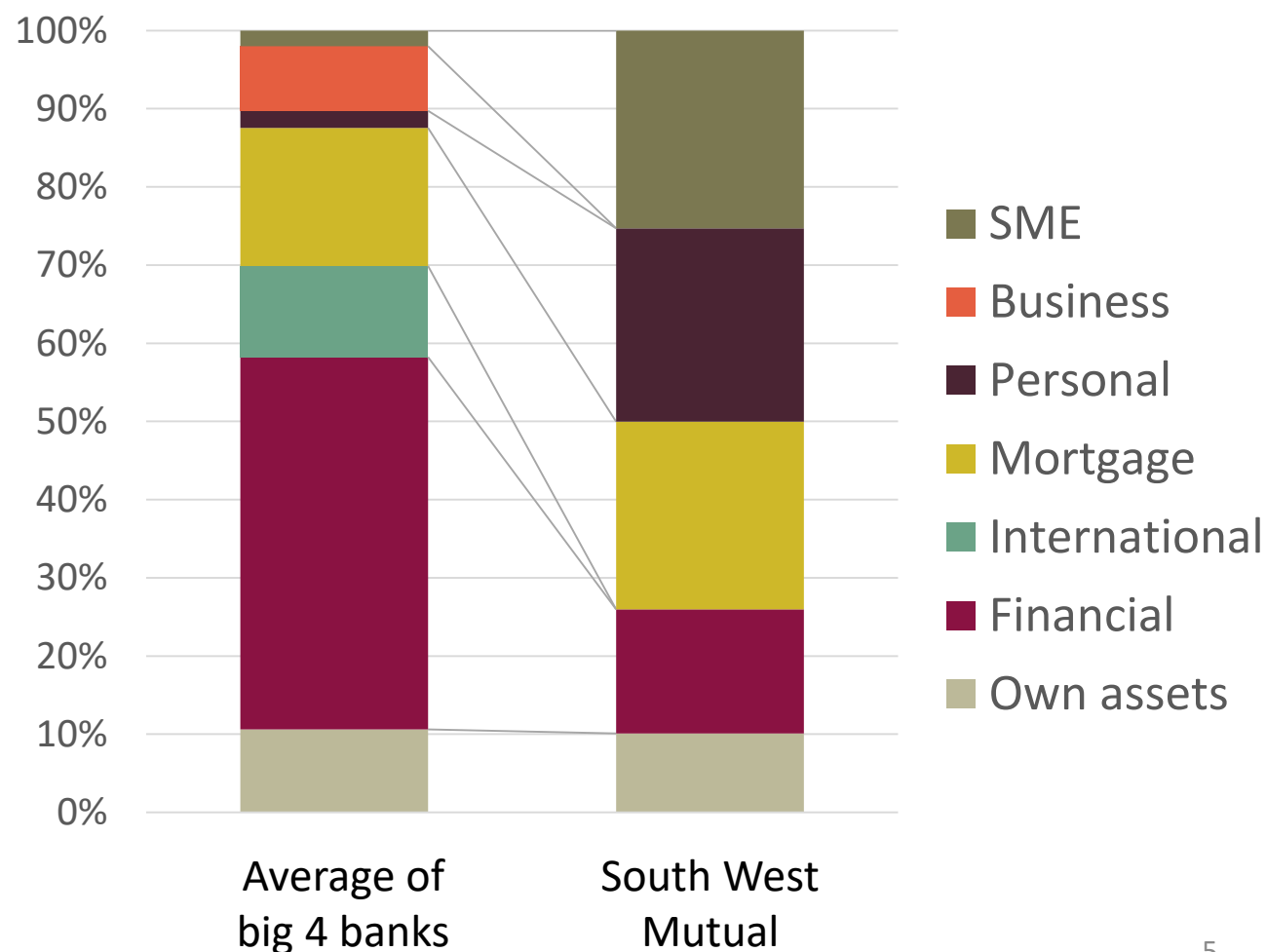
Loans **£462m**

Net outflow **£390m**



**SWM keeps money
flowing within the
region's economy**

Real economy impact – SWM lending vs UK Big 4



Commitment to financial inclusion

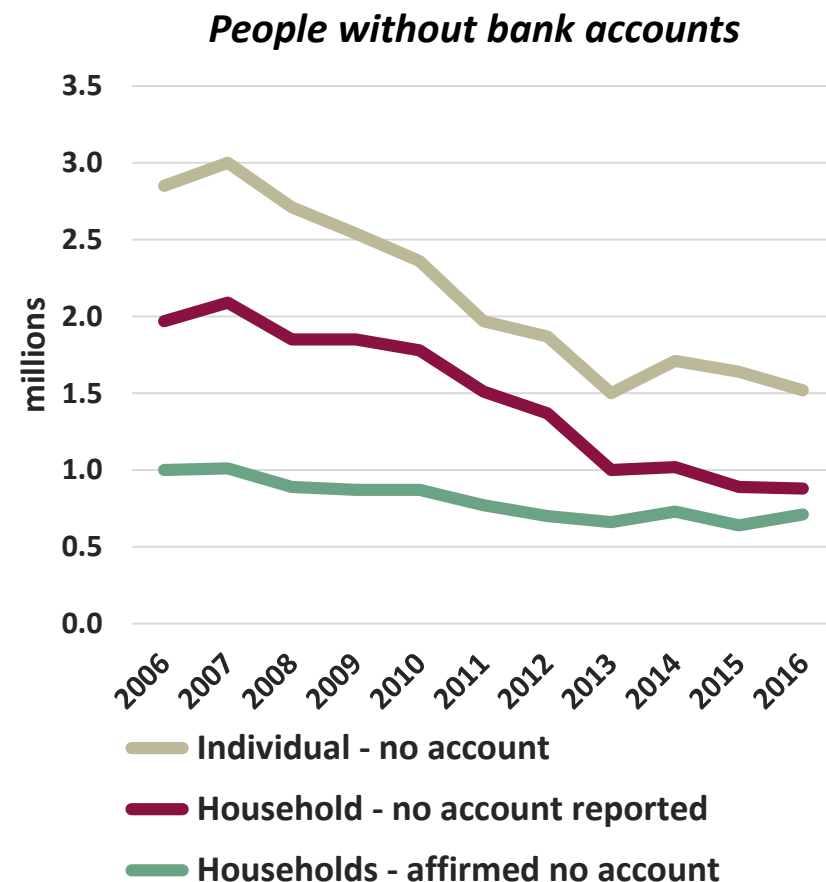
In Devon districts there are approximately*:

- 21,000 individuals without bank account
- 106,000 non-users of the internet
- 33,000 entirely dependent on cash
- 46% uncomfortable using digital only banks
- £8 million poverty premium



SWM will provide full current account to any resident

**Source: Pro-rata on population of 642,000 adults , from HMT report on cash March 2018, and CHASM Financial Inclusion Report 2016*



Source: FINANCIAL INCLUSION
ANNUAL MONITORING REPORT 2017

Branches and local managers

- Losing 60 branches / 300 cash machines a month
- Branch access still important for many customers
 - eg trading businesses; some older/vulnerable people
- Evidence confirms 'soft information' is vital for safe local lending



- **SWM has Branch Directors and staff with decision making power**
- **We use modern technology to deliver a low-cost branch solution**

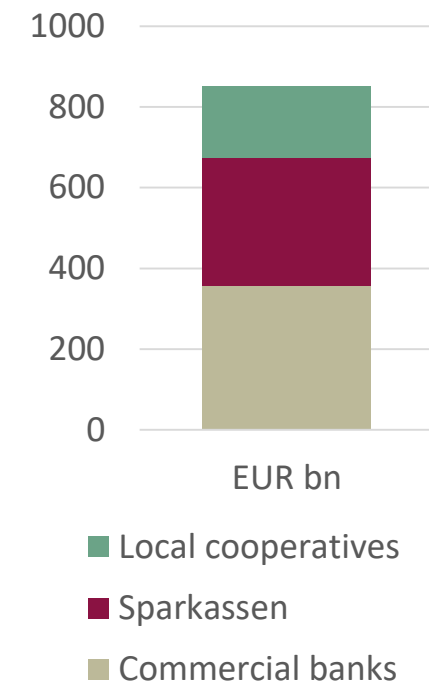
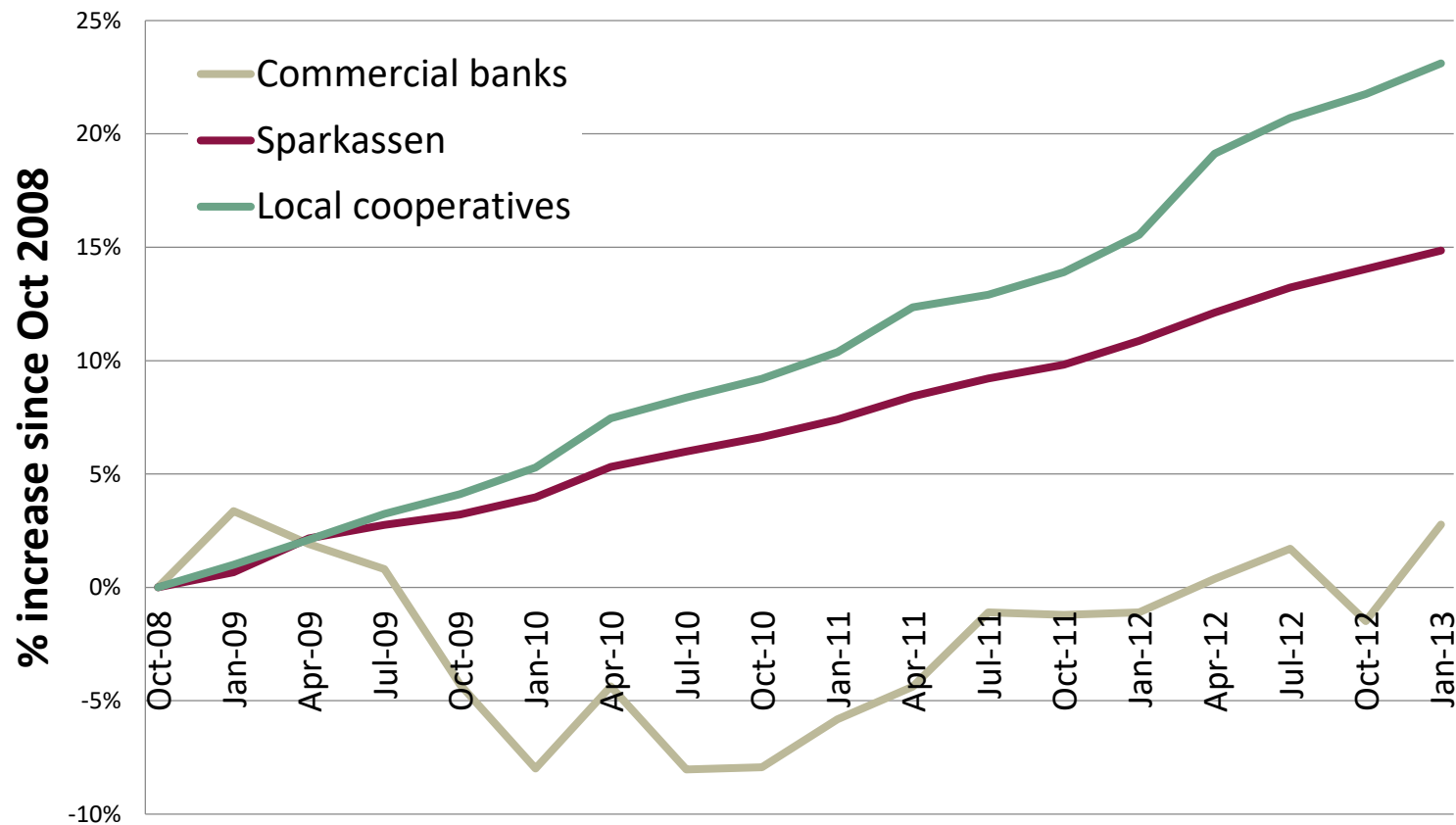
Branch Closures 2015-18



	RBS/ NW	Lloyds	Barclays	HSBC	Co-Op	Other	Total
East Devon	5	2	3	1	1		12
Exeter	2	4		1		1	8
Mid Devon	2	1	2				5
North Devon	3	4	1	2	1		11
South Hams	4	4	1	2		2	13
Teignbridge	3	4		1	1		9
Torridge	3	1	2				6
West Devon	3	1	1	1	1		7
Grand Total	25	21	10	8	4	3	71

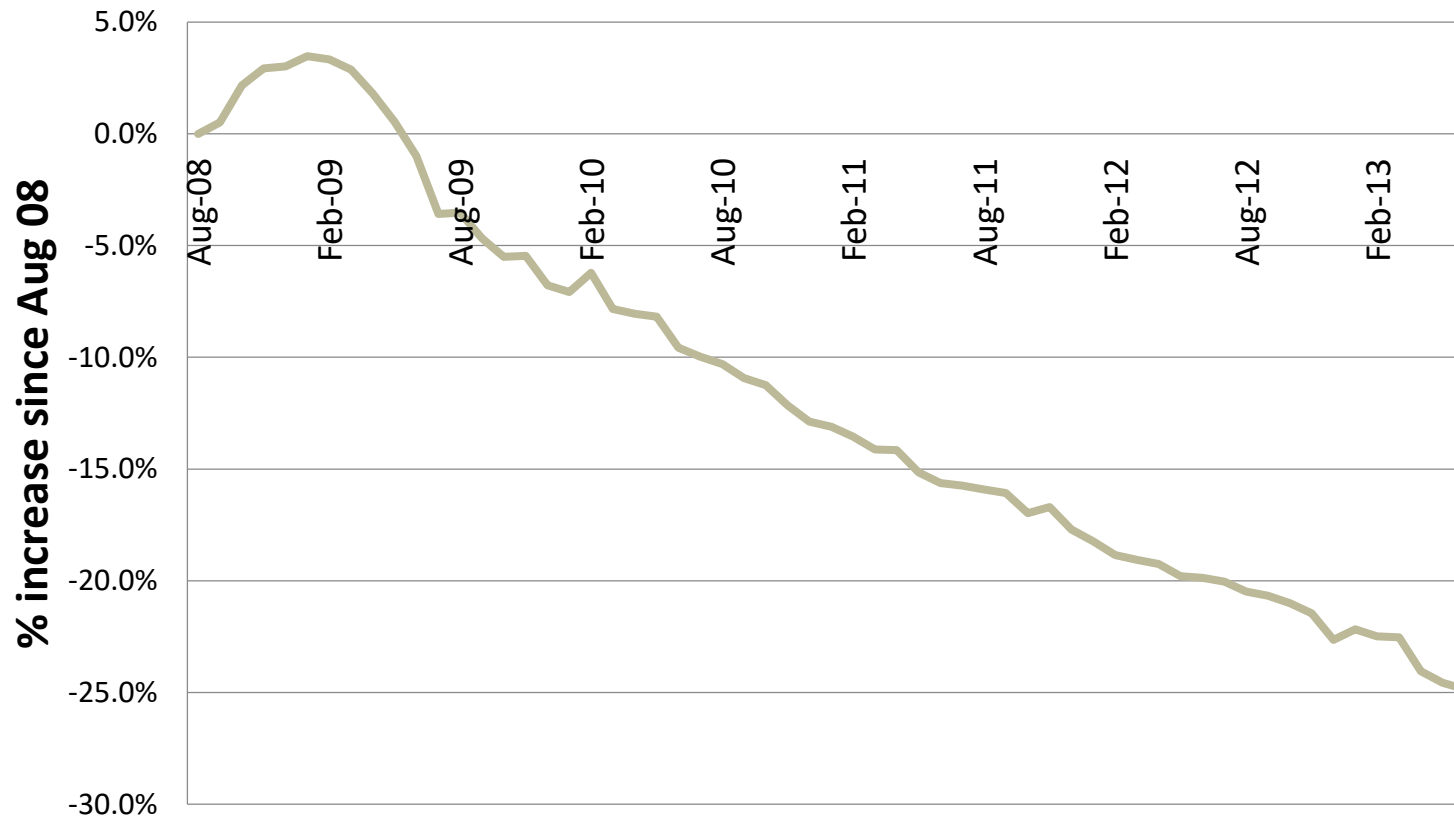
Economic resilience: 'no more boom and bust'?

German bank lending to domestic enterprises and self-employed



Economic resilience: the UK's Achilles heel?

Total UK bank lending to non-financial corporates



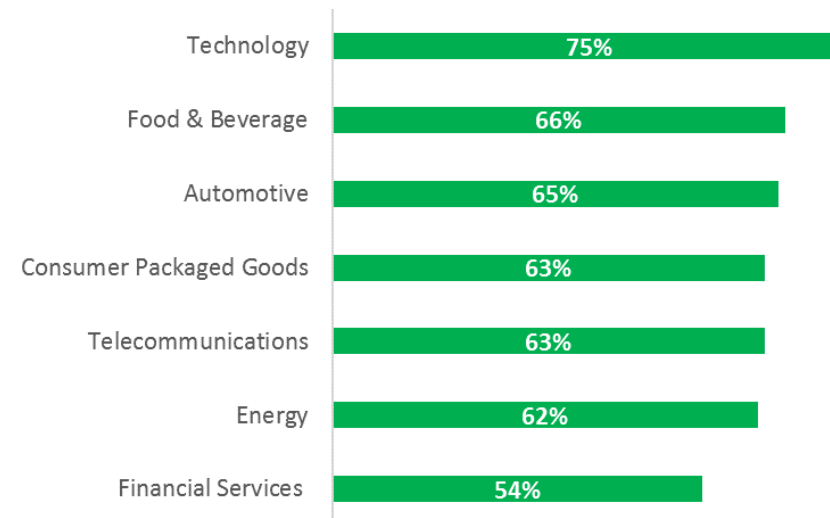
SWM is committed to the region. We won't chase the booms so we are still there during the busts.

Restoring trust in banking

- Our customers are our shareholders
- We will not engage in financial trading and speculation
- No bonuses or sales incentives paid to staff
- Living wage employer
- Maximum 10x pay ratio
- Board directly accountable to customers
- One member one vote
- Simple, honest and transparent charging structure
- No pressure to cross-sell financial products

Page 44

Edelman Trust Barometer
2017 Results

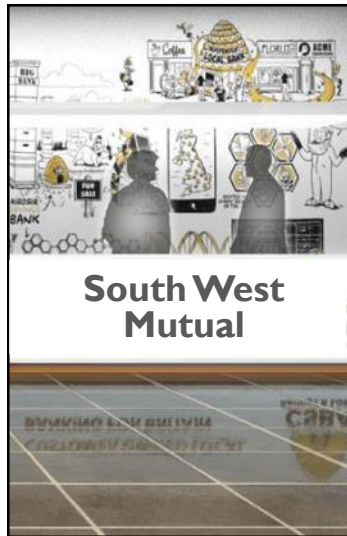


Do you trust your bank?	TRUST
Keeping my money safe	48%
Protecting my personal and financial information	43%
Providing me with truly unbiased advice suited to my needs	25%
Telling me if there is a better product for my needs/ situation even it means less money for them	21%

Source: EY Global bank survey 2016: Without it you're just another bank

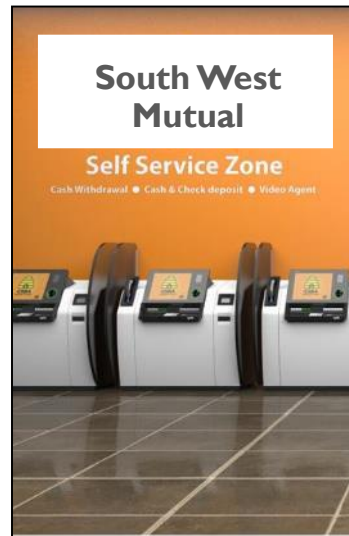
Full range of services competing with high street banks

Local HQ



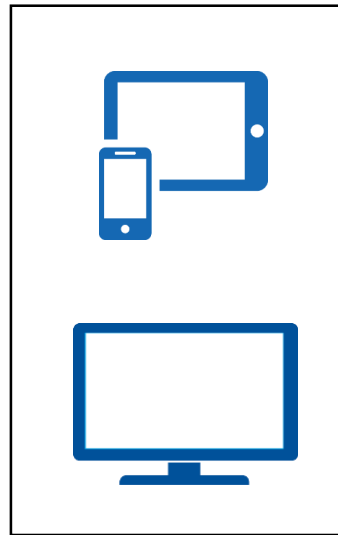
Sub-regional hub
with staff and
Branch Director.
Safety deposit boxes.

Satellite branches



24/7 video linked
full service
automated branch.
Some staffed times

Digital channels



Online and
app.

Current accounts



Fixed, transparent and
simple membership fee:

Personal: £5 pcm
Organisation: £10 pcm

- Expense analysis
- 'Jam jar' functionality
- Interest on whole balance
- Additional member benefits tbc

Why a monthly charge? Free banking does not exist

- Free-if-in-credit (FIIC) accounts are NOT free
- 90% of customers with FIIC accounts effectively pay charges
- Our model simple, transparent and honest
- Allows us to be inclusive
- and to maintain branch access
- Better value for money for many customers

"I do not advocate the ending of free-if-in credit banking. Why? Because there is no such thing to start with, so it cannot be abolished as such."

Nothing in life is free
– sorry to disappoint."

Andrew Bailey, Chief Executive FCA
29th June 2017



Bank	SWM	Lloyds	NW
		Classic	Select
Monthly membership fee	(5.00)	-	-
Interest on £1,000 in current a/c	1.22	-	-
Interest on £4,000 in current a/c	4.88	-	-
Cost of £500 overdraft for 15 days	(1.94)	(10.65)	(9.74)

- 44% of Free-If-In-Credit accounts attract overdraft charges
- 80% of consumers do not know what their overdraft charges are
- £2.9 billion paid in overdraft fees in 2014
- £4.3 billion interest foregone in 2014

Community Savings Bank Association

- Highly experienced Board
- 'Bank in a box' service
- 18 regional banks
- Test and training facility



Investment in Shares of South West Mutual

Page 48

RETURNS	Financial	<p>Dividend of 7.5% by year 6</p> <p>Growing dividend yield as profits rise</p> <p>Moderate share price growth over the medium term</p>
	Economic	<p>Supporting local enterprises, business rates and employment</p> <p>Boosting economic resilience during recessions, protecting jobs and incomes</p> <p>Inclusive growth: spreading opportunities for locally driven business and employment</p> <p>Recycling more spending and savings back into the Devon economy</p>
	Social & environmental	<p>Tackling financial exclusion and problem debt</p> <p>Improving financial capability and wellbeing</p> <p>Restoring trust and building civic participation</p> <p>Improved environmental and social performance</p>
EXIT ROUTE		<p>Trade with approx. 90,000 members projected by year 9 on a share trading platform</p>

This is not investment advice; it is non-binding and it is subject to T&Cs that are to be agreed separately

Strategic alignment



<p>We will focus on:</p> <ul style="list-style-type: none">✓ Bringing new businesses into the District✓ Business development and growth✓ Improving and generating our town centres✓ Growing the tourism sector	<p>We will focus on:</p> <ul style="list-style-type: none">✓ Building more council houses✓ Facilitating the housing growth that Mid Devon needs, including affordable homes✓ Planning and enhancing the built environment	<p>We will focus on:</p> <ul style="list-style-type: none">✓ Working with local communities to encourage them to support themselves✓ Working with town and parish councils✓ Promoting physical activity, health and wellbeing	<p>We will focus on:</p> <ul style="list-style-type: none">✓ Increasing recycling and reducing the amount of waste✓ Reducing our carbon footprint✓ Protecting the natural environment
--	--	--	--

Local authority investment

Guidance from Arlingclose (Treasury Advisors)

Local Government Act 2003

“Investments made by local authorities can be classified into one of two main categories:

- Investments held for treasury management purposes; and
- Other investments”

“Local authorities should disclose the contribution that all **other investments** make towards the **service delivery objectives** and/or **place making role** of that local authority.”

Localism Act 2011

The general power of competence allows local authorities in England to do “**anything that individuals generally may do**”

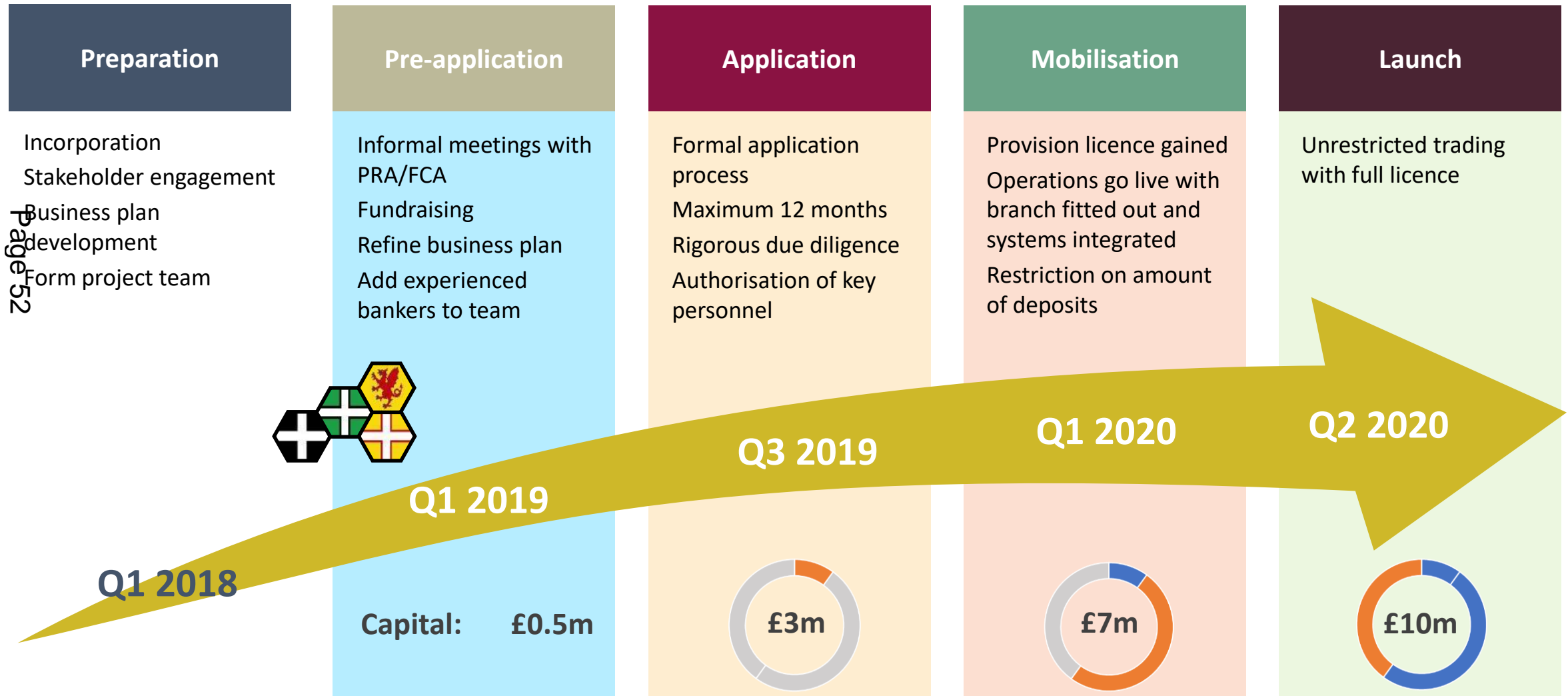
Local authority investment - precedents

Page 51

Bank	Authority	Notes
South West Mutual	West Devon Borough Council - £50k	Approved on 4 Dec 18
	South Ham DC - £50k	Approved on 5 Dec 18
Hampshire Community Bank (Note 1)	Portsmouth BC - £5m Winchester - £250k Test Valley - £500k	Capex funded by unsupported Prudential Borrowing / Capital receipts reserve. 'Spend to save' project. Economic development powers / general power of competence in S1 Localism Act 2011
Cambridge and Counties Bank	Cambridgeshire Local Government Pension Scheme	£8m in deferred shares for 50% 50:50 with Trinity College Cambridge
Cambridgeshire Building Society		£15 million core capital deferred shares carrying only 1 vote
Redwood Bank	Warrington BC £30m	Bank will open a northern regional office in Warrington. Shortlisted in 'Innovation in Finance' category of 2017 MJ Local Government Achievement Awards

Note 1 – Hampshire Community Bank is not part of the CSBA network and has not been licensed yet. It is possible that the regulators consider it to be too small scale as a stand alone bank.

Timeline for banking licence and launch



In conclusion...

Page 53



South West Mutual

www.southwestmutual.co.uk

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 4 April 2019 at 2.15 pm

Present

Councillors

C J Eginton (Leader)
R J Chesterton, P H D Hare-Scott,
C R Slade and R L Stanley

Apologies

Councillor(s)

Mrs M E Squires

Also Present

Councillor(s)

F W Letch and F J Rosamond

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Jane Lewis (Communications and Engagement Manager), Adrian Welsh (Group Manager for Growth, Economy and Delivery), Catherine Yandle (Group Manager for Performance, Governance and Data Security), John Bodley-Scott (Economic Development Team Leader) and Sally Gabriel (Member Services Manager)

173. APOLOGIES

Apologies were received from Cllr Mrs M E Squires.

174. PUBLIC QUESTION TIME

There were no members of the public present.

175. DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-00-56)

The following interests were declared:

Councillor	Interest	Reason
C R Slade	Personal	Item 8, as Chairman of the Grand Western canal Joint Advisory Committee
C R Slade	Personal	Item 8, as he had been a Member of the Devon and Exeter Rail Project
C R Slade	Personal	Item 15, as Ward Member who attends meetings of the Moorhayes Community

176. MINUTES OF THE PREVIOUS MEETING (00-01-36)

The minutes of the previous meeting were approved as a correct record and signed by the Chairman.

177. ELECTRIC CAR CHARGING POINTS (00-02-25)

Arising from a *report of the Group Manager for Corporate Property and Commercial Assets, the Environment Policy Development Group had recommended that the Council considers the provision of home electric car charging points in all new developments across the district for all new properties.

The Cabinet Member for Housing outlined the contents of the report stating that the report detailed the background in terms of Central Government Policy and incentives for Ultra Low Emission Vehicles (ULEVs) and the types of ULEVs available and targets to 2040. He added that the majority of ULEV car owners recharge their vehicles at their homes overnight and do not make use of public recharging points. Research showed that most of the journeys taken were for short distances within the range of a single charge for the vehicle. There were currently 3 main charging options available and the Council had a rapid charging system at the 3 leisure centres in Mid Devon; site performance statistics were available in the report.

RESOLVED that the recommendation of the PDG be acknowledged and that the Head of Planning, Economy and Regeneration be requested to produce a report outlining how the provision of home electric car charging points in all new developments across the district for all new properties may be achieved through the planning policy process.

(Proposed by Cllr R L Stanley and seconded by Cllr R J Chesterton)

Note: *Report previously circulated, copy attached to minutes.

178. PRIVATE SECTOR HOUSING FEES AND CHARGES 2019/20

Arising from a report of the Group Manager for Public Health and Regulatory Services, the Homes Policy Development Group had made the following recommendations:

- a) The revised fees and charges as set out in Annex 1 be approved.
- b) That Public Health and Regulatory Services be authorised to enforce The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016.
- c) That a charge is made for providing copies of the Mandatory HMO Licensing Public Register when requested.

The Cabinet Member for Housing outlined the contents of the report stating that Private Sector Housing had a duty to ensure that private accommodation met minimum standards. In particular there were regulations for the licensing, management and use of houses in multiple occupation (HMO), carbon monoxide detectors and smoke alarms, and hazards within the home. All enforcement activities and relevant fees and charges within the report were set out in compliance with the legislation and the Public Health Services Enforcement Policy adopted in August 2016 and the draft Operations Directorate Enforcement Policy 2019. He explained the changes to the fees and charges outlined in annex 1 of the report and the penalties for Housing Act offences.

Consideration was given to how offences would be enforced.

RESOLVED that the recommendations of the Policy Development Group be approved.

(Proposed by Cllr R L Stanley and seconded by Cllr C R Slade)

Note: *Report previously circulated, copy attached to minutes.

179. **HOUSING ASSISTANCE POLICY, DEVON WIDE (00-13-03)**

Arising from a report of the Group Manager for Public Health and Regulatory Services, the Homes Policy Development Group had recommended that:

- a) The revised Housing Assistance Policy 2019-22 attached in Annex 1 be approved.
- b) The ECO Flex Statement of Intent (SOI) attached in Annex 4 associated with the revised Housing Assistance Policy be approved.
- c) Delegated authority be given to the Group Manager for Public Health and Regulatory Services in consultation with the Cabinet Member for Housing to make minor adjustments to the policy based on demand and local priorities.
- d) Delegated authority be given to the Group Manager for Public Health and Regulatory Services in consultation with the Cabinet Member for Housing to suspend some or all non-mandatory parts of the revised Housing Assistance Policy attached in Annex 1 (all elements of the Policy other than section 4.1 Disabled Facilities Grants) if adequate funding is not available.

The Cabinet Member for Housing outlined the contents of the report stating that the Better Care Fund intentionally provided more funding to Devon than was currently required to meet the demand for mandatory Disabled Facility Grants only. A wider policy was required to allow the Devon councils to spend the Better Care Fund on assistance that helped a wider range of households and met the broader Better Care Fund objectives.

The policy agreed in February 2018 substantially updated and replaced the previous Mid Devon Private Sector Housing Renewal Policy adopted in 2012. The Policy presented had been updated based on the experience of delivering the new policy over the past year.

In addition there had been changes to the ECO flex fund and therefore this needed to be reflected in the statement of intent (SOI). The SOI was a mandatory requirement setting out the specific terms for accessing the funding locally. This would allow the Council to continue to provide assistance to local residents to improve the energy efficiency of their homes and reduce their fuel bills. He outlined the main scope of the policy and the assistance contained within the policy.

RESOLVED that the recommendations of the Policy Development Group be approved.

(Proposed by Cllr R L Stanley and seconded by Cllr P H D Hare Scott)

Note: *Report previously circulated, copy attached to minutes.

180. **GRAND WESTERN CANAL & EXE RAIL PARTNERSHIP (00-16-57)**

Arising from a report of the Group Manager for Growth, Economy and Delivery, the Economy Policy Development Group had made the following recommendations:

- a) That the contribution to the Devon & Exeter Rail Project be reviewed following formation of a new Rail Forum.
- b) That the Council continues to offer an annual grant of £45,000 for 2019/20 to the Grand Western Canal to support its maintenance.
- c) That an assessment be undertaken, in liaison with Devon County Council, prior to the financial year 2020/21 to inform decision making with regard to the level of future grant support for the Canal.

The Leader read an email from the Chairman of Holcombe Rogus Parish Council which highlighted the original funding arrangements and joint obligations for the Grand Western Canal.

The Cabinet Member for Planning and Economic Regeneration referring to the Devon and Exeter Rail Project stated that following changes to personnel, DCC had decided that it could no longer administer the group and it was decided to change the working group into a forum aligned to the Devon and Cornwall Rail Partnership with wider community involvement. The District Council had been contributing £3,500 annually to the Devon & Exeter Rail Project for a number of years, however, with the change of structure it seemed appropriate to review future funding arrangements.

With regard to the Grand Western Canal, he reported that the Council currently provided £45k as an annual grant towards the running of the canal which was well received by the County Council. He highlighted the breach incident in 2012 and the resolution of Council to offer a contribution towards the emergency works; however, the money had not been drawn down. With regard to the email from the Chairman of Holcombe Rogus Parish Council, at no stage had the County Council complained about the current level of funding and were happy to take part in the review

Consideration was given to the level of funding and the process for review.

RESOLVED that the recommendations of the Policy Development Group be approved.

(Proposed by Cllr R J Chesterton and seconded by Cllr C R Slade)

Notes:

- i) Cllr C R Slade declared a personal interest as Chairman of the Grand Western Canal Joint Advisory Committee and he had been a member of the Devon and Exeter Rail Project;
- ii) *Report previously circulated, copy attached to minutes.

181. **ENVIRONMENTAL HEALTH FEES AND CHARGES 2019/20 (00-24-14)**

Arising from a report of the Group Manager for Public Health and Regulatory Services, the Community Policy Development Group had made the following recommendations: to approve the Environmental Health Fees and Charges for 2019/2020 and that the missed appointment charge to be in line with the missed appointment charge within the extant Housing Policy used by the Building and Housing Services.

The Cabinet Member for Community Well-Being outlined the contents of the report stating that a review of fees and charges was necessary to offset or cover the costs incurred by the authority in carrying out its duties. He highlighted the current and proposed charges in respect of the environmental health functions along with the statutory and discretionary services provided and explained that a benchmarking exercise had taken place with other local authorities details of which were available at annex 2 of the report.

Consideration was given to the range of services and the proposed charges.

RESOLVED that the recommendation of the Policy Development Group be approved.

(Proposed by Cllr C R Slade and seconded by Cllr R L Stanley)

Note: *Report previously circulated, copy attached to minutes.

182. **OPERATIONS DIRECTORATE ENFORCEMENT POLICY (00-29-22)**

Arising from a report of the Group Manager for Public Health and Regulatory Services, a joint meeting of the Community, Environment and Homes Policy Development Groups had made the following recommendation: that Cabinet recommend to Full Council that the Operations Directorate Enforcement Policy be approved.

The Cabinet Member for Community Well-Being outlined the contents of the report stating the Operations Directorate was responsible for several different enforcement functions across a number of services and teams; that of Public Health and Regulatory Services, Housing Services and Street Scene. The policy was very much

a reference guide for officers and decision makers and the appendices to the report contained the details of how each area across the Directorate would comply with relevant information.

RECOMMENDED to Council that the recommendation of the Policy Development Groups be approved.

(Proposed by Cllr C R Slade and seconded by Cllr R J Chesterton)

Note: *Report previously circulated, copy attached to minutes.

183. **FINANCIAL MONITORING (00-31-20)**

The Cabinet Member for Finance provided a verbal report stating that the authority was £11k adrift of balancing the budget, this he felt was a tremendous achievement in a £40 million business. The improvement in the budget gap had been identified as repairs to a leisure centre being delayed and staff vacancies within Revenues and Benefits. He reported that the Housing Revenue Account was underspent and that rent arrears were better than last year despite the introduction of Universal Credit. There was no overspend on the Capital Programme but some slippage in the programme would occur.

184. **PERFORMANCE AND RISK (00-33-05)**

The Cabinet had before it and **NOTED** a * report of the Director of Corporate Affairs and Business Transformation providing Members with an update on the performance against the Corporate Plan and local service targets.

The Group Manager for Performance, Governance and Data Security outlined the contents of the report and took the Cabinet through each of the appendices.

Consideration was given to:

- The Homes Portfolio and Corporate Plan aim to build more council houses, the 4 units at Birchen Lane were complete, the 6 units at Burlescombe were almost complete and the handover of the 26 dwellings at Palmerston Park would take place on completion.
- The occupancy rate at Market Walk and empty units.

Note: * Report previously circulated, copy attached to minutes.

185. **NOTIFICATION OF KEY DECISIONS (00-39-07)**

The Cabinet had before it, and **NOTED**, its rolling plan * for May 2019 containing future key decisions.

Note: *Plan previously circulated, copy attached to minutes.

186. ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (00-39-27)

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Cabinet decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

187. MOORHAYES COMMUNITY CENTRE, TIVERTON

The Cabinet had before it a report * of the Group Manager for Corporate Property and Commercial Assets outlining options for the disposal of an asset.

The Cabinet Member for Housing outlined the contents of the report and a full discussion took place.

Returning to open session the Cabinet:

RESOLVED that the recommendations outlined in the report be approved.

(Proposed by Cllr R L Stanley and seconded by Cllr C R Slade)

Notes

- i) Cllr C R Slade declared a personal interest as he attended meetings of the association as Ward Member;
- ii) *Report previously circulated.

188. RETIRING MEMBERS

The Leader addressed the meeting taking the opportunity to thank Cllr P H D Hare Scott who was due to retire at the next election for his contribution and commitment to the Council over 12 years which included 6 years as Leader of the Council.

He also thanked Cllr F J Rosamond (current Chairman of the Scrutiny Committee) who was also retiring after 20 years service for his commitment and contribution to the work of the Council.

(The meeting ended at 3.15 pm)

CHAIRMAN

JOINT COMMUNITY, ENVIROMMENT AND HOMES PDG REPORT

15 MARCH 2019

OPERATIONS DIRECTORATE ENFORCEMENT POLICY

Cabinet Members: Cllrs Clive Eginton, Colin Slade, Margaret Squires and Ray Stanley

Responsible Officer: Simon Newcombe, Group Manager for Public Health and Regulatory Services

Reason for Report: To provide Members with the updated Operations Directorate Enforcement Policy PH/EP/01/19. This policy was formerly the Public Health Services Enforcement Policy PH/EP/02/16 adopted in August 2016. The policy was due for review and has been expanded to encompass the remaining enforcement functions in the Operations Directorate within Housing Services and Street Scene Services.

RECOMMENDATION(S): That Cabinet recommends to full Council that the updated Operations Directorate Enforcement Policy attached in Annex 1 be approved.

Relationship to Corporate Plan: As a regulatory authority, enforcement activities are matters which overarch the Corporate Plan .

Financial Implications: There are no direct financial implications arising from adopting this policy other than to specify circumstances where the Operations Directorate is able to charge for enforcement actions (cost recovery). However, poorly managed enforcement and failure of legal proceedings can result in resources being used wasted and costs being awarded against the Council.

Legal Implications: If we do not have an appropriate enforcement policy in place for the statutory functions of the services within the Directorate we may not meet the relevant legal requirements that are our duty as a regulatory authority. Specifically, as set out in the Regulators' Code 2014 (Department of Business Innovation and Skills – now Department for Business, Energy and Industrial Strategy), the Code of Practice Powers of Entry 2014 (Home Office) and the provisions outlined in the Legislative and Regulatory Reform Act 2006 and the Regulatory and Enforcement Sanctions Act 2008.

Risk Assessment: Having an adequate policy in place is essential to meet the legal requirements set out above and the principles of good enforcement. It also serves to inform officers and decision-makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation.

Not having an adequate policy therefore undermines the principles of good enforcement, can impact upon legal proceedings and may ultimately result in a failure to protect the public from harm.

Equality Impact Assessment: A full assessment is not necessary for this report. This policy has however been reviewed in accordance with the requirements of the Equality Act 2010. That review indicates the policy complies with the public sector Equality Duty. This is underpinned by virtue of the policy seeking to ensure the overarching principles of good enforcement are met as set out in section 1.1 and 1.2 of the policy and that all our enforcement activities are carried out in a fair, consistent and equitable manner irrespective of the otherwise protected characteristics of individuals subject to enforcement and regulatory action. More information is also provided in Section 3.0 of this report.

The policy does recognise there may be circumstances where alternative enforcement actions including no action are undertaken due to the vulnerability of the persons involved which may include a mental or physical disability. In these situations, any deviation from a standard policy approach will be considered on a case by case assessment in conjunction with available information provided by the individuals concerned and from any professional clinicians or therapists directly involved. Where appropriate this information will be included in the case merit test as set out in Section 5.17 of the policy.

1.0 Introduction

- 1.1 The purpose of this policy is to ensure compliance with Regulators' Code and the principles of good enforcement. It also serves to inform investigating officers and decision-makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation.
- 1.2 The target audience of this policy is investigating officers and decision-makers and service or Group Managers, Leadership Team, Cabinet, Legal Services and any person, organisation, company or business affected by regulatory action by the Operations Directorate. This includes Public Health and Regulatory Services, Housing Services and Street Scene Services.
- 1.3 The Operations Directorate is responsible for several different broad enforcement functions across a number of services and teams:

Public Health and Regulatory Services

- **Licensing** (hackney carriage and private hire drivers, vehicles and operators, alcohol sales, entertainments, temporary events/festivals, gambling, charity collections, animal establishments, caravan sites, scrap metal dealers, sex establishments and skin piercing/tattooists)
- **Environmental Health** (food safety, health and safety, private water supplies, communicable disease control, environmental permitting, air/land quality, noise and other statutory nuisances, pest control, filthy premises and drainage)
- **Private Sector Housing** (private sector housing conditions/fitness and renewal, rogue landlords, empty homes and houses in multiple occupation)

- **Anti-social behaviour** (closure orders, civil injunctions, community protection notices and public protection orders)

Housing Services

- **Tenancy breaches** (tenancy breaches within the Council's own housing stock, anti-social or disruptive behaviour by tenants, evictions and possession)
- **General tenancy management** (including provisions to undertake mandatory inspections and safety checks)
- **Unlawful occupation** (illegal squatting and unlawful subletting)

Street Scene Services

- **Fly-tipping and littering** (illegal dumping of waste, littering, dog fouling and fixed penalty notices)
- **Civil parking** (off-street parking enforcement in Mid Devon District Council's car parks)

- 1.4 This brings together the core work and functions of this authority that improve the safety and health of the residents, visitors and workers in Mid Devon. As a consequence we are often dealing with the most vulnerable persons in need of support and protection. Enforcement actions therefore must be timely, effective and well-managed.
- 1.5 Each area of work uses different legislation to ensure compliance and each has its own extensive body of regulations, codes of practice and guidance. The majority of our duties and powers are set out under criminal legislation, however there are a number of areas covered by civil legislation (i.e. an offence under this legislation is not a criminal offence). Ultimately therefore, we may take action through the criminal and civil courts or engage with other tribunals or formal hearings. The exact nature of procedures used in each circumstance will vary and cannot be set out in full within this policy and will be applied as relevant on a case-by-case basis.
- 1.6 In addition to dealing with the impacts of the activities of private individuals, the Directorate is working with many of our local commercial organisations and traders. Good enforcement policy and approaches should ensure this is done in a way which provides a level playing field in terms of regulation/regulatory burden and supports economic growth in addition to the principles of Better Business for All (BBfA).
- 1.7 BBfA brings together businesses and regulators to consider and change how local regulation is delivered and received. It involves the creation of local partnerships to identify the issues facing local businesses and shape the provision of effective support services to them. It was initially developed by Better Regulation Delivery Office (BRDO) which is now the Regulatory Delivery team at the Dept. for Business Innovation and Skills. More information is available in section 2.15 of the policy or at

- 1.8 With united core aims but such a broad range of individual functions the unit comes under a number of cabinet and corporate priority areas including Environment, Community Well-Being and Homes in addition to Licensing and Regulatory committees.
- 1.9 Overall, the functions undertaken by the Operations Directorate assist the Council in achieving its ambition by contributing towards several priority outcomes including the health and resilience of our residents, growth of the economy and fairness. It strives to accomplish this by undertaking its duties in a fair, consistent and equitable manner by requiring individuals, organisations and businesses to fulfil their legal responsibilities. It will achieve this using a combination of education, informal advice and regulation.

2.0 What is regulatory and enforcement activity?

- 2.1 'Regulatory' encompasses the Council's numerous powers and duties enabling the behaviour of individuals and/or organisations to be controlled in the public interest.
- 2.2 'Enforcement' includes any action carried out in the exercise of, or against the background of, statutory powers and duties of regulation. This is not limited to formal enforcement action such as prosecution in the criminal Courts or the giving of Notices. It also includes, among other things, the inspection of premises for the purpose of checking compliance with regulations or conditions, the imposition of conditions on any licence, consent or similar formal permission, the issue of fixed penalty notices, the giving of Home Office cautions and the making of applications to the Courts for Orders to control the conduct of individuals and/or organisations, possession proceedings, demoted tenancy proceedings and closure orders
- 2.2 These actions cover the full hierarchy of options available, ranging from education and informal advice through to statutory notices and works in default, fixed penalty notices, seizure of goods and formal cautions. Ultimately this also includes prosecution for criminal offences. This may require evidence gathering which involves the seizure of information/documentation, overt and covert monitoring and sampling involving a wide range of media.
- 2.3 Whilst the general principles outlined in the policy will apply in all cases it must be recognised that each individual case will vary and each must be considered on its own merits before a decision is reached. Any significant deviations from the published policy must still meet statutory requirements and the reasons/justification documented.

3.0 Principles of good enforcement and the Regulators' Code

- 3.1 This policy seeks to ensure that the application of any enforcement is undertaken in accordance with key over-arching principles and therefore is:
- transparent and accountable;

- proportionate;
 - targeted;
 - consistent in approach; and
 - appropriate.
- 3.2 Further to these principles, that enforcement has regard to the provisions of the Regulators' Code, in that it:
- supports those we regulate to comply and grow;
 - provides for straightforward way for those we regulate to engage with us;
 - recognises that we base our regulatory activities on risk;
 - that we share information about compliance and risk;
 - information, guidance and advice is made available or signposted to help those we regulate to meet their responsibilities to comply; and
 - sets out our approach to transparent service standards, the provision of information and checks on compliance

More information on how we set out to achieve this is contained in Section 2 of the Policy.

4.0 Policy review and update

- 4.1 The review of this policy was subject to a business case and Project Initiation Document (PID) approved by Group Management Team and Operations Director in September 2018. The review and drafting process was contained in more detail in the PID. Nonetheless, in summary the policy was developed as follows:

- initial update and practice review by the Group Manager for Public Health and Regulatory Services including key learning points from recent evidence, procedure/best practice and case review training (Advanced Certificate of Professional Investigative Practice – APCIP)
- a multi-stage process of review and edit with all the relevant service team leads including Housing and Street Scene
- incorporation of key learning points from the recent RIPA training completed by senior managers and Leadership Team
- final draft line by line legal review by Legal Services.
- review by Director of Operations

5.0 What is new in this policy?

- 5.1 Overall, the policy recognises and formalises changes in enforcement practice in the two-years plus since the previous policy was drafted and adopted, in line with the regulatory framework outlined above. In doing so it provides a comprehensive overview of the following areas:

- compliance with the principles of good enforcement
- links and relationship with Better Business for All
- updated enforcement options and hierarchy including cautions

- revised Evidential and Public Interest Tests
- Proceeds of Crime
- use of powers of entry
- surveillance in light of changes to RIPA (Regulation of Investigatory Powers Act 2000) powers
- updated guidance on the use of Covert Human Intelligence Sources
- use of open source research (e.g. web, social media and information networks)
- charging for enforcement actions including recent case law
- policy implementation, monitoring and review
- civil sanctions and enforcement in a social housing context (Council housing tenants and Housing Services)
- littering and fly-tipping powers (Street Scene Services)
- new Private Sector Housing powers in respect of rogue landlords and Houses in Multiple Occupation
- new Financial (Civil) Penalties
- merit and legal tests for prosecution or alternatives to prosecution
- publicity and information requests connected to enforcement actions

5.2 The policy also reflects updated management structures and responsibilities including relevant Group Managers.

5.3 Sections 1 – 8 inclusive of the document form the key adopted policy. These contain all the common or generic over-arching policy approaches as will be relevant across most or all the statutory functions across the Operations Directorate.

5.4 The policy also contains separate appendices A-M which are supplementary enforcement policies containing more detailed and largely function specific information. These are designed to be updated and revised more easily without requiring formal re-adoption of the overarching policy. Nonetheless, the full policy will be reviewed every two-years and as required in light of any major changes to legislation or statutory guidance.

5.5 The main policy and appendices do not work in isolation. As set out, the document links to a number of other policies and guidelines that apply. This includes how the policy works in conjunction with other relevant government guidance from authoritative bodies e.g. Health & Safety Executive, Environment Agency and Food Standards Agency. It also links to corporate policies covering areas such as conflict of interest and bribery. Finally, the policy contains essential links with function specific policies, for example those adopted as the Licensing Authority.

6.0 Summary

6.1 The policy is needed to ensure we are continuing to meet our legal requirements and carrying out our enforcement activities in a fair, transparent, equitable and effective manner.

6.2 This policy brings together the enforcement policy for the wide range of enforcement functions within the Operations Directorate. In doing so, it sets out the enforcement approach and framework for all the enforcement activities

of the Council with the exception of Planning enforcement and debt recovery.

- 6.3 All enforcement procedure and practice must therefore be developed, reviewed and ultimately take into account matters set out in this policy in addition to relevant function or activity specific legislation and statutory guidance.

Contact for more Information:

Simon Newcombe, Group Manager for Public Health and Regulatory Services,
01884 244615 or snewcombe@middevon.gov.uk)

Circulation of the Report:

Cabinet Members for Environment (Cllr Clive Eginton), Working Environment & Support Services/Public Health (Cllr Margaret Squires), Community Well-Being and Licensing (Cllr Colin Slade) and Housing (Cllr Ray Stanley)
Leadership Team
Operations Director
Group Manager for Street Scene and Open Spaces
Group Manager for Housing Services
Group Manager for Legal Services and Monitoring Officer
Group Manager for Performance and Governance
Members of Licensing and Regulatory Committees
Members of Community, Homes and Environment Policy Development Groups

List of background papers:

Regulators' Code 2014 (Department of Business Innovation and Skills),

Code of Practice Powers of Entry 2014 (Home Office)

Legislative and Regulatory Reform Act 2006

Regulatory and Enforcement Sanctions Act 2008.

All documents are available at <https://www.gov.uk/>.

Annex 1 – Operations Directorate Enforcement Policy (attached separately)

This page is intentionally left blank

Mid Devon District Council

Operations Directorate

ENFORCEMENT POLICY

Policy Number: PH/EP/01/19

Target audience:

Investigating Officers and Decision-Makers, Leadership Team, Cabinet, Legal Services and any person, organisation, company or business affected by regulatory action by the Operations Directorate. This includes Public Health and Regulatory Services, Street Scene Services and Housing Services

February 2019

Version Control Sheet

*Title: Operations Directorate Services Enforcement Policy
(Formerly Public Health Services Enforcement Policy PH/EP/02/16 August 2016)*

Purpose: The purpose of this policy is to ensure compliance with Regulators' Code and the principles of good enforcement. It also serves to inform investigating officers and decision-makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation.

Owner: **Group Manager for Public Health and Regulatory Services**
snewcombe@middevon.gov.uk
Telephone number 01884 244615

Date: **February 2019**

Version Number: 2.2

Status: Final

Review Frequency: **Every 10 years or sooner if required**

Next review date: **February 2029**

Consultation **This document was produced in consultation with the following:**

Public Health and Regulatory Service team leads
Street Scene Services
Housing Services
Director of Operations
Leadership Team
Legal Services

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Head of Service	20/06/16	1.0
Management Team	28/06/16	1.0
Community Well-Being PDG	08/07/16	1.0
Decent and Affordable Homes PDG	08/07/16	1.0
Licensing and Regulatory Committees	18/07/16	1.0
Cabinet	04/08/16	1.0 (with addendum)
Council	31/08/16	1.1
Updated draft following formal review	06/12/18	2.0
Updated final draft following legal review	22/01/19	2.1
Updated final report following Leadership Team review	13/02/19	2.2

CONTENTS

PREFACE	4
1.0 INTRODUCTION	6
2.0 GENERAL PRINCIPLES AND STATEMENT OF INTENT	8
3.0 CHARGING FOR ENFORCEMENT ACTIONS	10
4.0 COMPLIANCE WITH THE PRINCIPLES OF GOOD ENFORCEMENT	11
4.1 Transparency	11
4.2 Accountability	11
4.3 Proportionality	11
4.4 Consistency	11
4.5 Targeting	12
4.6 Helpfulness	12
5.0 ENFORCEMENT OPTIONS AND FACTORS	14
5.1 Factors to be considered	14
5.2 No action	15
5.3 Informal action	15
5.4 Information Notices	15
5.5 Other Statutory Notices	15
5.6 Fixed Penalty Notices	16
5.7 Civil Fixed Penalty Notices	17
5.8 Prohibition Notices and Orders	17
5.9 Injunctions	17
5.10 Seizure of Goods, Equipment, Food, Articles or Records	17
5.11 Work in default	17
5.12 Management Orders	18
5.13 Compulsory Purchase Orders	18
5.14 Premises Licence Review	18
5.15 Simple Caution	19
5.16 Evidential and Public Interest Tests	20
5.17 Prosecution	20
5.18 Financial (Civil) Penalties	23
5.19 Proceeds of Crime Applications	24
5.20 Multi-agency approaches to enforcement	24
6.0 INVESTIGATIONS	25
6.1 Access and Powers of Entry	25
6.2 Notifying alleged perpetrators / offenders	25
6.3 Liaison with and referrals to other regulatory bodies and enforcement agencies	26
6.4 Surveillance and Human Sources: Human Rights Act 1998, Regulation of Investigatory Powers Act (RIPA) 2000 – Basis for Lawful Surveillance	26
6.5 Enforcement on Council premises or at events organised by the Council	28
7.0 IMPLEMENTATION, MONITORING AND REVIEW	30
7.1 Implementation and monitoring	30
7.2 Conflicts of interest and bribery	30
7.3 Complaints about service	30
7.4 Policy review	30
8.0 PUBLICITY AND INFORMATION REQUESTS	31
APPENDICES OF SUPPLEMENTARY ENFORCEMENT POLICY ISSUES	32

PREFACE

The Operations Directorate is responsible for several different broad enforcement functions across a number of services and teams:

Public Health and Regulatory Services

- **Licensing** (hackney carriage and private hire drivers, vehicles and operators, alcohol sales, entertainments, temporary events/festivals, gambling, charity collections, animal establishments, caravan sites, scrap metal dealers, sex establishments and skin piercing/tattooists)
- **Environmental Health** (food safety, health and safety, private water supplies, communicable disease control, environmental permitting, air/land quality, noise and other statutory nuisances, pest control, filthy premises and drainage)
- **Private Sector Housing** (private sector housing conditions/fitness and renewal, rogue landlords, empty homes and houses in multiple occupation)
- **Anti-social behaviour** (closure orders, civil injunctions, community protection notices and public protection orders)

Housing Services

- **Tenancy breaches** (tenancy breaches within the Council's own housing stock, anti-social or disruptive behaviour by tenants, evictions and possession)
- **General tenancy management** (including provisions to undertake mandatory inspections and safety checks)
- **Unlawful occupation** (illegal squatting and unlawful subletting)

Street Scene Services

- **Fly-tipping and littering** (illegal dumping of waste, littering, dog fouling and fixed penalty notices)
- **Civil parking** (off-street parking enforcement in Mid Devon District Council's car parks)

Each area of work uses different legislation to ensure compliance and each has its own extensive body of regulations, codes of practice and guidance. The majority of our duties and powers are set out under criminal legislation, however there are a number of areas covered by civil legislation (i.e. an offence under this legislation is not a criminal offence). We therefore ultimately may take action through the criminal and civil courts or engage with other tribunals or formal hearings. The exact nature of procedures used in each circumstance will vary and cannot be set out in full within this policy and will be applied as relevant on a case-by-case basis.

The functions undertaken by this Directorate assist the Council in achieving its ambition by contributing towards several priority outcomes including the health and resilience of our residents, growth of the economy and fairness. It strives to accomplish this by undertaking

its duties in a fair, consistent and equitable manner by requiring individuals, organisations and businesses to fulfil their legal responsibilities. It will achieve this using a combination of education, informal advice and regulation.

This policy details our approach to the use of our enforcement powers, whether that is criminal prosecution at one end of the spectrum or informal warnings and advice at the other. It also gives clarity as to how the unit will achieve compliance by setting out options and the criteria used to determine the most appropriate, effective and efficient response to breaches of legislation.

The purpose of this policy is also to ensure compliance with legal requirements and the principles of good enforcement. It also serves to inform investigating officers and decision-makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation. The policy cannot be absolutely prescriptive because the circumstances of each individual case and the evidence available are likely to vary. However, this policy should leave most readers in little doubt as to what they can expect by way of enforcement.

Particular regard has also been given to the provisions of the Regulators' Code 2014 (Department of Business Innovation and Skills), the Code of Practice Powers of Entry 2014 (Home Office) and the provisions outlined in the Legislative and Regulatory Reform Act 2006 and the Regulatory and Enforcement Sanctions Act 2008. All documents are available at <https://www.gov.uk/>. This new policy document supersedes any previous enforcement policies covering individual functions within the services separately.

In revising this policy we have considered how best we can:

- Understand and minimise negative economic impacts of our activities;
- Minimise the costs of compliance for those we regulate and ourselves as the regulator;
- Improve confidence in compliance for those we regulate; and
- Encourage and promote compliance.

The Housing Service is responsible for the management of the Council's housing stock. Our relationship with our tenants is therefore a contractual one, based on the tenancy agreement and also based on statute. We have a number of relevant policies which set out how we will enforce conditions of tenancy and these have regard to legislative and regulatory obligations as well as to good practice.

1.0 INTRODUCTION

1.1 This policy seeks to ensure that the application of any enforcement is undertaken in accordance with key over-arching principles and therefore is:

- transparent and accountable;
- proportionate;
- targeted;
- consistent in approach; and
- appropriate.

1.2 Further to these principles, that enforcement has regarded to the provisions of the Regulators' Code, in that it:

- supports those we regulate to comply and grow;
- provides for straightforward way for those we regulate to engage with us;
- recognises that we base our regulatory activities on risk;
- that we share information about compliance and risk;
- information, guidance and advice is made available or signposted to help those we regulate to meet their responsibilities to comply; and
- sets out our approach to transparent service standards, the provision of information and checks on compliance

More information on how we achieve this is set out in Section 2.

1.3 Past experience in the enforcement of statute and regulations shows that, in most cases, businesses and individuals comply with the law. Any failure to comply with legislative requirements often stems from ignorance, carelessness, lack of training, lack of effective management control and sometimes, from wilfulness or malice. In a social housing context (Council housing tenants), the reasons for non-compliance may differ and can include vulnerability issues and the service is tailored to meet the needs of tenants.

1.4 This policy must therefore guide all officers who are involved in taking enforcement action, investigating cases, serving notices and recommending or deciding upon the commencement of legal proceedings, when taking tenancy enforcement action or when regulating others.

1.5 What we mean by 'Regulatory' and 'Enforcement':

- 'Regulatory' encompasses the Council's numerous powers and duties enabling the behaviour of individuals and/or organisations to be controlled in the public interest.
- 'Enforcement' includes any action carried out in the exercise of, or against the background of, statutory powers and duties of regulation. This is not limited to formal enforcement action such as prosecution in the criminal Courts or the giving of Notices. It also includes, among other things, the inspection of premises for the purpose of checking compliance with regulations or conditions, the imposition of conditions on any licence, consent or similar formal permission, the issue of fixed penalty notices, the giving of Home Office cautions and the making of applications to the Courts for Orders to control the conduct of individuals and/or organisations, possession proceedings demoted tenancy proceedings closure orders

- 1.6** Whilst the general principles outlined below will apply in all cases it must be recognised that each individual case will vary and each must be considered on its own merits before a decision is reached. In certain instances for example, we may conclude that a provision in the Regulators' code is either not relevant or is outweighed by another provision.
- 1.7** In respect of our tenants, to ensure that any action taken to regain possession of a property is likely to succeed, Officers must be able to demonstrate that the tenant has been given an opportunity to modify their behaviour, that there is evidence to show the history and that the issues are ongoing despite attempts to resolve matters or that the matter is sufficiently serious even though limited to one incident to merit possession proceedings. The outcome sought must be reasonable and proportionate and if, for whatever reason, we decide that the chances of success are small, then we may decide not to proceed.
- 1.8** We will ensure that any decision to depart from the Code or any other of the general principles will be properly reasoned, based on material evidence and documented.

2.0 GENERAL PRINCIPLES OF ENFORCEMENT AND STATEMENT OF INTENT

- 2.1** We will carry out our activities in a way that supports those that we regulate to comply.
- 2.2** Officers will enforce against, or prosecute those who neglect, or wilfully fail, to comply with their legal obligations, where that failure constitutes a risk to the public, a breach of tenancy conditions or where action is required to minimise the risk.
- 2.3** Officers will seek to adopt efficient and effective approaches to regulatory inspection, tenancy management and enforcement, which improve regulatory outcomes, and enable us to deliver our obligations to all local residents and the wider community. The Housing Service has an obligation to provide support to those who may be vulnerable and any action taken will account of this.
- 2.4** The level of enforcement will be proportional to any alleged offence or breach of tenancy committed, consistent in application, (including consistency with other local authorities or enforcement agencies) transparent in its use and appropriate to the circumstances of the particular case in question.
- 2.5** Depending on the seriousness of a situation, the preference will be to enforce with moderation in the first instance, progressing through a graduated response to a tougher stance if offences are repeated. The nature and speed of this graduated response will vary depending on the statutory function/options available and the nature of the offence / tenancy breach. A tougher stance may also be taken for any offences or actions that have resulted in personal injury/harm, wide scale impacts on public health or to protect the vulnerable e.g. sale of alcohol to an underage child, a major food poisoning outbreak, domestic abuse or a family occupied property with Category 1 hazards.
- 2.6** Where it is applicable to our functions, we are also committed to Better Business for All (BBfA). This is a regulators alliance that includes Trading Standards, Environmental Health, Fire & Rescue along with Local Authority Economic Development Teams. It aims to:
- Simplify and rationalise business support in local areas, and ensure that national and local support offers are joined up for businesses.
 - Provide a single access point for business support, bringing together both Government offers and local offers, so businesses get what they need wherever they start their journey.
 - Bringing together public and private sector support, for example that offered by local authorities, universities, chambers of commerce and enterprise agencies.
 - Provides website/telephone/email support/the one door/no wrong door for businesses looking for business support.
 - Start-up workshops/clinics
 - Partnerships/facilitation support, working with national and local delivery partners.
 - FTE business advisors working across innovation centres and rural areas, organising clinics and ensuring join up with other delivery mechanisms.
- 2.7** In participating in this alliance we aim to create a local regulatory environment that helps to support business growth whilst not negating our enforcement responsibilities. The BBfA programme is an established approach to better

regulation. It provides a model for partnership working between businesses and regulators focusing on changing the culture of regulatory delivery at a local level. It encourages all parties to work together and share information to allow local economies to prosper and grow.

- 2.8** We will provide simple and straightforward ways to engage with those we regulate, and those tenants who live in our homes in order to hear their views
- 2.9** Where enforcement is necessary because of ignorance of the law (which is not of course a defence against criminal or civil proceedings), or the rights and responsibilities which derive from our tenancy agreements, rather than wilfulness, officers will give advice and attempt to facilitate the training of those involved, in addition to taking enforcement action. Will we undertake such an approach as far as is reasonable and practicable within the scope of our existing resources.
- 2.10** We believe that prevention is better than cure and therefore our role involves actively working with businesses and individuals to advise on, and assist with compliance. We will make clear not only what they have to do but, where relevant, what they do not. In practice, this means distinguishing between statutory and contractual requirements and advice or guidance about what is desirable but not compulsory, thereby minimising the cost of compliance by requiring proportionate action.
- 2.11** We will target our resources where they will have the greatest effect. We will carry out inspections only where there is a reason for doing so, for example, as a response to intelligence about particular premises or a particular issue/problem or as part of our risk assessment process. We will also undertake risk based inspections in line with at least our minimum statutory requirements. Accordingly, greatest effort will be focussed where failure to comply would pose a serious risk and there is a high likelihood of non-compliance.
- 2.12** We will apply a light touch approach to those businesses who comply with regulatory requirements and those who work with us to achieve compliance. However we will not hesitate to use the full range of enforcement tools at our disposal against those businesses or individuals whose activities are likely to cause material loss or harm to others, or endanger the health, safety and wellbeing of people or our neighbourhood. In undertaking formal enforcement action we may take into account previous informal advice and support that has not been given due diligence.
- 2.13** The Housing Service has a policy of regular tenancy audits as set out in our Tenant Inspection Policy. Some visits are carried out on a risk-assessment basis but we are still committed to visiting every property every 5 years
- 2.14** Enforcement decisions will be made in a fair, independent and objective way and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, disability, political views or the sexual orientation of the alleged perpetrator, victim, witness or offender.

3.0 CHARGING FOR ENFORCEMENT ACTIONS

- 3.1** Where the legal powers exist to recover some of the Council's costs, consideration will be given to their use.
- 3.2** The recovery of our costs will be limited to the extent of the costs incurred (full cost recovery) but not more. Therefore charging will not be punitive. The recharge should also ensure that owners are not financially encouraged to delay in complying with their legal responsibilities.
- 3.3** The powers enabling Councils to charge for these functions are set out in the specific statute and formal guidance used. These provisions also provide for the recovery of the debts which arise.
- 3.4** Where legislation allows us to set our own fees for specific regulatory functions and activities then where possible we will take into account our proactive and reactive enforcement costs in addition to normal processing costs.
- 3.5** Where we are granting a license we will only charge the administration fees for processing the application but where an applicant is successful he or she will then be charged the wider costs of running (including enforcement costs) the licensing scheme
- 3.6** We will be transparent about our fees and charges whereby we publish and make available any schedule of charges and the basis on which these have been calculated. In respect of formal, statutory actions including notices costs will include officer time, travel time and costs and compliance visits/re-visits.
- 3.7** We will also regularly review our fees and charges in connection with enforcement actions.
- 3.8** Examples of where we can currently charge for enforcement action include some Licensing activities, housing improvements under the Housing Acts and Environmental Damage regulations. These are examples only and it is not an exhaustive list.
- 3.9** The Housing Service has a recharges policy which sets out the circumstances in which we will endeavour to recharge costs from tenants.

4.0 COMPLIANCE WITH THE PRINCIPLES OF GOOD ENFORCEMENT

4.1 Transparency

- We will make it clear what must be done, distinguishing between statutory requirements and what is desirable or recommended but not compulsory in written and verbal communication;
- We will write to confirm any verbal advice if requested;
- Any written advice given shall be provided in plain, accessible language and in a range of formats and media where possible;
- Where immediate action is necessary, give an explanation of why such action is to be taken and confirm this in writing;
- Adequate information will be provided to enable reference to be made to the relevant statutory and associated documents;
- Any service standards such as the content of inspections will be available, on request;
- We will make it clear what sort of conduct they may expect when an officer visits and what rights of complaint are open to them;
- Any relevant complaints or appeals procedures will be explained.

4.2 Accountability

- 4.2.1** Visits and inspections are usually made unannounced but, if appropriate and where necessary, appointments will be made. Where access cannot be obtained during the day, or in other appropriate circumstances, visits will be made outside normal working hours. Unless carrying out authorised covert surveillance work (see Section 6.4), or unless health and safety reasons at the time dictate otherwise, enforcement officers will identify themselves by name and their role within the Council and will produce their identity/authorisation documentation on request.
- 4.2.2** Housing services do not normally make unannounced visits may do so occasionally without an appointment but if the tenant refuses to give access, we need to give them notice in accordance with the terms of the tenancy agreement.
- 4.2.3** The decision to visit or inspect specific premises may be taken due to complaints, or problems that have been reported, e.g. general complaints about a certain type of premises, which are in need of investigation, or the premises need to be inspected due to its risk rating (which determines the frequency of enforcement inspections for high and medium risk premises).

4.3 Proportionality

The type of enforcement action taken by officers will, in part, depend on the risk of, or actual, negative impact on others arising from the activity in question. Action taken will be proportionate to the breach/offence which has occurred. Where the law requires that risks should be controlled “as far as reasonably practicable” officers, will take into account the cost as well as the degree of risk. However, some irreducible risks may be so serious that they cannot be permitted irrespective of the economic consequences.

4.4 Consistency

- 4.4.1** Decisions on enforcement always entail a degree of judgement and the circumstances of each case will inevitably differ in detail. Furthermore, guidance

upon which officers act does change over time and a decision made one day may differ from one made the next, for that reason. Consequently, there may be instances when enforcement may appear to be inconsistent for this reason. Officers will try to ensure that enforcement action is as consistent as possible by:

- following current internal policy, procedural and guidance notes;
- taking account of appropriate guidance from other authoritative bodies e.g. Food Standards Agency, Health and Safety Executive (HSE), Dept. of Business, Innovation and Skills (BIS), Department for Environment, Food & Rural Affairs (Defra), Environment Agency, the Institute of Licensing;
- taking due account of new case law relating to enforcement;
- taking account of any new legislation or guidance which impacts on their duties, liaising with other enforcement agencies as necessary;
- actively participating in joint local authority schemes to achieve greater consistency;
- having due regard to the HSE's Enforcement Management Model (when enforcing under Health & Safety legislation);
- having due regard for the Primary Authority Partnership Scheme;
- carrying out benchmarking and peer review exercises from time to time.
- taking into account the advice of other partners including the Police, Devon County Council and the Devon & Somerset Fire and Rescue Service.

4.4.2 The above measures will be supplemented by specific enforcement training for officers and managerial checks on performance.

4.5 Targeting

4.5.1 Enforcement generally will be targeted to those persons, premises or companies whose activities give rise to the risks that are the most serious or least well controlled. The Service therefore targets its enforcement action in three ways:

- Firstly officers carry out programmes of inspections or commence possession proceedings in cases involving tenants, on a risk rated basis. Premises or activities with the highest hazards, greatest risks, poorest compliance and worst management will be inspected more frequently than low risk premises. It follows that most of the enforcement activity arising from proactive programmes will be targeted on the cases most requiring it.
- The second targeting mechanism is the investigation of complaints where evidence, experience and this policy are used to determine enforcement action.
- The third targeting mechanism is planned, special surveys and enforcement initiatives carried out in response to national concerns as voiced by the government or its agencies, or local/regional concerns as voiced by Members of the Council, practitioner groups or resident.

4.6 Helpfulness

We will work with individuals and businesses to help them comply with the law and / or contractual obligations, in the following ways:

- Provide advice in different languages, if requested and where practicable;
- Actively advise businesses (especially small and medium sized businesses) and assist with compliance;

- Officers will identify themselves by name (always presenting an official identity card, or warrant card, which can be verified by a phone call if requested); and
- In every other way will provide a courteous and efficient service.

5.0 ENFORCEMENT OPTIONS AND FACTORS

5.1 Factors to be considered

5.1.1 The method of enforcement selected should be calculated to produce the highest reasonable standards of compliance within the least time where practicable. In assessing what enforcement action is necessary and proportionate, consideration may be given to some or all of the following factors and any others which may be relevant to a specific case or regulatory area:

- the seriousness of compliance failure;
- current business practices, including response to previous advice;
- the degree of risk from the situation;
- the particular circumstances of the case and likelihood of its continuation or recurrence;
- whether any harm was caused;
- the views of any victim/injured party, financial gain or benefit from a noncompliance;
- the general cooperativeness of the alleged perpetrator or offender;
- the past history of the person(s), company or premises involved;
- the impact of the enforcement choice in encouraging others to comply with the law or change the behaviour of the offender;
- the likely effectiveness of the various enforcement options;
- any relevant legislative provisions, policy or legal, official, professional guidance or advice;
- whether the situation undermines the licensing objectives;
- blatant or reckless disregard for the law, poor management;
- whether a conviction is likely to result in a significant sentence;
- whether the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance (e.g. safeguarding issues or complainant in a noise nuisance case);
- whether the defendant has previous convictions or cautions which are relevant to the present offence;
- whether the offence, although not serious in itself, is widespread in the area where it was committed;
- whether an officer has been obstructed;
- whether the cumulative effect of such breaches would be serious even if the breach in itself was not;
- whether prosecution will have a significant deterrent effect;
- Local priorities of the service and Council (as may change)

5.1.2 Under normal circumstances, a process of escalation will be used until compliance is reached. Exceptions may occur where there is a serious risk to public safety or the environment or the offences have been committed deliberately or negligently or involve deception, or where there is significant economic detriment.

5.1.3 The level of enforcement action that may be taken varies from no action through to formal proceedings in court. The main types of action that can be considered are shown below.

5.2 No action

- 5.2.1** This is appropriate when it is a minor/technical non-compliance that is rectified immediately. Any details recorded about non-compliance may be used as a basis for judgement on future enforcement action.

5.3 Informal Action

- 5.3.1** Informal action involves the offering of advice, verbal warnings, letters/emails, education, training and the issue of technical reports, including those generated on a premises or on-site following an inspection or audit.
- 5.3.2** This sort of action will be appropriate where the degree of risk (or in some cases environmental impact) from any given situation is minor, but cannot be rectified immediately. The breach of legislation is often technical but significant enough to warrant a written letter of warning. Formal action may be taken if similar infringements are found in the future. The person, business or organisation responsible would have no recent history of non-compliance and the officer would have good reason to expect them to put right the matters in question without the need for further intervention and therefore confidence in management is high.
- 5.3.3** Informal action will be recorded on departmental files and will be used as a basis for judgements on future enforcement action if there are recurrent problems with an offender or premises.
- 5.3.4** We promote a programme of food courses and training interventions which can be viewed and accessed via the Council website www.middevon.gov.uk. Where possible we will also help signpost external training and education resources. Additional, plain language information on regulations, enforcement and compliance can be found on the universal www.gov.uk website.

5.4 Information Notices

- 5.4.1** Many pieces of legislation enforced by the Council enable officers to demand information which is essential in order to serve notices or summons correctly. When the officer is uncertain about the information it holds, or where certain details are unknown, it will serve an information notice on those that have an obvious connection to the case, requiring for instance ownership confirmation, or perhaps company or premises details. Failure to comply with an information notice may hinder the Council in discharging its duties and is regarded as a serious offence, which will be pursued.

5.5 Other Statutory Notices

- 5.5.1** In certain circumstances, legislation allows an officer to serve a notice requiring action to be taken or, that certain operations/activities be stopped immediately. In some instances the service of a statutory notice may be compulsory. The service of a legal notice may be followed by an investigation into the cause of the breach and further enforcement action, including prosecution may ensue, particularly where there is a deliberate failure to comply with the notice. Failure to comply with a legal notice will usually be taken as a disregard for the law and appropriate action will be taken. Legal notices are normally used where:

- there are specific legal requirements to serve a notice; and/or

- a serious threat to public health, safety, animal health, the environment or to amenity will arise or a situation deteriorate, if a breach is not remedied quickly; and/or
- there is a lack of confidence that the recipient will respond to informal approaches because of a history of non-compliance or other evidence; and/or
- an informal approach has failed, or in the opinion of the officer is likely to fail to achieve the necessary improvements; and/or
- standards are generally poor with little management awareness of statutory requirements;
- the breach is one of a number of matters prescribed under legislation.

5.5.2 Notices will not be served for minor technical contraventions. The time limit on notices will be realistic yet reflect the nature and urgency of the situation and recipients of notices will be given the opportunity, if they wish, to discuss the requirements. If a form has been prescribed this must be used.

5.5.3 Officers must have sufficient evidence to justify service and be prepared to pursue non-compliance through the courts.

5.5.4 The response of the offender will be monitored to ensure a satisfactory outcome including follow-up checks as soon as possible after expiry. In most cases there is right of appeal against a notice either to a Court or Residential Property Tribunal. Where there is a right of appeal, advice on the appeal mechanism will be set out in writing at the time the notice is served.

5.5.5 Failure to comply with a statutory notice will, in general, result in prosecution and/or work in default.

5.6 Fixed Penalty Notices

5.6.1 Certain offences are subject to Fixed Penalty Notices (FPNs) where prescribed by legislation. They are normally appropriate for offences at the minor end of the scale and avoid the defendant gaining a criminal record. Where legislation permits an offence to be dealt with by way of a FPN, we may choose to administer one on a first occasion, without issuing a warning. A FPN would not normally be appropriate for repeat offences. FPNs may be issued to offer the person or business the opportunity of discharging any liability to conviction for the offence to which the notice relates by paying a penalty.

5.6.2 There is provision for the person to be tried for the offence should he/she elect this process or the matter may proceed to trial or be dealt with by way of a simple caution should the penalty not be paid. Additionally a notice may be given, withdrawing a penalty notice if it is considered that the penalty notice ought not to have been given.

5.6.3 FPNs will, whenever possible, be served at the time of the offence or shortly afterwards.

5.6.4 The level of fine attached to a specific FPN will be applied consistently in accordance with either national or locally adopted prescriptions. Where permitted, there may be a reduced fine payable for FPNs paid quickly within a specified number of days or through other qualifying criteria. This information will be included on the FPN.

5.7 Civil Fixed Penalty Notices

- 5.7.1** Local authorities can issue a civil penalty notices to the keeper of a vehicle from which litter is thrown. This may therefore be used where the identity of the person who threw the litter is not known.

5.8 Prohibition Notices and Orders

- 5.8.1** These powers may be used where there are statutory grounds and where the requirements of any relevant statutory Codes of Practice regarding the use of such notices are fulfilled.

- 5.8.2** The Council may prohibit the use of a particular piece of equipment, a treatment, or a specific activity, or it may close part or all of a premises, where the risk is more widespread. It would do so where the proprietor, owner or other responsible person or body is unwilling to voluntarily close, or the Council has a lack of confidence that a voluntary closure would be maintained as required or a voluntary closure would otherwise not be suitable.

- 5.8.3** There is a wide range of different statutory powers with the provision to undertake prohibition and similarly referenced actions.

5.9 Injunctions

- 5.9.1** Injunctions may be sought as an alternative, or in addition to other enforcement mechanisms such as prosecutions.

5.10 Seizure of Goods, Equipment, Food, Articles or Records

- 5.10.1** Authorised Officers will use the relevant statutory powers to take possession and detain articles, substances, records or equipment where:

- there are reasonable grounds for suspecting that the article, substance or equipment is a cause of imminent danger to human or animal health, serious personal injury or pollution of the environment; and/or
- food is suspected of failing to meet the requirements of the relevant food safety legislation; and/or
- the article or all other relevant items are required in the investigation of a potential offence or for use as evidence in proceedings; and/or
- to secure the abatement of a statutory nuisance.

5.11 Work in Default

- 5.11.1** Work required in the interests of public health, safety or the environment may be undertaken by a service and the cost recovered from the duty holder where the notice allows. This may be appropriate when:

- it is necessary to carry out the work in the public interest and/or the costs are not prohibitive;
- there is a failure to carry out work covered by a statutory notice;
- immediate action is required; or
- it is unlikely that the work will be carried out unless done in default.

- 5.11.2** The Council will make every effort to recover the full cost of the work carried out 'in default' including exercising the option of placing a land charge on a property where relevant and appropriate.

5.12 Management Orders

- 5.12.1** Under the Housing Act 2004 the Council may and in some circumstance must make an Interim or Final Management Order to take over the management of a licensable HMO or a property which should be subject to selective licensing under Part 3 of the Housing Act 2004. The management order allows the Council to take over the running of a property. Rights of appeal exist in relation to these powers and compensation provisions may also arise in some cases. The purposes of the order are to secure proper management of the property

- 5.12.2** In some cases an authority can make an order in relation to premises which do not need to be licensed. Such an order must be authorised by the First tier Tribunal. In the case of an HMO which does not need to be licensed authorisation can only be given if the order is necessary to protect the health, safety or welfare either of the occupiers or of persons in the HMO's vicinity. In the case of other premises which are occupied by tenants or licensees the tribunal must be satisfied that the anti-social behaviour of the occupiers is causing significant problems in the area and that the landlord is failing to take action against it.

- 5.12.3** The authority may make Interim and Final Management Orders in respect of any property let in breach of a banning order under section 16 of the Housing and Planning Act 2016.

- 5.12.4** Under the Housing Act, the Council may also issue an Empty Dwellings Management Order (EMDO). The purpose of an Empty Dwelling Management Order is partly to bring vacant dwellings in the private sector back into occupation and partly to address the impact that empty dwellings can have on a neighbourhood. The scheme for EDMOs is similar to that for management orders.

5.13 Compulsory Purchase Orders

- 5.13.1** The Council may compulsorily purchase property under Section 17 of the Housing Act 1985 and other provisions. These powers may be used as a last resort to acquire empty properties in order to bring them back into use. The consent of the Secretary of State is required and compensation provisions for the owner apply.

5.14 Premises Licence Review

- 5.14.1** Responsible Authorities and 'Other Persons' have the power under the Licensing Act 2003 to apply to have a Premises Licence reviewed by the Licensing Committee where activities at the premises appear to be undermining one or more of the four Licensing Objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

- 5.14.2** This option is also open to officers of the Licensing Authority (Licensing Team acting as a Responsible Authority) - in such circumstances the distinct functions of the licensing authority and of the responsible authority will be exercised by different officers to ensure a proper separation of responsibilities, procedural fairness and to eliminate conflicts of interest. Officers will generally only seek a review if they feel

that there are good reasons for a licence to be the subject of a review and no other 'body' has made the relevant application.

5.14.3 Each application for a review will be considered on its own merits at a hearing by a licensing sub-committee and take into account locally adopted licensing policy. The instigation of a review may lead to the undertaking of other enforcement action by the appropriate parties. Possible review outcomes include; the modification of licence conditions, licence suspension or revocation, or removal of the Designated Premises Supervisor (DPS), exclude a licensable activity from the scope of the licence for a limited period of time only, to a maximum period of three months .

5.15 Simple Cautions

5.15.1 We may consider issuing a simple caution as an alternative to prosecution. Where there is a criminal offence, but the public interest does not warrant a prosecution, a simple caution may be an appropriate course of action. The Ministry of Justice guidance, 'Simple Caution for Adult Offenders' sets out the aims of a simple caution:

- to offer a proportionate response to low level offending where the offender admits the offence;
- to deliver swift, simple and effective justice which carries a deterrent effect;
- to record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
- to reduce the likelihood of re-offending;
- to increase the amount of time officers spend dealing with more serious crime and reduce the amount of time officers spend completing paperwork and attending court, whilst simultaneously reducing the burden on the courts.

5.15.2 Before inviting an offender to receive a simple caution, the case officer must discuss the proposed action with service management and cautions can only be formally issued by authorised officers delegated to do so. In practice this means some lead officers and the service or Group Manager.

5.15.3 The use of simple cautions will be in accordance with the guidance issued by the Ministry of Justice, 'Simple Cautions for Adult Offenders'. There are four preconditions, which must all be satisfied if a matter is to be dealt with by simple caution, as follows:

- There is sufficient evidence to give a realistic prospect of conviction (see paragraph 5.16.1 for further guidance on the evidential test)
- The offender admits his or her guilt,
- The person being cautioned agrees to it, having been made aware by us of the consequences and having been given adequate opportunity to consider their decision and obtain legal advice if desired.
- It is not in the public interest for the offender to be prosecuted (see paragraph 5.16.2 for further guidance on the public interest test)

5.15.4 The reasons for issuing a simple caution instead of proceeding to a prosecution in the courts would commonly be that the offender has no previous or recent history in relation to the offence and has done everything in their power to make amends. Depending on the circumstances, this would usually entail remedial work to premises and/or taking proper steps to ensure that the offence cannot recur.

5.15.5 If a simple caution were to be offered and refused by the offender then the case would proceed to court or an alternative enforcement action considered.

5.15.6 Following the acceptance of a caution, the offender may be invited to contribute towards the Council's costs in investigating and preparing the case, if these are significant. A caution cannot be granted on condition that the Council's costs are paid.

5.15.7 Where relevant, primary authorities and originating authorities will be notified of any caution issued.

5.16 The Evidential and Public Interest Tests

5.16.1 The Evidential Test

- We must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. In considering the evidence, officers should have regard to any lines of defence which are open to or have been indicated by the accused, as well as any other factors likely to affect the prospects of conviction including admissibility of the evidence and reliability of witnesses. This must be an objective test since a conviction will only be obtained if the Court or the jury is sure of a defendant's guilt. It should be noted that the evidence level required varies between criminal legislative cases (beyond reasonable doubt) and civil legislation cases (balance of probability).

5.16.2 The Public Interest Test

- The public interest test must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. We will balance factors for and against a caution or a more serious enforcement action (e.g. prosecution) carefully and fairly. Public interest factors that can affect the decision usually depend on the seriousness of the offence or the circumstances of the defendant. Some factors may increase the appropriateness of a caution whilst others may suggest that another course of action would be more appropriate.

5.16.3 More consideration of both the evidential test and the public interest test is carried out as part of any final decision to prosecute for an offence (see 5.17).

5.17 Prosecution including merit and legal tests

5.17.1 Prosecution is appropriate for individuals, businesses or other duty holders who blatantly disregard the law, or refuse to achieve even basic minimum legal requirements, often following previous contact with the authority, and who put any persons such as the public, visitors, customers or workers at serious risk.

5.17.2 The circumstances which warrant prosecution are varied and include:

- where the offence involves a significant breach of the law such that public health, safety, animal welfare or the environment is or has been put at risk; or
- where the offence involves a failure by the offender to correct an identified serious potential risk having been given a reasonable opportunity to comply with the lawful requirements; or

- where the offence involves the failure to comply in full or in part with the requirements of a statutory notice; and/or
- where there is a history of similar offences; or
- obstruction or assault of an officer; or
- a simple caution has been offered but has been declined; or
- providing false or misleading information to us or others; or
- failure to pay a fixed penalty notice.

5.17.3 For cases involving criminal legislation, at all times the requirements of the Police and Criminal Evidence Act 1984 (PACE) and the Criminal Procedure and Investigation Act 1996 will be adhered to. The relevant service team leader will determine the designated Authorised Officer in charge of the investigation (the case officer).

5.17.4 The case officer will consider all relevant information and evidence when circumstances may warrant their recommendation for a prosecution, to enable a consistent, fair and objective decision to be made.

5.17.5 The service manager must then carry out a **merit test** on the case officer recommendation and the case file to be satisfied, before further preparation for prosecution proceeds, that there is relevant, admissible, substantial and reliable evidence that the offence was committed by the accused. There must be a realistic prospect of conviction. A bare prima facie case is not enough. The merit test should therefore encompass a review of the following and must be completed by the service manager or another more senior officer other than the case officer who (other than in exceptional circumstances) has neither been involved in the investigation nor has directed management of the case:

- The case context (understand the problem/event/situation)
- The legal framework (has the relevant framework been applied/are other legal frameworks more applicable?)
- Compliance with this enforcement policy and any other internal policies as relevant
- The delegation and powers of the case/investigating officer (are these current and correct?)
- Analysis of the facts and supporting evidence in the specific context of the relevant legal framework (see also 5.16.1 and 5.17.8)
- The standard of the witness statements, continuity of evidence and overall case management
- Key strengths and any weaknesses of the facts
- The public interest test (see also 5.16.2 and 5.17.6 and 5.17.8)
- Alternative sanctions to prosecution if applicable under this policy e.g. formal caution (see 5.15) or civil penalty (see 5.18)

5.17.6 Under the **merit test** the service manager must make an initial decision that it appears to be in the public's interest to prosecute, following the guidance in the Code for Crown Prosecutors and internal or external counsel where required including:

- seriousness of the offence;
- risk to public health, safety, animal welfare or the environment;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard for public health, safety, animal welfare or the environment for financial reward;
- previous history of the defendant;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- whether a due diligence defence exists and the likelihood of the defendant being able to establish such a defence;
- ability of important witnesses and their willingness to co-operate;
- the willingness of the defendant to prevent a recurrence;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it may create a legal precedent;
- whether other formal action would be more appropriate or effective; and
- any explanations offered by the defendant. Officers should invite the defendant to offer an explanation before a decision to prosecute is made.

5.17.7 The **merit test** should therefore conclude with a clear decision supported by reasons as to whether to:

- refer back the case to the case officer recommending further work and investigation to ensure all reasonable lines of enquiry have been followed and concluded, to address any relevant identified issues and/or ensure the case recommendation is reviewed before a further merit test is undertaken again; or
- support the case officer recommendation under the legal framework applied; or
- make an alternative recommendation such as an alternative to prosecution or prosecution under a different legal framework (for which the Council has statutory powers and officers have delegated authority);
- where appropriate, to refer the case file to the legal services team to carry out a legal test and final decision as whether to proceed with a prosecution

5.17.8 The **final decision to prosecute** will be made by the Group Manager Legal Services and Monitoring Officer who will review the merit test conclusions and also consider the following as part of a **legal test** of the case:

- Is there is sufficient evidence to provide a realistic prospect of conviction? The test must be applied to each proposed charge and for each defendant. This is a further consideration of the evidential test as the prosecutor including the following different factors:
 - Whether the evidence is admissible.
 - Whether the evidence is reliable.
 - Whether the evidence is credible.
 - What the defence case may be and how it may impact the prospects of conviction.
 - Whether there is any material that may affect the assessment of the sufficiency of evidence, including all material in the possession of the Council, and material that may be obtained as a result of further reasonable lines of enquiry being pursued.

The evidential test is not subject to the same standard as the burden of proof. The burden of proof requires a jury to be convinced of a defendant's guilt beyond reasonable doubt. The evidential stage requires only that the prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction taking into account what the defence may be and how this is likely to affect the prospects of conviction. The test is met when the prosecutor is satisfied that an objective, impartial and reasonable jury, bench of magistrates or judge, properly directed, would be more likely to convict of the charge alleged.

- Is it in the public interest to prosecute? This is a further consideration of the public interest test as the prosecuting authority, which can include the following different factors. The public interest stage only needs to be considered if the evidential stage is met and is where we must be satisfied that the public interest factors in favour of a prosecution outweigh those against. When making this decision, prosecutors must consider each of the following questions:
 - How serious is the offence committed?
 - What is the suspect's level of culpability? This question includes consideration of whether the suspect has benefitted from the alleged criminal conduct.
 - What is the harm caused to the victim and the circumstances surrounding it?
 - Was the suspect under the age of 18 at the time of the offence and what was their level of maturity?
 - What is the impact of the offence on the community?
 - Is prosecution a proportionate response?
 - Do sources of information require protecting in cases where public interest immunity does not apply?

This list of factors is not exhaustive and the weight given to the questions may vary.

5.17.9 Where appropriate, disqualification of directors may be sought under the Company Directors Disqualification Act 1986. Consideration will also be given to prosecution of Directors if a significant risk continues after warnings have been given by employees (e.g. if an offence was committed through consent, connivance or neglect by the Director).

5.17.10 Where there has been death at work resulting from a failure to comply with health and safety law, the matter may be referred to the police if the circumstances of the case might justify a charge of manslaughter. If the police decide not to pursue the case the Council would consider a health and safety prosecution. In order to ensure decisions on investigation and prosecution are closely coordinated, the Work-Related Deaths Protocol, agreed between the relevant enforcing authorities will be followed.

5.18 Financial (Civil) Penalties

5.18.1 These are an alternative to prosecution relevant to Private Sector Housing Enforcement.

5.18.2 A financial civil penalty can only be imposed as an alternative to prosecution. The Housing and Planning Act 2016 Section 126 and schedule 9 makes provision for the Council as the local housing authority to be able to issue a financial penalty for certain Housing Act 2004 offences. It does not permit the Council to impose a civil

penalty and prosecute for the same offence. If a person has been convicted or is currently being prosecuted the Council cannot impose a civil penalty in respect of the same offence. Similarly, if a civil penalty has been imposed, a person cannot then be convicted of an offence for the same conduct.

5.18.3 The offences include;

- Failing to comply with an Improvement Notice (section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72)
- Offences in relation to licensing of houses under part 3 of the Act (selective Licensing) (section 95)
- Offences in relation to the contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of House in Multiple Occupation (section 234)

5.18.4 Refer to Appendix J for more details on financial (civil) penalties.

5.19 Proceeds of Crime Applications

5.19.1 Applications may be made under the Proceeds of Crime Act (POCA) 2002 for confiscation of assets in serious cases. Their purpose is to recover the financial benefit that the offender has obtained from their criminal conduct. Proceedings are conducted according to the civil standard of proof.

5.19.2 We will use only accredited financial investigators in respect of POCA applications.

5.20 Multi agency approaches to enforcement

5.20.1 Wherever possible we will work with other agencies to determine the most appropriate agency to take action. In some circumstances an alternative enforcing agency may be better placed to take action than the Council. Action will be taken in consultation with the other agency.

5.20.2 Where another agency is leading on taking enforcement action but requires the support from the Council we will provide the relevant expert advice.

5.20.3 Where the Council is leading on the enforcement other agencies are expected to provide support and advice as necessary.

6.0 INVESTIGATIONS

6.1 Access and Powers of Entry

6.1.1 At times officers may have to access premises or land to investigate or undertake inspections in accordance with legislative duties. The majority of officers exercising Licensing, Environmental Health and some Private Sector Housing functions are not legally required to give advance notice about inspections and may not therefore do so e.g. The Food Safety Code of Practice requires officers to carry out some inspections without prior notice (notices of intent to enter). Officers will give adequate notice of intended entry where practicable or required but at times dependent on the risk or to avoid alerting perpetrators may do so without prior warning. On occasion officers may have to force entry and will apply to the courts for a warrant. There will be occasional situations that would warrant prior notification such as a project based intervention. Officers may also seek entry by invitation without notice and in such circumstances the purpose and possible consequences of permitting access will be explained in advance to the relevant parties.

6.1.2 In respect of our housing services tenants, the provisions of our tenancy agreements state we (our employees or contractors) must be allowed access to the property at all reasonable hours to carry out repairs, improvements, planned programmes, gas servicing and any safety checks, to inspect its condition and to complete new Tenancy visits and Tenancy Home checks. If we believe there to be a risk of personal injury or a risk of damage to the property or an adjoining property or in order to comply with our statutory duties, we must be allowed immediate access to the property. In these circumstances or if we consider there to be an emergency we will force entry into the property if necessary.

6.1.2 In determining the need for prior notification, officers will also have due regard to the provisions for the Home Office Code of Practice (CoP) on Powers of Entry 2014 as relevant. This code sets out considerations that apply to the exercise of powers of entry including, where appropriate, the need to minimise disruption to business. It will ensure greater consistency in the exercise of powers of entry, and greater clarity for those affected by them, while upholding effective enforcement.

6.1.3 Overall, the officer should have regard to the Home Office CoP in determining whether a notice of intent to enter is required and in respect of the wider areas of guidance that the CoP covers, for example:

- Providing notice of rights to occupiers
- Entering premises
- Number of persons present
- Private dwellings
- Entry without consent or a warrant
- Entry under warrant
- Timing of exercise of powers
- Seizure of property
- Retention of property
- Other persons
- Conduct
- Assistance from occupiers
- Leaving premises
- Action after exercise of powers

6.2 Notifying Alleged Perpetrators / Offenders

- 6.2.1** If we receive information (for example from a complainant) that may lead to enforcement action we will notify those concerned as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to anyone concerned. Throughout the course of an investigation business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a court when required and/or in accordance with the Data Protection Act 2018. See also section 8.4.

6.3 Liaison with and referrals to other regulatory bodies and enforcement agencies

- 6.3.1** Where there is wider regulatory interest, officers will refer information received to other relevant regulators. Where appropriate, enforcement activities will be planned and coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness and consistency of any enforcement including undertaking joint or parallel investigations and inspections.
- 6.3.2** We will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies. These may include (but is not limited to) Government Agencies and Departments, other Local Authorities, Police Forces and Fire Authorities. This will be done in accordance with wider Data Protection legislation, data sharing agreements and policy as relevant.
- 6.3.3** Within the Council itself, officers investigating complaints and carrying out inspections may find their work has relevance to the work of other departments and services. Officers will work together as appropriate in these circumstances. Adequate liaison will be maintained and where necessary consideration given to ways of cooperation in co-ordinating investigations and outcomes.
- 6.3.4** In respect of health and safety matters, the Enforcement Management Model (EMM), together with the procedure for its application, provides the Council with a framework for making enforcement decisions that meet the principles of the HSE Executive Board Enforcement Policy Statement. It captures the issues officers consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached.
- 6.3.5** Officers will liaise with Primary Authorities and Home Authorities when applicable.

6.4 Surveillance and Human Sources: Human Rights Act 1998, Regulation of Investigatory Powers Act 2000 (RIPA) – Basis for Lawful Surveillance

6.4.1 Human Rights Act and RIPA

- 6.4.4** Officers will endeavour to carry out the investigation using overt methods, unless the only means of effective investigation is by way of covert directed surveillance and/or using covert human information sources (in very exceptional circumstances – see 6.4.17 and in accordance with the Council's RIPA Policy).
- 6.4.5** Where we undertake overt surveillance including the use of recording and sampling equipment we will ensure notice is provided to those alleged to be the source of the complaint being investigated informing them of our intentions. Such notice will be no

less than 24-hours before surveillance commences which may then be undertaken over a period of up to six-months before further notice is given.

- 6.4.6** Any covert directed surveillance must be carried out in accordance with Council procedures, RIPA (Regulation of Investigatory Powers Act 2000) and The Protection of Freedoms Act 2012. This is the statutory framework for covert surveillance. Authorisation for this type of pre-planned investigation may only be given in writing by formally appointed Authorised Officers (AO) within the Council and before being formally authorised by a Justice of the Peace (JP).
- 6.4.7** Officers should consult the latest internal corporate RIPA policy and forms before considering covert surveillance.
- 6.4.8** Officers should also be mindful that in certain circumstances conducting Open Source Research (OSR) for the purpose of gathering enforcement intelligence i.e. viewing web pages, social networks, chat rooms, information networks (e.g. twitter) and/or web based electronic mail may constitute covert directed surveillance and therefore a RIPA authorisation must be considered. Particular attention will be given to repeat visits to obtain/check or review publicly available information in addition to more in-depth research including where profiles/personas are created to gain access to networking sites and this may become a covert surveillance activity requiring prior RIPA authorisation. Any covert interaction with other users including making/accepting friends requests, 'poking' or commenting on post will require authorisation.
- 6.4.9** Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites. Websites and other social media accounts set up purely for commercial and/or business (including charities and the voluntary sector) are not considered to consider an assessment of privacy and will not require RIPA or other authorisation to monitor.
- 6.4.10** Officers will not use personal accounts for purposes of enforcement based OSR, however simple the search. An official, open service profile should be used unless covert surveillance under a RIPA authorisation is required whereby a false account or profile is required.
- 6.4.11** Where OSR is carried out under a RIPA authorisation then officers are required to complete an Open Source Log/Register including details of any account, profile/persona used.
- 6.4.12** Covert surveillance that does not require an RIPA authorisation (for example does not meet the maximum sentence threshold or is required for general purpose) may still be permissible but should be conducted under other legislation if relevant. If no other legislation is directly applicable then officers must still take into account privacy and collateral intrusion and conduct a privacy impact assessment and document this for later scrutiny if required. Therefore the same procedure should be followed for RIPA and amended RIPA authorisation forms used and approval advance obtained from an AO (subsequent approval of the court is not required in this circumstance).
- 6.4.13** Any application made under RIPA should meet the following minimum criteria:
- Be required for prevention and detection of crime, for the protection of health or public safety

- In the case of directed surveillance, meet the crime threshold (an offence for which the maximum sentence is 6 months + or where an offence involves the sale of alcohol to a minor). For example, it cannot be used for littering, dog control or fly-posting offences
- Be related or relevant to a specific investigation or operation
- Likely to result in obtaining private information
- In the case of a Covert Human Intelligence Source (CHIS, see 6.4.14 and 17), adequately consider use (what is being asked), conduct (how it gets done/clear boundaries of action) in addition to the security and welfare of the person involved and any foreseeable outcomes to others
- Adequately consider and manage collateral intrusion
- Be proportionate (are lesser/alternative means that are less intrusive available?)
- Be cost-effective
- Be in accordance with the Council's RIPA policy

6.4.14 In accordance with RIPA, authorities for directed surveillance are valid for up to 3-months from the date of the signature and up to 12-months for CHIS (1-month in the case of a minor under CHIS).

6.4.15 Further guidance on the application of RIPA including directed surveillance, CHIS and OSR is available from the Home Office/Office of Security Commissioners and the National Police Chiefs Council/College of Policing.

6.4.16 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, an authorisation is unlikely to be required or available under RIPA. Officers would in any case typically make monitoring overt (see 6.4.5).

6.4.17 Covert Human Information Sources (CHIS)

6.4.18 The use of any CHIS must also be carried out in accordance with Council procedures and RIPA. It is considered unlikely that there will be any circumstances which would require the council to use CHIS and advice should be sought from the RIPA Monitoring Officer before any authorisation is applied for or considered granted

6.5 Enforcement on Council premises, or at events organised by the Council

6.5.1 In principle the Council cannot legally enforce against itself. Where infringements on Council premises or land including housing stock, or at events organised by the Council are identified, the matter will be formally notified to the appropriate Group Manager and Service Director. In serious cases then the Chief Executive will be advised. If the problem relates to health and safety matters then the Health and Safety Executive (HSE) will be notified. If the potential breaches of the law are the responsibility of contractors employed by the Council, enforcement action will be taken against the contractor in the same way as in other cases not involving the Council.

6.5.2 With respect to Health and Safety enforcement, we recognise a potential conflict of interest may occur where Mid Devon District Council is the relevant enforcing

authority in relation to premises in which it also has an ownership or management interest. Therefore we will:

- Follow the guidance in Local Authority Circular 22/10
- Carry out our enforcement policy and practice in exactly the same way we do for all other premises and duty holders;
- Have arrangements in place to identify and resolve potential conflicts of interest;
- Inform the HSE if we identify a split in enforcement responsibility e.g. in an Local Authority (LA) owned and managed shopping precinct, LA enforces within retail outlets but HSE enforces those areas under direct LA control.

7.0 IMPLEMENTATION, MONITORING AND REVIEW

7.1 Implementation and monitoring

- 7.1.1** This policy reflects the essential principles and requirements of good enforcement as specified in the Regulators' Code 2014 (Department of Business Innovation and Skills), the Code of Practice Powers of Entry 2014 (Home Office) and the provisions outlined in the Legislative and Regulatory Reform Act 2006 and the Regulatory and Enforcement Sanctions Act 2008. Therefore adherence to this policy by officers is essential to demonstrate compliance.
- 7.1.2** The Service Director, Group Manager and Team Leaders, will be responsible for ensuring that all officers are familiar with the requirements of and carry out their duties in accordance with, this Enforcement Policy.

7.2 Conflicts of interest and bribery

- 7.2.1** As with other actions, decisions and activities of the Council, undertaking enforcement work can give rise to actual or perceived potential conflicts of interest which should be avoided. Officer must therefore comply with this general principle in addition to the Financial Regulations Part 18 and internal policies including; Anti-fraud and Corruption Policy; Officer Code of Conduct and Whistleblowing Policy

7.3 Complaints about service

- 7.3.1** Any complaint about a service carried out by the Council including our enforcement activities should be made in accordance with our Complaint policy available at www.middevon.gov.uk or by contacting Customer First via customerfirst@middevon.gov.uk or 01884 255255.
- 7.3.2** Our complaints policy does not affect any other statutory rights or entitlements a person or entity may have in respect of our enforcement decisions.

7.4 Policy review

- 7.4.1** This policy shall be reviewed at least every 2-years. Other triggers for review include any significant apparent short-coming, case law, new statutory guidance or relevant legislative demand.

8.0 PUBLICITY AND INFORMATION REQUESTS

- 8.1.** We will normally publicise details of any convictions, which could serve to draw attention to the need to comply with the law or deter others. Where appropriate, the media will also be provided with factual information about charges that have been laid before the Courts, any pending formal action and any enforcement action already taken.
- 8.2** In keeping with the spirit of the Freedom of Information Act and the Environmental Information Regulations, the Council publishes an increasing amount of information on its website: www.middevon.gov.uk.
- 8.3** Anyone wishing to make an official request for information under this legislation should see the contact form on our website (under Freedom of Information) or call our Customer First team on 01884 255255.
- 8.4** During hearings, especially Licensing and Regulatory Sub-Committees, involving enforcement decisions and formal sanctions in the context of this policy, it may be necessary to pass a resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Mid Devon District Council Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Cabinet will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information. Reports heard and minutes made in this manner will therefore not be available for disclosure upon request and will remain confidential.
- 8.5** This policy document is freely available to the public on the Council's website, or as a paper copy on request to the Group Manager for Public Health and Regulatory Services, Phoenix House, Phoenix Lane, Tiverton EX16 6PP (telephone: 01884 255255), or via email health@middevon.gov.uk. A reasonable charge may apply to cover the cost of producing paper copies of this policy.

APPENDIX A

GENERAL ENFORCEMENT POLICY DECISION MATRIX (CRIMINAL LEGISLATION)

Summary of we consider when taking enforcement action for under criminal legislation?

Officer(s) carry **out investigations/inspections**. This can be done in response to a complaint or request for assistance, as part of routine planned inspections of business premises or survey work.

Investigating Officer discovers evidence and is satisfied that a **criminal offence** may have been committed or is about to be committed. This is called *Prima facie* evidence.

Investigating Officer considers a range of factors including:

- Previous History - whether any similar situation has been found before.
- Seriousness of the alleged offence(s), including:
 - Risks to the public or the environment
 - Any intent or recklessness of the person(s) committing the offence
 - Any obstruction of the Investigating Officer
 - Whether the alleged offence(s) are considered a special area of priority by Central Government and/or Mid Devon District Council
- Is there enough evidence to provide a realistic prospect of conviction
- Would any further action be in the public interest

For **LESS SERIOUS** infringements of the law and/or where there is no previous history of offences/non-compliance with legislation the following options are considered:

- **Informal Action** – verbal or written advice/warning
- **Statutory Notice** – service of a legal notice that will require certain specified action to be taken by the recipient

In all cases we will advise the alleged offender what he/she needs to do in order to comply with the law.

In all cases the alleged offender will be informed of the matters under investigation and may be invited to attend a formal interview in accordance with the Police and Criminal Evidence Act 1984.

For **MORE SERIOUS** offences the following options will also be considered:

- **Seizure of goods or equipment** – In certain cases, goods or equipment may be seized to protect the public and/or employees, for example unsafe food or sound equipment being used to cause a nuisance
- **Formal Caution** – a Formal Caution is an alternative to prosecution and can only be issued if strict criteria are met. The Home Office of Central Government sets these criteria. A Caution stays on public record for three years. If a Formal Caution is offered to an offender, but he/she refuses to accept it then we may prosecute instead
- **Prosecution** – legal proceedings are taken against the offender that results in the offender being summonsed to appear in Court. Any decision to prosecute is based upon guidelines set by the Crown Prosecution Service

APPENDIX B

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – LICENSING

Licensing policies

There are a number of specific policies covering the different regulatory functions that licensing are responsible for. These include policies for the Licensing Act 2003, the Gambling Act 2005, hackney carriage & private hire licensing and sex establishments. These policies can be found here: <https://www.middevon.gov.uk/business/licensing/licensing-policies/>

General information about the full range of activities we are required to licence or regulate can be found at <https://www.middevon.gov.uk/business/licensing/>

Licensing and Regulatory Committees

The Licensing and Regulatory Committees are made up of 12 and 11 elected members respectively. The Licensing Committee is responsible for the Licensing Act 2003 and the Gambling Act 2005. The Regulatory Committee is essentially responsible for the rest, the main part of which is hackney carriage and private hire related. The Committees meet as a whole to determine policy related matters and Sub-Committees, usually made up of 3 elected members, meet to consider individual applications (including reviews of licences), breaches of conditions and any other issues which may result in an individual no longer being considered fit and proper to hold a particular licence.

Suspension or revocation licences

The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 provides the regulatory framework for the Council as the licensing authority to carry out its functions in respect of Hackney Carriage and Private Hire Licensing. Under this regulatory framework the Council can suspend, revoke or refuse a licence on a number of grounds. The Council's Hackney Carriage and Private Hire Licensing Policy provides in detail how the Council will approach these matters.

When a licence is to be suspended or revoked, the Council will provide clear notice of this to the individual / premises concerned, outlining any rights of appeal they may have.

Out of hours enforcement activities

Due to the nature of some of the activities authorised it is necessary to conduct out of hour visits and inspections. This can apply to late night establishments that sell alcohol / provide takeaways and also to the hackney carriage & private hire trade. Certain businesses are at their busiest during these times and late night visits allow officers of the Council to see how they function and comply with the relevant pieces of legislation and conditions 'in action'.

Overt operations

Officers will conduct overt inspections of licensed premises, individuals and the hackney carriage & private hire trade. Such inspections may be in partnership with relevant authorities including the Police, Devon County Council and the Driver Vehicle Standards Agency (DVSA) and others.

Test purchases

Due to the nature of certain offences it is sometimes necessary to conduct test purchases. This is normally complaint or information led and may follow on from less severe enforcement actions which have proved ineffective. Examples include test purchasing unlicensed taxi drivers and premises selling alcohol to underage individuals.

Conditions

The Council have the ability to place conditions on a number of licences either at the application stage or via a review of a licence. Although different under each piece of legislation the Council may (generally) apply standard conditions and/or tailored conditions. Standard conditions guarantee a similar standard of activity across the district (i.e. animal establishments) and tailored conditions allow for the individual nature of certain premises to be catered for (i.e. premises licence).

Byelaws

The Byelaws for acupuncture, tattooing, ear-piercing, semi-permanent skin-colouring, and electrolysis specify the standards practitioners and premises must meet in order to get a licence to operate. Contravening a byelaw can result in a fine upon successful conviction in a Magistrates Court.

APPENDIX C

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (NUISANCES AND ANTI-SOCIAL BEHAVIOUR)

The purpose of this appendix is to provide more information on the provisions of statutory nuisance legislation under the Environmental Protection Act 1990 and its relationship with Anti-social behaviour legislation.

Statutory Nuisance Enforcement

Proactive Inspections

Whilst much statutory nuisance work will involve reactive responses to complaints from the public, the Council also has an important responsibility to carry out pro-active regulation to protect the amenity of residents. In particular, we will carry out proactive inspections, and take all necessary actions in the following circumstances:

- To control the emission of dusts, smoke, odour or effluvia where there is a very high likelihood of nuisance occurring and/or history of complaints or an on-going investigation
- To control potential nuisance from planned events, specific operations or activities, with a potential to cause significant disturbance
- To assist the Planning Department in assessing, and controlling, the impact of potential nuisance from proposed developments

Pro-active inspections may be conducted out-of-hours (e.g. during the evening or weekends) as well as normal working hours.

Abatement Notices

We have a duty to investigate complaints related to statutory nuisance and to serve an Abatement Notice if a statutory nuisance exists. It is an offence not to comply with an Abatement Notice without a reasonable excuse.

Legislation provides that various activities and circumstances which may constitute statutory nuisances if they result in a state of affairs which is "prejudicial to health" or a nuisance. This encompasses the keeping of premises; the emission of smoke, fumes, gases, dust, steam, smells, effluvia; the accumulation of material; the keeping of animals; the emanation of insects from commercial premises; the emission of artificial light; noise from premises; noise from vehicles or machinery in the street; any other matter declared to be a statutory nuisance by enactment.

The majority of statutory nuisance service requests relate to individuals and are usually due to the behaviour of a neighbour for example playing music too loud. These requests for service can be due to a clash of lifestyles or a consequence of a long-standing neighbour dispute. It is expected that the complainant/s will be willing to give evidence in court if necessary unless there are extenuating circumstances.

The Council receives many complaints about different types of noise including alarms, loud music, construction sites, barking dogs, DIY, kitchen extract systems, and air conditioning units.

Moving vehicles on the highway are not relevant premises for the purposes of statutory nuisance. Parked vehicles, machinery or equipment in the street can give rise to noise nuisance under the statutory nuisance legislation.

Out-of-hours actions

We do not currently operate an out-of-hours reactive complaint investigation service. We will therefore investigate any nuisance complaints during normal working hours and respond initially within 5-working days. As indicated above, proactive inspections can be carried out outside of normal hours if justified and we can also carry out overt surveillance (i.e. where we have warned the person(s) likely giving rise to the complaint notice of our intention to carry out monitoring) including the use of monitoring equipment such as noise recording devices or our Noise app service available for smartphone users.

Nuisances and anti-social behaviour

Anti-Social Behaviour (ASB) is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder. We work closely with many other agencies in Mid Devon to tackle and reduce ASB. The ASB legislation puts victims of crime first by having effective powers for tackling ASB that act as a real deterrent to perpetrators.

These enforcement powers under the Anti-Social Behaviour Crime and Policing Act 2014 include:

- Civil injunction
- Criminal Behaviour Order
- Community Protection Notice
- Public Spaces Protection Order
- Closure Powers

Many of these powers overlap with Nuisance and Licensing laws acting as an alternative less punitive/rehabilitation action against offenders, other than proceeding through the courts (a possible action with statutory nuisance cases).

When investigating nuisance complaints we will therefore work within the options available to us under both Statutory Nuisance and Anti-social behavior legislation.

Generally, Statutory Nuisance provisions will take precedence over the ASB powers. This is because there was nothing in the ASB powers that discharge the Council from its duty to issue an Abatement Notice where the behaviour is deemed to be a Statutory Nuisance. Therefore, we continue to have a duty to issue the notice, however the ASB powers are discretionary. Nonetheless, whilst we will in almost all circumstances, only need to resort to the Statutory Nuisance powers, we cannot be certain that, in some rare circumstance, we would need to issue an abatement notice AND seek an ASB injunction or other ASB provision. For example, we may still find a scenario where noise nuisance is occurring, but it might be allied to other forms of ASB by the same individual.

Mediation may also be offered as an alternative to statutory nuisance or ASB action where it is appropriate.

Offence and Defences

If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.

There is a statutory defence where the defendant can show that he used "best practical means" (BPM) to prevent the harm from occurring

The BPM concept is well established in environmental law and requires the polluter to show that he has used the best means available to reduce the harm taking into account practicalities and cost.

Procedures and closing investigations

We will follow set procedures when undertaking nuisance investigations following a common or related set of stages.

Initially where a report of an alleged nuisance has been received the person affected will be asked to complete a referral form. The case will be closed until such a time as the referral form is returned to the department.

Once the referral form has been returned a letter will be sent to the alleged perpetrator and at the same time the person affected will be asked to keep a diary record of the issues.

If the diary is not returned within 8-weeks then it will be assumed that the issue has been resolved informally and the case will be closed.

Individual action not involving the Council

If you are the occupier of premises affected by noise, you can under section 82 of the Environmental Protection Act 1990 complain directly to a Magistrates Court. You may wish to do this because you do not want to involve us or that we are unable to help having investigated your complaint.

Other legislation dealing with nuisances and harmful emissions

We may draw upon a wide range of other regulatory powers as appropriate to deal with nuisances or other harmful emissions. These include (not an exhaustive list):

- Public Health Acts 1936 and 1961 – for example in respect of sanitary complaints, noxious premises, drainage and verminous provisions
- Prevention of Damage by Pests Act 1949 – for example for dealing with damage and nuisance caused by infestations of rats and mice
- Control of Pollution Act 1974 – for example in respect of noise from construction sites
- Building Act 1984 – for example in respect of defective drainage
- Clean Air Act 1993 – for example in respect of dark smoke from chimneys and bonfires
- Environment Act 1995 – for example in respect of imminent danger of serious pollution

- Environmental Damage Regulations 2009 – for example in respect of pollution to land from commercial activities (not historic land contaminated prior these regulations coming into effect)

In applying these various regulatory powers we will take into account best practice and codes of practice issued by the relevant agencies and bodies including DEFRA, Environment Agency and Chartered Institute of Environmental Health for example.

APPENDIX D

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (PRESCRIBED PREMISES FOR POLLUTION CONTROL)

The purpose of this appendix is to give further guidance on the provisions of the above legislation.

More information regarding prescribed premises for pollution control (also known as permitted installations) can be found at

<https://www.middevon.gov.uk/residents/environment/air-quality/regulated-installations/>

Prescribed premises for pollution control

We are one of relevant enforcing authorities for the purposes Environmental Permitting Regulations 2016 (EPR) made under the Pollution Prevention Control Act 1999 in respect of installations prescribed for local authority control within our district.

Under EPR we regulate “installations” that carry out certain industrial activities. Permits are issued for these installations containing conditions that are intended to achieve a high level of protection for the environment as a whole. The powers cover two regimes, Local authority Integrated Pollution Prevention and Control (LA-IPPC) “A2 Installations” and Local authority Pollution Prevention and Control, “Part B installations”. For A2 installations the Regulations require that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, must be considered in the permit and that sites that cease to be permitted are restored to their original condition. For Part B installations the Regulations require that emissions to air should be considered.

Operators of prescribed installations are required by the EPR to comply with both procedural and operational conditions. A failure to do so in either case might constitute an offence.

Enforcement of regulated installations

The purpose of enforcement is to ensure that preventative or remedial action is taken to protect the environment or to secure compliance with the regulatory system. The need for enforcement may stem from an unauthorised “incident” or activity or from a breach of the conditions of a permitted activity. Although we expect full voluntary compliance with relevant legislative requirements or permit provisions, we will use our enforcement powers where necessary. The powers available include:

Preventative /remedial actions

- Enforcement Notices
- Suspension Notices
- Variation of permit conditions
- Revocation Notices

Criminal enforcement responses

- Prosecution
- Formal caution
- Warnings

Enforcement Notices

Enforcement Notices may be served under the EPR where the operator is contravening or likely to contravene permit conditions. We will consider in each case the advantages of serving an Enforcement Notice, using warning letters or taking court proceedings. The use of an Enforcement Notice may not be appropriate merely to restate what is required by an existing condition. Warning letters will usually be sent and in the event of non-compliance prosecution will be considered.

Suspension Notices

We may serve a Suspension Notice under the EPR where, in respect of an installation permitted by it, there is a risk of serious pollution. This may or may not involve a contravention of a condition of the permit. Once the Council is satisfied that the requisite action has been taken, written notification shall be given to the operator and the Notice withdrawn.

Under the provisions of EPR, we may also serve a Suspension Notice for non-payment of the annual permit subsistence fee (see also Revocation Notice).

Variation Notices

We will consider the issue of a Variation Notice in respect of permitted installations in the following cases;

- where the operator formally requests a specific variation
- where the operator notifies the Council of a proposed change to the process or installation and the Council determines that a variation is required to accommodate that change
- where the Council believes that the existing conditions attached to an authorisation or permit require amending or additional conditions are required

When issuing a Variation Notice, we will include as part of that notice a copy of the consolidated authorisation or permit. Where the operator makes an application for a variation and we decide not to vary the permit then we will notify the operator of our decision and the right of appeal against that decision.

Revocation Notices

We may revoke a permit in whole or in part, at any time by service of a Revocation Notice for appropriate reasons. These also include non-payment of the annual subsistence fee.

When issuing a Revocation Notice the Council will provide an accompanying letter stating the reasons and effect of the Revocation Notice. We will give prior notice and appropriate warning of our intention issue a Revocation Notice giving the operator of the permitted installation appropriate notice to address the issue.

Failure to comply with permit conditions or Notices

Failure to comply with permit conditions or the requirements of a notice may lead to a criminal enforcement response.

Operating without a permit

The Council would expect any operator to be aware of the need for a permit and to obtain one before commencing operation. Should an operation be being carried on without a permit the operator will be invited to make a timely application and the additional fee for operating without a permit will apply. Failure to complying after the warning may lead to prosecution of the operator.

Operating whilst under the provisions of a permit Suspension or Revocation Notice may also be considered as operating without a permit and also lead to prosecution of the operator.

Other Actions

Requisitions for Information

The Council may require any person to provide such information as it may reasonably require discharging its functions under the EPR. Where such a notice is not complied with the Council may instigate legal proceedings.

APPENDIX E

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (FOOD SAFETY)

The purpose of this appendix is to give further guidance on the provisions of the Food Safety Act 1990 and food legislation made under the European Communities Act 1972. The principles of enforcement are clearly set out in the main enforcement policy. The policy will be followed in conjunction with the Food Standards Agency's (FSA) Statutory Codes of Practice including the current Food Law Code of Practice and guidance.

We will work closely with other agencies including the FSA, Public Health England, the Department of Food and Rural Affairs (Defra), Primary Authorities and Home Authorities to ensure consistent and coherent regulation.

The ultimate purpose of the Council's food safety enforcement function is to ensure that those persons with a statutory duty manage and control risks effectively, thus preventing harm.

Food Safety information

More information on the regulation and enforcement of food safety and hygiene can be found at <https://www.middevon.gov.uk/business/food-safety-and-hygiene/>

General food safety enforcement

The Council regards prevention as better than cure. As such officers will offer information and advice to those the Council regulates and seek to secure compliance avoiding bureaucracy or excessive cost. Individuals and businesses are encouraged to put food safety first and integrate safe and hygienic practices into normal working methods.

Enforcement action will be based primarily on an assessment of risk to public health. Formal action will be focused on situations where the public is put at risk, where food businesses are negligent of their obligations or intentionally infringe the law.

Only officers who are deemed competent by training, qualification and experience and who meet the criteria in the Statutory Code of Practice will be authorised to undertake enforcement action. The Council will also ensure that all appointed officers are trained in the use of this policy.

The purpose of enforcement is to:

- ensure that businesses take action to deal immediately with serious food safety risks;
- promote and achieve sustained compliance with the law;
- ensure that businesses which breach food safety requirements are held to account. This may include bringing alleged offenders before the courts.

The Council has a range of tools at its disposal in order to secure compliance with the law and to ensure a proportionate response to criminal offences. The powers available include:

Preventative / remedial action

- Informal action (advice, verbal action, request for action)

- Hygiene Improvement Notice
- Hygiene Emergency Prohibition Notice
- Remedial Action Notice
- Seizure/detention
- Refusal / Suspension / Removal of Approved Premises status
- Hygiene Prohibition Order

Criminal enforcement responses

- Prosecution
- Simple caution

Food safety enforcement notices

Informal action may be taken where:

- The act or omission is not serious enough to warrant formal action.
- Past history indicates that informal action can be expected to achieve full compliance.
- The officers' confidence in the management of the premises is high.
- The consequences of non-compliance will not pose a significant risk to public health.
- Even when some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.
- The availability of a due diligence defence (acting with reasonable care).

Statutory Notices will be used only where the guidance criteria specified in the Statutory Code of Practice is fulfilled. Authorised Officers will only sign Improvement Notices if they have personally witnessed the contravention and are satisfied that it meets the criteria given in this policy.

The use of a Hygiene Emergency Prohibition Notice will be considered when an imminent risk of injury to health can be demonstrated. The officer will consider the guidance criteria specified in the FSA Statutory Code of Practice concerning the conditions when prohibition may be appropriate before service of the Notice.

The offer of Voluntary Closure of a premises, use of any equipment, process or treatment will only be accepted where the nature and extent of the offer would have at least the equivalent effect of the service of a Hygiene Emergency Prohibition Notice.

Remedial Action Notices will be used if a continuing offence in any food premises subject to approval under Regulation 853 / 2004 requires urgent action owing to a risk to food safety. The officer will consider the guidance criteria specified in the FSA Statutory Code of Practice concerning the conditions when a Remedial Action Notice may be appropriate before service of the Notice.

We will liaise with, where appropriate, other agencies including local authorities involved with the Primary Authority Scheme or Home Authority Scheme, before enforcement action is taken to ensure consistent and coherent regulation.

Food detention/seizure

When food has not been produced, processed or distributed in compliance with the Hygiene Regulations an Authorised Officer may detain or seize the food. Following the

detention/seizure the Authorised Officer will follow the advice set out in the FSA Statutory Code of Practice.

Food will be detained where there are suspicions or indications that food at a particular establishment is unsafe and therefore examination is necessary. Such action will be proportionate to the risk to public health and where immediate action is required to ensure food safety. Decisions on whether to release or seize the food will be made as quickly as is reasonably practicable.

The Authorised Officer will provide written notification of the detention/seizure as soon as is reasonably practicable.

A Food Condemnation Notification will be given to the person in charge and/or the owner of the food where the officer intends to have the food dealt with by a Justice of the Peace. If the Magistrate does not condemn the food, it will be returned to the owner, who will be entitled to compensation for any loss encountered,

A Withdrawal of Detention of Food Notice will be served as quickly as possible when evidence or information indicates that detained food can be released, and in any case within 21 days.

Refusal / Suspension / Removal of food approvals

Certain food premises that handle products of animal origin require the approval under Regulation 853 / 2004 prior to conducting a business. Formal action will be taken against those premises which require approval but knowingly fail to gain approval before operation. An establishment will be refused approval where it does not fully meet the requirements of Regulation 853 / 2004.

Where serious deficiencies are identified or production stopped repeatedly and the food business operator is not able to provide adequate guarantees regarding future production the Council will withdraw approval and the establishment must not be used for any activities which would render it subject to approval under regulation 853 / 2004 with immediate effect. Suspension of approval will be considered where the food business operator can guarantee that it will resolve deficiencies within a reasonable time limit.

A Hygiene Prohibition Order may be imposed by the Court, following a successful prosecution, where it considers that the premises, equipment or processes put the public health at risk. The Court may also ban the Food Business Operator, and/or manager, from managing a food business.

Where an enforcement officer is satisfied that a case for prosecution is in the public interest and is supported by sufficient relevant evidence that is admissible and reliable, prosecution will be considered for:

- Non-compliance with a hygiene improvement notice, except where the remaining contraventions detailed in the notice are minor and do not pose a risk to public health or where the outstanding works are in hand
- A flagrant breach of law such that public health, safety or well-being is put at risk, or there is a serious offence under food safety legislation.
- A failure by the offender to correct an identified serious potential risk to food safety after having been given a reasonable opportunity to do so.
- The sale of the food unit for human consumption or not of the quality demanded by the purchaser.

- A failure to comply in full or part with a Statutory Notice, approval or registration.
- A continuing history of similar offences related to risk to the public.
- A Simple Caution has previously been issued for a similar offence.

A person will only receive a Simple Caution when the circumstance of the offence meet the criteria identified in Home Office Circular 016 / 2008.

APPENDIX F

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (COMMUNICABLE DISEASE CONTROL)

The purpose of this appendix is to give further guidance on the arrangements for communicable disease control under the Health Protection legislation.

General infection control enforcement

We are actively involved in the surveillance, reporting and raising public awareness of the causes and prevention of communicable diseases across the district. A memorandum of understanding sets out the framework for a working relationship between Mid Devon District Council and Public Health England, South West Centre (PHE SWC).

PHE SWC will lead on the development, maintenance, and dissemination of policies and procedures for the management of communicable disease and on the public health aspects of control of chemical and radiological hazards across Mid Devon. These policies and procedures will be developed as appropriate in association with other relevant local agencies including Environmental Health Departments, Environment Agency, Public Health Departments, Health and Safety Executive, primary health care, microbiology laboratories, water companies, etc. PHE SWC will also provide the gateway to a range of expert national advice in the areas of infectious diseases, chemical, radiation and nuclear hazards.

PHE SWC and Mid Devon will collaborate to provide specialist advice to health professionals, the public and the media on issues of public health protection that are of mutual concern across the district.

Notifications of infectious disease

PHE SWC and Mid Devon recognise that effective liaison is needed and agree to collaborate with partners, e.g. Care Quality Commission, HSE, to provide advice and support for control of infection in relevant premises including community settings, residential care homes, schools, nurseries, hotels and tattoo parlours.

PHE SWC and Mid Devon will liaise where necessary with each other where either agency becomes aware of adverse conditions or situations which may have contributed to a notified single case or outbreak of infectious disease such as filthy or verminous premises, poor housing conditions, lack of fire precautions in a house in multiple occupation, overcrowded housing, poor hygiene in a communal kitchen, unsafe working conditions, dilapidated drainage system, rodent infestation, a potential statutory nuisance, etc..

We will notify PHE SWC of any infections reported to us directly through alternative sources such as GPs, members of the public, government agencies, water companies, where they have identified a potential for a person or persons to become infected and as appropriate where they come across circumstances where there is actual contamination or the potential for contamination of a person or persons from a chemical or radiological agent.

We will only investigate and enforce infection control within our field of responsibility, including:

- Investigation of individual cases of notifiable diseases as defined in the single case management plan
- Provision of advice to affected individuals

- Inspection of suspected sources including work places and food premises within our field of responsibility
- Sampling of possible sources of infection
- Leading investigations of norovirus outbreaks within non care establishments e.g. hotels with PHS SW support where required
- Supporting PHE SWC with community outbreaks of diseases that are not usually investigated by Environmental Health e.g. non-food borne/food poisoning cases, providing local knowledge
- Enforce relevant food safety and or health and safety legislation where appropriate
- Enforce the Health Protection (Local Authority Powers) Regulation 2010, the Health Protection (Part 2 A Orders) Regulation 2010 where appropriate.
- Assist in distribution of faecal pots during outbreaks
- Supporting multi agency teams
- Disseminating information
- Rodent / pest control

More information on infectious diseases can be found at

<https://www.middevon.gov.uk/business/food-safety-and-hygiene/infectious-disease/>

Health protection legislation

The revision of the Public Health (Control of Disease) Act 1984, as amended by the Health and Social Care Act 2008, and the introduction of the Health Protection Regulations 2010 require us to appoint Proper Officers to receive notifications of infectious disease but do not need to be medically qualified. Proper Officers are not required for the implementation of Part 2A Orders.

We will appoint Proper Officers for the purposes of the Public Health (Control of Disease) Act 1984 (as amended) and associated communicable disease legislation, for the Mid Devon area. Public Health England Consultants are given delegated authority by this Council to act as Proper Officers.

These health protection powers provide us with a range of measures that can be used to prevent, protect against, control or provide a health protection response to an incident, including by chemicals and radiation, or spread of infection or contamination that presents, or could present, significant harm to health. They will be used where voluntary cooperation to avert a health risk cannot be secured and where other methods of control are ineffective, unsuitable or disproportionate to the risk involved.

Local authority powers

Local authority powers are available for use where voluntary cooperation to avert a health risk cannot be secured and where other methods of control are ineffective, unsuitable or disproportionate to the risk involved. When exercising these powers consideration will be given to:

- Risk of transmission
- Impact of transmission
- Necessity
- Proportionality
- Context

These powers allow us to serve, vary or revoke a notice to:

- require that a child is kept away from school;
- require a head teacher to provide a list of contact details of pupils attending their school;
- disinfect/decontaminate premises or articles on request;
- request (but not require) individuals or groups to co-operate for health protection purposes;
- restrict contact with, or relocate, a dead body for health protection purposes.

Health Protection (Part 2A Orders) Regulations 2010

We may apply to a Justice of the Peace (JP) for a Part 2A order that imposes restrictions or requirements on a person, a thing, a body or human remains, or premises. The order requires action to be taken to protect human health against infection or contamination that presents, or could present, significant harm to human health.

In deciding whether to apply for an order the officer will need to determine that the application is a proportionate, necessary and appropriate response to the risk to human health. The Public Health (Control of Disease) Act 1984 (as amended) sets out the criteria that a JP must be satisfied about before they can make an order. These are:

- that the person, thing, dead body or premises is, or may be, infected or contaminated;
- that the infection or contamination presents, or could present, significant harm to human health;
- there is a risk that the person, thing, dead body or premises might infect or contaminate others; and
- an order is necessary to remove or reduce the risk.

Evidence to support these four criteria must be provided to the court by a person suitably qualified to do so. Depending on the circumstances this may be an authorised officer, a doctor or scientist, and we will arrange for this person to provide evidence.

Request for compensation

Exclusion is a power under regulation 8 of the Health Protection (LA Powers) Regulations 2010 where the local authority may request a person to do, or refrain from doing, something and we may offer compensation. Mid Devon District Council would only consider compensation payments in exceptional circumstances where hardship is demonstrated and providing we made the decision to exclude a person for a given period of time.

APPENDIX G

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (PRIVATE WATER SUPPLIES)

The purpose of this appendix is to give further guidance on the provisions of private water supplies and the requirements and standards for drinking water enforced through the Private Water Supplies Regulations 2016, as amended.

Private water supplies information

A private water supply is any water supply which is supplied to a property that is not provided by a water company that may come from a spring, well, borehole, pond, river, stream or rainwater harvesting. Most of these supplies are situated in remote, rural parts of Mid Devon and can originate from a range of sources including; boreholes, natural springs, and watercourses.

We will work closely with formal guidance provided by the Drinking Water Inspectorate (DWI) to ensure consistent and coherent regulation. The DWI is the competent authority for ensuring drinking water requirements are met and has a statutory role to act as technical and scientific advisors to local authorities on all aspects of drinking water quality.

More information on our sampling and regulation of private water supplies can be found at <https://www.middevon.gov.uk/residents/environment/private-water-supplies/>

Private Water Supplies legislation

The Water Industry Act 1991 defines the powers and responsibilities of Mid Devon District Council to act as the regulator for private water supplies across the district. Section 77 includes a requirement to check the wholesomeness and sufficiency of every private water supply within Mid Devon. Where a private water supply is deemed to be unwholesome and/or insufficient then a Section 80 notice will be served on the relevant person(s).

Under the Private Water Supplies (England) Regulations 2016, as amended, we are required to ensure that any private supply of water intended for human consumption does not constitute a potential danger to human health. We achieve this by conducting our statutory duties which includes:

- risk assessments (regulation 6);
- investigations (regulation 16);
- authorisations (regulation 17); and
- monitoring (sampling and analysis) (regulation 7)

Risk assessment

We are required to undertake a risk assessment of all private water supplies, except supplies to single non-commercial domestic dwellings, every 5 years. The purpose is to establish whether there is a significant risk of supplying water that could constitute a potential danger to human health and to establish whether there is a risk of non-compliance with any of the standards or indicator parameter values. Risk assessments involve looking at the whole private water supply including the source, storage tanks, treatment systems and the premises using the supply.

Investigation

Investigations are conducted whenever there is a failure to meet a standard or if it suspected for other reasons (risk assessment, operational incident, or complaint). The investigation has to determine whether the cause of the failure occurred within the private water supplier's system (raw water, treatment or distribution) or whether it occurred within the pipe work (domestic plumbing and fittings) within premises. Once the cause of the failure has been established action will be taken to restore the water quality so that it is wholesome. If we cannot secure action by informal negotiation and an authorisation has not been granted, a Section 80 Notice will be served.

Authorisation

In exceptional circumstances an authorisation may be issued to supply water to a lower standard on a temporary basis while remedial action is taken as part of an agreed and timed programme of work. We will issue authorisations, assessed and evidenced on a case-by-case basis and only after consultation with the DWI.

Sampling and monitoring

The type and frequency of sampling is determined by the following category and size of the supply:

Category of Water Supply

1. Commercial Supply - where the water is used for a commercial activity;
2. Large Supplies – where the average daily volume of water is more than 10 cubic meters;
3. Private Distribution System – where the water is supplied by a water undertaker or licensed water supplier and then further distributed by a another person;
4. Small Supply – where the water is supplied to more than one domestic dwelling;
5. Single Domestic Supply - a domestic dwelling.

Category	Volume	Sample Type*	Frequency
Private Distribution System	As outlined below		
Large Supplies (>10 ³ m per day) and Commercial Supplies	<10 ³ m per day	Group A and B	Once annually
	>10 ³ m ≤100 ³ m per day	Group A	Twice annually
	>10 ³ m ≤3300 ³ m per day	Group B	Twice annually
Small Supplies	varies	Group A and B	Every 5 years

*Group A sampling involves looking at a suite of basic parameters and Group B sampling covers a much larger suite of parameters.

Fees and Charges

The private water supply regulations enable us to charge for risk assessments and all sampling within rules set out by the Government. The current charges reflect current service delivery and can be seen on our website at the link for private water supplies.

APPENDIX H

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (SMOKING ENFORCEMENT)

The purpose of this appendix is to give further guidance on the provisions of smoke free legislation prescribed by the Health Act 2006 as updated in 2015.

Part I of the Health Act 2006 makes provision for the prohibition of smoking in certain enclosed or substantially enclosed premises, and allows for regulations to be made providing for other places (which need not be enclosed) and vehicles to be smoke-free. The Smoke-free (Exemptions and Vehicles) Regulations 2007 provide for enclosed vehicles used by the public or as a workplace by more than one person to be smoke free. The Smoke-free (Private Vehicles) Regulations 2015 will require all private vehicles to be smoke-free when they are enclosed, contain more than one person and a person under 18 is present in the vehicle.

Exemptions to the requirements for premises and vehicles to be smoke free are also contained in the Smoke-free (Exemptions and Vehicles) Regulations 2007.

Smoke free enforcement

It is our policy as the enforcing authority, to protect people working in or visiting an enclosed or substantially enclosed public place from exposure to second hand smoke. This policy also applies to vehicles used in connection with work and public service.

We will not embark upon a rigid proactive inspection programme under this legislation however, visits to check compliance will be undertaken at the same time as other enforcement visits or following receipt of a complaint. Enforcement activities by inspection will involve different approaches depending upon the circumstances including announced or unannounced inspections.

Authorised officers will assess compliance by observation within the premises, subsequently announce themselves and show appropriate identification to the person in charge of the premises at the end of the period of inspection.

Enforcement

Enforcement powers available include:

Preventative / remedial action

A verbal warning, an informal letter or fixed penalty notice

Licensed premises and drivers

For licensed premises and drivers matters can be referred to a Licensing or Regulatory sub-committee respectively. This will take precedence over other enforcement responses excluding preventative/remedial actions outlined above.

Criminal enforcement responses

- Prosecution

- A fixed penalty notice may be issued when an offence has been committed.
- Fixed penalty notices apply to persons who smoke in a smoke free place,
- Premises or vehicle, or where the appropriate signage is not displayed at such places.
- A fixed penalty notice will be issued at the time when the contravention is identified or if appropriate at a later date.

Where repeat breaches of the legislation are witnessed or where fixed penalty notices are not paid in full, then prosecution proceedings will be taken. Prosecution will be considered against an individual found smoking in a smoke free premise or against a person in control of a smoke free premise who fails to erect the correct signage, where informal action and fixed penalty notices have failed to secure compliance. A prosecution will be considered against a person in control of a smoke free premise who fails to prevent smoking after informal action has been taken and liaison will be undertaken with the Licensing Team in respect of any licenced premises.

A general duty of care will apply under the Health and Safety at Work etc. Act 1974. This may be applied when checking, or giving advice on, smoking shelters, ventilation of non-smoke-free rooms, and people working in non-smoke-free rooms and private dwellings.

Smoking in private vehicles

The existing smoke-free law, which makes public places and work premises and vehicles smoke-free, was extended in 2015. The Smoke-free (Private Vehicles) Regulations 2015 requires all private vehicles to be smoke-free when they are enclosed, contain more than one person and a person under 18 is present in the vehicle. It will be an offence for someone to smoke in a private vehicle with someone under age 18 present and for a driver not to stop someone smoking.

Note that electronic cigarettes and all forms of nicotine vaporisers are not included within the definition of smoking. The purpose is to protect children from the harm to their health caused by exposure to second-hand smoke in vehicles.

The police will be responsible for enforcing the legislation in vehicles on the road and have the power to serve fixed penalty notices. As the local authority, we have powers to carry out investigations together with providing information and raising awareness to ensure compliance. In doing so, we will take into account Chartered Institute of Environmental Health (CIEH) guidance: Implementation of Smoke-free Legislation in England - The Smoke-free (Private Vehicles) Regulations 2015.

APPENDIX I

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (HEALTH AND SAFETY)

The purpose of this appendix is to give further guidance on the provisions of the Health and Safety at Work etc. Act 1974 and subordinate legislation.

Health and Safety at Work etc. Act 1974

Our policy is to protect the health, safety and welfare of people at work and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out.

We will put into place adequate arrangements and procedures for enforcement by complying with the National Local Authority Enforcement Code – Health and Safety at Work issued under section 18 (4) (b) of the Health & Safety at Work etc. Act 1974. This Council will also follow the guidance issued to local authorities by the Health and Safety Commission in its Enforcement Policy Statement.

We will only enforce health and safety within our field of responsibility, defined as;

- Activities/premises being within the Councils geographical boundary which are so stipulated in the Health and Safety (Enforcing Authority) Regulations 1988 (as amended)
- Activities/premises locally agreed with the Health and Safety Executive.
- Activities/premises which fall within the memorandum of understanding to the flexible warranting scheme. (Local agreement between local authority officers and HSE inspectors).

The ultimate purpose of our health and safety enforcement function is to ensure that employers and those having a duty under the Act, manage and control risks effectively thus preventing harm.

The Authorised Officer of the Council will liaise with other agencies where appropriate, including the Health and Safety Executive, local authorities involved with the Primary Authority Scheme or Lead Authority Partnership Scheme (LAPS) and any other appropriate agency before enforcement action is taken to ensure consistent and coherent regulation.

Support is given to the Health and Safety Executive / Local Authority Liaison Committee (HELA) in its role liaising between local authorities and the Health and Safety Executive to ensure that a co-ordinated and progressive approach to health and safety takes place. To secure health and safety compliance, this Council will take part in national and local initiatives depending upon the resources available.

Enforcement of regulated premises

The appropriate use of enforcement powers, including prosecution, is important both to secure compliance with the law and to ensure that those who have a duty under it may be held to account for failures to safeguard the health, safety and welfare of employees or the public. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be pursued, nor to assist such claims.

The purpose of enforcement is

- to ensure that duty holders take action to deal immediately with serious risks and
- to promote and achieve sustained compliance with the law,
- to ensure that duty holders who breach health and safety requirements and directors or managers who fail in their responsibility, are held to account. This may include bringing alleged offenders before the courts.

The Authorised Officer has a number of options available to secure compliance with the law and demonstrate a proportionate response to criminal offences. The powers available include:

Preventative / remedial action

- Informal action (advice, verbal action, request for action)
- Improvement Notices
- Prohibition Notices
- Seizure

Criminal enforcement responses

- Prosecution
- Simple Caution

A person will only receive a Simple Caution when the circumstances of the offence meet the criteria identified in Home Office Circular 016/2008.

Informal action is taken where an act, omission or contravention is not serious enough to warrant formal action and previous history with the management of health and safety would suggest this will achieve compliance.

Improvement notices will be served when one or more of the criteria below apply:

- Where one or more significant health and safety contraventions has occurred and they are likely to continue or to be repeated.
- The business/proprietor has a history of non-compliance.
- Standards are generally poor and the business/proprietor has little awareness or appreciation of their legal duties or of statutory requirements.
- Effective action needs to be taken to remedy conditions that are serious and deteriorating.
- Where there is a risk of ill health or injury, but not so as to warrant a prohibition notice

Prohibition notices will be served in the following circumstance:

- When an officer is of the opinion that an activity (or activities) carried on at a premises involves or may involve a risk of serious personal injury.
- Whilst the risk does not have to be imminent before an immediate prohibition notice can be served; such notices will generally only be served where the risk of serious personal injury is such as to require action to be taken without delay to control that risk.
- Immediate prohibition notices may be served not only where the risk is one of traumatic (acute) injury, but also where the risk is from a long term health hazard of a cumulative nature which may ultimately contribute to damage to health.

- Deferred prohibition notices may be served when a greater risk would result if that activity was stopped immediately.

All improvement and prohibition notices served will be placed on the Authority's public register if they relate to matters of a public concern. This is a requirement of the Environment and Safety Information Act 1988.

The Authorised Officer acting on behalf of the Council has powers to seize unsafe goods or equipment to prevent it causing harm to people. When goods or equipment are seized an officer will leave an appropriate receipt.

Subject to the application of the evidential and public interest tests, this Council will normally prosecute in the following circumstance:

- Death was a result of a breach of the legislation;

(NOTE: Health and Safety sentencing guidelines regard death resulting from a criminal act as an aggravating feature of the offence. If there is sufficient evidence that the breach caused the death, this Authority considers that normally such cases should be brought before the court. However, there will be occasions where the public interest does not require a prosecution, depending on the nature of the breach and the surrounding circumstances of the death.)

- The gravity of the alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants prosecution;
- There has been reckless disregard of health and safety requirements;
- There have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- Work has been carried out without or in serious non-compliance with an appropriate licence;
- A duty holder's standard of managing health and safety is found to be far below what is required by health and safety law giving rise to significant risk of actual or potential harm;
- There has been a failure to comply with an improvement or prohibition notice;
- There has been a repetition of a breach that was subject to a simple caution;
- Where false information has been supplied wilfully, or there has been an intention to deceive, in relation to a matter which gives rise to significant risk;
- Inspectors have been intentionally obstructed or assaulted in the lawful course of their duties
- Where it is appropriate in the circumstances to draw general attention to the need for compliance with and maintenance of the standards required by law, and conviction may deter others from similar failures to comply with the law.
- Where a breach giving rise to significant risk has continued despite relevant warnings from employees, or their representatives, or from others affected by a work activity

Primary Authority Partnerships

A Primary Authority Partnership allows businesses to form a statutory partnership with a single local authority, providing access to assured advice on compliance which must be respected by local regulators. It also allows for co-ordination of inspection and enforcement activity. Where there is a Primary Authority Partnership in existence with a company, contact will be made with the Authority once enforcement action is being considered.

We recognise the status of the Primary Authority Partnership scheme, made under the Regulatory Enforcement and Sanctions Act 2008. Section 25c of this Act requires an enforcing authority that wishes to take enforcement action against a business which has a primary authority, to first notify the primary authority of the proposed action. Enforcement action is widely defined for the purposes of the Act by the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009, as amended.

Statutory guidance on the scheme requires that the notification of proposed enforcement action by the enforcing authority:

- should be made via the Primary Authority Register;
- should be itemised, where multiple enforcement actions are being proposed; and
- should include specified details. These are set out in the statutory guidance and in the notification template on the Primary Authority Register.

The statutory guidance also requires that, when making a notification, an enforcing authority should ensure that, during the 5 working days following the notification, it is able to respond to requests from the primary authority for further information or clarification.

The Primary Authority has 5 working days to decide if it objects to the proposed enforcement action. If the Primary Authority or Regulated Business objects, they are entitled to refer the matter to the Secretary of State for consideration within 28 days. Secretary of State determinations must be adhered to.

The legislation recognises that there will be times when the need to act swiftly is critical and it allows for notification to the primary authority to be retrospective in certain defined circumstances. In brief, this applies for:

- Emergency prohibition notices under specified food safety legislation;
- Enforcement action that is required urgently to avoid a significant risk of harm to human health.

Investigations

The Authorised Officer of the Council shall determine whether incidents, cases of ill health, or complaints should be investigated. Investigations are undertaken in order to determine:

- causes,
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law,
- lessons to be learnt and to influence the law and guidance,
- what response is appropriate to a breach of the law.

In deciding what resources to devote to investigations, we will have regard to the principles of enforcement set out in this statement and the objectives published in the Health and Safety Executive / Local Authority Enforcement Liaison Committee (HELA) strategic plans.

In particular, in allocating resources the Council will strike a balance between investigations and mainly preventative activity.

To maintain a proportionate response, most resources available for investigation of incidents will be devoted to the more serious circumstances. The Council recognises that it is neither possible nor necessary for the purposes of the Act, to investigate all issues of non-compliance with the law which are uncovered in the course of preventive inspections, or in the investigation of reported events.

In selecting which complaints or reports of injury or occupational ill health to investigate and in deciding the level of resources to be used, the officer will take account of the following factors:

- the severity and scale of potential or actual harm,
- the seriousness of any potential breach of the law,
- knowledge of the duty holder's past health and safety performance,
- the enforcement priorities,
- the practicality of achieving results,
- the wider relevance of the event, including serious public concern

In considering whether the law has been complied with, the Authorised Officer will have regard to relevant Approved Codes of Practice (ACOP) and guidance issued by the Health and Safety Executive and HELA. The officer will apply sensible judgement about the extent of the risks and the effort that has been applied to counter them.

Decisions involving significant resources will need approval from the Service Director or Service Manager.

The Enforcement Management Model (EMM) will be referred to when considering formal action for breaches of the law. Where action taken differs from that indicated by the EMM the reasons for this will be documented and reasonable.

Representations to the courts

In cases of sufficient seriousness, and when given the opportunity, we will consider indicating to the Magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed. In considering what representations to make, the Authorised Officer/Solicitor will have regard to Court of Appeal guidance.

Death at work

The Authorised Officer will carry out a site investigation of all reportable work-related deaths that have taken place in a local authority enforced premises. Where there has been a breach of the law leading to a work-related death, the Council will consider whether the circumstances of the case might justify a charge of corporate manslaughter.

The police and Crown Prosecution Service (CPS) have legal responsibility to pursue a charge of manslaughter if appropriate. The Council are responsible for investigating contraventions of health and safety. If in the course of their health and safety investigation an Authorised Officer finds evidence suggesting that a manslaughter incident may have occurred, they will pass it to the police for their consideration. If the police or the CPS decide not to pursue a manslaughter case we will normally bring a health and safety prosecution in accordance with this policy.

To ensure decisions on investigation and prosecution are closely co-ordinated following a work-related death, the HSE, the Association of Chief Police Officers (ACPO) and the CPS have jointly agreed and published "Work-Related Deaths: A Protocol for Liaison". The Authorised Officer acting on behalf of the Council will take account of this protocol when responding to work-related deaths.

Lead/Primary Authority

The Health and Safety Executive (HSE) established the Lead Authority Partnership Scheme (LAPS) to improve safety management systems of organisations with multiple outlets that are subject to local authority regulation and promote the consistency of health and safety enforcement for such organisations

Where there is a Lead Authority Partnership in existence with a company where enforcement action is taken copies of letters, notices and other relevant matters will be sent to that Authority for their information/action.

A Primary Authority Partnership allows businesses to form a statutory partnership with a single local authority, providing access to assured advice on compliance which must be respected by local regulators. It also allows for co-ordination of inspection and enforcement activity. Where there is a Primary Authority Partnership in existence with a company, contact will be made with the Authority once enforcement action is being considered (see the above paragraphs under the heading "Primary Authority Partnerships")

APPENDIX J

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – PRIVATE SECTOR HOUSING

The purpose of this appendix is to give further guidance on the provisions of specific legislation and enforcement powers in respect of housing that is privately rented (excluding social housing).

Private rented homes

- On receipt of an enquiry from a tenant a 'tenant referral form' will be sent out.
- When the form has been returned the tenant, the landlord and any other relevant person will be notified of a formal inspection date.
- Following the formal inspection an assessment of the condition of the property will be undertaken and appropriate enforcement action taken if necessary.

Owner Occupied homes

- On receipt of an enquiry the owner will be contacted to provide advice.
- A formal inspection may be arranged depending on the circumstances
- Following the formal inspection an assessment of the condition of the property will be undertaken and appropriate advice or enforcement action taken if necessary.

Empty Homes

- On receipt of an enquiry the empty property will be investigated within 4 weeks.
- The person reporting the property **will not** be kept informed of progress due to the nature of such investigations and the risk of sharing personal data.
- Where intervention is required, the team will pursue the most suitable form of enforcement action to either improve the property or bring it back into use.

Houses in Multiple Occupation (HMO)

- Licensed properties will be inspected on a regular basis to check for breaches of the licence conditions. This will be determined on a risk basis.
- Where notification is received alleging a HMO it will be visited to determine if there are breaches of the Management Regulations or whether the property should be licensed.
- Identification of properties that require a licence will be carried out using local data, information from other agencies and proactive inspection programmes.
- Where an enquiry is made by a tenant in relation to disrepair or potential hazards, then the approach mentioned above (private rented homes) will be followed.

Anonymous Enquiries

- These enquiries will be risk assessed and dealt with as and when resources allow
- Where a problem is found to exist one of the approaches above will be followed depending on the circumstances.

Proactive inspections

- Notification from other agencies such as the Police or Fire and Rescue Service may result in proactive inspections of properties that lead to formal action

- Specific areas may be identified as requiring proactive targeting resulting in a number of properties in a defined area being inspected and any necessary action undertaken.

All tenure types will be investigated in the same way, however the most appropriate course of action to deal with the individual circumstances will be determined on a case by case basis as detailed in this policy. Local authority owned property will only be inspected at the request of the housing department.

Legislative Overview for Private Sector Housing

Housing Act 2004

Since April 2006, the Housing Act 2004 (“the Act”) has been the primary legislative tool for dealing with private sector housing conditions. Regulations made under the Act also play a significant role. The Act is divided into a number of parts, of which the following are most relevant in this context:

Part 1: Housing conditions

This Part covers the assessment of housing conditions being the Housing Health and Safety Rating System (“HHSRS”) and regulations made under section 2 prescribed this as being the method for assessing the severity of hazards.

It also introduces Category 1 and Category 2 hazards. Category 1 hazards are the most serious and likely to cause harm to health and/or safety. Where the Council has identified a Category 1 hazard it is under a mandatory duty to take the appropriate enforcement action. Where it has identified a Category 2 hazard it has a discretionary power to take action.

This Part also sets out the available enforcement options for dealing with Category 1 and 2 hazards. They include:

- Improvement Notice - requires the taking of remedial action within a specified time period. Such notices can, on service, be suspended to come into effect at a later date or at a point in time when a specified event takes place.
- Prohibition Order - prohibiting or restricting some or all uses of all or part of a residential premises. Such orders may also be suspended on service.
- Hazard Awareness Notice - highlighting that there are hazards existing on a residential premise which should be considered for further action. Such a notice does not place a legal obligation on the recipient to carry out works.
- Emergency Remedial Action – action taken by the Council where there is a hazard which involves an imminent risk of serious harm. This action can only be taken in respect of Category 1 hazards.
- Emergency Prohibition Order - prohibiting or restricting some or all uses of all or part of a residential premises with immediate effect. Such an order can only be made in respect of Category 1 hazards involving an imminent risk of serious harm.
- Demolition Order under the Housing Act 1985 (“the 1985 Act”) - this option is only available for residential premises containing Category 1 hazards and is not available in respect of listed buildings.
- Clearance Area under the 1985 Act - requiring the clearing of all buildings in a specified area. Under s47 of the 2004 Act, a clearance area is applicable when all the residential premises in the area concerned contain Category 1 hazards.

Part 2: Licensing of houses in multiple occupation

This Part requires the Council to introduce a mandatory licensing regime for certain types of HMOs.

The Licensing of Houses in Multiple Occupation (Prescribed Description)(England) Order 2018 has extended the scope of mandatory licensing from that contained in the 2004 Act. Any property occupied by five or more people, comprising of two or more households where there is some sharing of facilities now requires a licence.

This Part also empowers local housing authorities (“LHAs”) to introduce “additional HMO licensing” schemes to extend the scope of mandatory licensing to those HMOs not covered by the above regulations.

Part 3: Selective licensing of other residential accommodation

This Part empowers local housing authorities to introduce “selective licensing” schemes in all or part of their area requiring all private rented accommodation to be licensed, unless it is subject to exemption. An area may be designated if it is, or may become, an area of low housing demand and/or it has a significant and persistent problem with anti-social behaviour where the inaction of private landlords is a contributory factor.

Part 4: Additional control provisions in relation to residential accommodation

This Part empowers the Council to make Interim and Final Management Orders and take over the management of privately-rented residential premises. Such orders can be made when a residential premises is not licensed and there is no prospect of it being licensed, or when there is some other management problem requiring Council intervention. Interim Management Orders can be in force for up to a year, whereas Final Management Orders can last up to five years.

This Part also provides for Interim and Final Empty Dwelling Management Orders (“EDMOs”). EDMOs are similar to Interim and Final Management Orders, but relate to empty properties and are designed to ensure that dwellings become and stay occupied.

This Part also provides for the service of overcrowding notices in respect of HMOs that are not required to be licensed.

Section 26 and Schedule 3 of the Housing and Planning Act 2016 provides that a local housing authority can also make a management order in circumstances where a banning order has been made and where a privately rented property is being let in breach of a banning order.

Part 7: Supplementary and final provisions

This Part includes a number of provisions, such as the definition of an HMO. It also empowers the Council to enforce the HMO management regulations, to authorise officers to enter premises, and to require documents to be produced.

Housing and Planning Act 2016

The Housing and Planning Act 2016 has introduced a number of additional powers for dealing private rented accommodation.

- Banning orders – introduced by regulation in April 2018. This permits local housing authorities to seek banning orders where landlords or property agents have been

convicted of a banning order offence. Refer to The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017 for details on the offences.

- Database of rogue landlords and property agents - under section 30 of the 2016 Act a local housing authority must make an entry on the database where a landlord or property agent has received a banning order. They have the discretion to make entries where a landlord or property agent has been convicted of a banning order offence or has received 2 or more civil penalties within a 12 month period.
- Rent repayment orders – Chapter 4 or Part 2 of the Housing and Planning Act 2016, extends the scope of rent repayment orders to cover eviction: breach of a banning order; failure to comply with an Improvement Notice; failure to comply with a Prohibition Order and using violence to secure entry to a property under section 6 of the Criminal Law Act 1977; and
- Financial penalties – Section 126 and schedule 9 of the Housing and Planning Act 2016 makes provisions for the local housing authority to use the power to issue a financial penalty for certain Housing Act 2004 offences as an alternative to prosecution.

The offences include:

- Failing to comply with an Improvement Notice (section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72)
- Offences in relation to licensing of houses under part 3 of the Act (selective Licensing) (section 95)
- Offences in relation to the contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of House in Multiple Occupation (section 234)

Housing Act 1985

The 1985 Act empowers the making of Demolition Orders and the declaring of Clearance Areas.

Part X concerning statutory overcrowding remains in force. A dwelling is statutorily overcrowded when the number of persons sleeping in it is such as to contravene the room or space standard. These standards are described in Part X of the 1985 Act.

Section 17 of the 1985 Act concerns the compulsory acquisition of land or property for housing purposes. This power may be used to acquire under-used or ineffectively used land or property by means of a compulsory purchase order (“CPO”). Before taking such action, the Council must show that there is a general housing need in the area and that a quantitative or qualitative housing gain will be made by making the order. CPOs must be approved by the Secretary of State.

Building Act 1984

Section 59 relates to the drainage of buildings. Where drainage serving any building is defective, insufficient, or prejudicial to health or a nuisance, the Council may, by notice, require the owner of the building to remedy the situation.

If a water closet in a residential building is in such a state as to be prejudicial to health or a nuisance and cannot be adequately repaired, the Council may, by notice under section 64, require the owner of the building to reconstruct the water closet.

Section 76 makes provision for defective premises which are in such a state as to be prejudicial to health or a nuisance. If, by following the procedures set out in section 80 of the Environmental Protection Act 1990, there would be an unreasonable delay in remedying the defective state, the Council may, after having given nine days' warning to the relevant person, enter the premises to carry out the works required to remedy the defective condition.

Under section 77, the Council can apply to the Magistrates' Court for an order requiring the owner of a dangerous building to either make the building safe or (if the owner chooses) demolish it. If the owner fails to comply with the order, the Council can carry out the works-in-default and recover the reasonable expenses incurred in doing so from the owner. In emergency situations, the Council can (without obtaining a court order) take immediate steps to make safe a dangerous building under section 78. In such circumstances, the Council must, if possible, attempt to give prior notice to the owner and occupier. Again, reasonable expenses can be recovered from the owner. Although such intervention may concern private sector housing, the Council's Building Control section is responsible for action under sections 77 and 78.

Section 79 concerns ruinous and dilapidated buildings and neglected sites. If a building is, by reason of its ruinous or dilapidated condition, seriously detrimental to the amenities of the neighbourhood, the Council may serve a notice requiring the owner to carry out remedial works or (if the owner chooses) demolish the building. If the owner fails to comply with the notice, the Council can carry out the works-in-default and recover the reasonable expenses incurred in doing so from the owner. This section also makes provision for dealing with any debris resulting from the collapse or demolition of a building, which by its nature is seriously detrimental to the amenities of the neighbourhood. If this condition is met, the Council may serve a notice on the owner requiring the clearance of the site. As above, if the owner fails to comply with the notice, the Council can carry out the works-in-default and recover the reasonable expenses incurred in doing so from the owner.

Public Health Act 1936

If a water closet provided in residential premises is in such a state as to be prejudicial to health or a nuisance, and it can, without reconstruction, be put into a satisfactory condition, the Council may serve notice under section 45 requiring the owner or occupier to repair or cleanse the water closet as necessary.

Public Health Act 1961

Section 17 concerns defective and blocked drainage. If it appears to the Council that a drain, private sewer, water-closet, waste pipe or soil pipe is not sufficiently maintained and kept in good repair, and can be sufficiently repaired at a cost not exceeding £250, it may, after giving seven days' notice, carry out the necessary repairs and recover the expenses incurred from the person(s) concerned, namely the owner(s) or occupier.

In cases where the drain, private sewer, water-closet, waste pipe or soil pipe is stopped up, the Council may, by notice, require the owner or occupier to remedy the problem within 48 hours. If such a notice is not complied with, the Council may undertake the works-in-default and recover the costs incurred in doing so.

Law of Property Act 1925

In cases where the Council is owed monies, as a result of the Council undertaking works-in-default under relevant legislation and the legislation provides that the cost of carrying out the works is a charge on the property the Council can exercise the power of sale conferred by the charge to recover the money if it is not paid. There is a requirement to serve notice under section 103 of the Law of Property Act 1925. This notice explains that money is owed under charge and that if it is not paid off within 3 months, the Council may then sell the property to recover the money. Depending on the wording of the particular relevant legislation the charge maybe a priority charge. This means that the Council's charge takes precedence against all other existing charges

Local Government (Miscellaneous Provisions) Act 1976

When the Council requires information relating to the ownership of land in connection with the discharge of its statutory duties, it may, by notice under section 16, require certain persons to provide information within a specified timescale. In connection with the land concerned, such information can be demanded from any one or more of the following: the occupier, freeholder, mortgagee, lessee, any person receiving the rent (either directly or indirectly), and any managing or letting agent.

If water, gas or electricity supply to a dwelling has been cut off, or is likely to be cut off, owing to the non-payment of a bill by the owner, the Council may, under section 33, step in and make arrangements with the supplier to ensure that the supply is reconnected and/or maintained.

Local Government (Miscellaneous Provisions) Act 1982

Sections 29 to 32 relate to the protection of buildings. If a building is unoccupied, or the occupier is temporarily absent, and it is insecure or likely to become a danger to public health, the Council may take action to ensure that it is adequately secured to prevent unauthorised entry and made safe. The Council can recover the costs from taking such action from the owner of the building.

Prevention of Damage by Pests Act 1949

The Council is under a duty to ensure, as far as is practicable, that its district is kept free from rats and mice. If residential premises are in such a condition as to attract rats or mice, the Council may, by notice, require appropriate treatment to be undertaken and/or require remedial works to ensure that harbourage is no longer provided. For example, such a notice may require the removal of rubbish and furniture that has been discarded in the external grounds of a privately-owned property which has or is likely to attract rats and mice.

Health Act 2006

Under the Health Act 2006, it became an offence to smoke in public places or places of work which are enclosed or substantially enclosed. Furthermore it is an offence not to display no-smoking signs in smoke-free premises. It is also an offence to be a manager of smoke-free premises and allow persons to smoke in them.

For the purposes of private sector housing, the common parts of HMOs and the common parts of buildings containing flats are deemed to be smoke-free premises.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 - private sector landlords are required to ensure that at least one smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance. They also require landlords to ensure that such alarms are in proper working order at the start of each new tenancy. In addition, the regulations amend the conditions which must be included in a licence under Part 2 or 3 of the Housing Act 2004 ("the 2004 Act") in respect of smoke and carbon monoxide alarms.

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

The minimum level of energy efficiency means that, subject to certain requirements and exemptions:

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

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

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

Deregulation Act 2015 and Retaliatory eviction

Where a tenant has a legitimate complaint about the condition of their property they are protected from retaliatory eviction. It is also a requirements that landlords provide all new tenants with information about their rights and responsibilities as tenants. This legislation has been incorporated into the tenant referral form process to ensure that both landlords and tenants are aware of their responsibilities under this Act. The effect of this legislation is that a landlord is unable to evict the tenant for 6 months using the 'no-fault' eviction procedure (a section 21 eviction) where the council has served an improvement notice or taken emergency remedial action. There are various exemptions to this contained within the Act.

Houses in Multiple Occupation

A building, or a part of a building, is an HMO if:

- It meets "the standard test"; or
- It meets "the self-contained flat test"; or
- It meets "the converted building test"; or
- It is a "converted block of flats" to which section 257 of the Act applies.

The standard test

There are six parts to the standard test. A building (or any part of a building) will meet the test if:

- a) It consists of one or more units of accommodation that are not self-contained; and
- b) It is occupied by more than one household; and
- c) It is occupied by persons who use the accommodation as their only or main residence; and
- d) The accommodation is not used for purposes other than living accommodation; and
- e) At least one person is paying rent (or providing other consideration) for their use of the accommodation; and
- f) Two or more households share one or more basic amenity, or the accommodation is lacking in one or more basic amenity.

The self-contained flat test

A self-contained flat will be an HMO if it meets tests b) to f) of “the standard test” above.

The converted building test

There are six parts to the converted building test. A building (or any part of a building) will meet the test if:

- a) It is a converted building; and
- b) It consists of one or more units of accommodation that are not self-contained (whether or not there are self-contained flats in the building); and
- c) It is occupied by more than one household; and
- d) It is occupied by persons who use the accommodation as their only or main residence; and
- e) The accommodation is not used for purposes other than living accommodation; and
- f) At least one person is paying rent (or providing other consideration) for their use of the accommodation.

Certain converted blocks of flats

This HMO definition applies to certain buildings (or parts thereof) that have been converted entirely into self-contained flats. As such, there is no sharing of basic facilities in this type of HMO. However, not all buildings converted into self-contained flats are HMOs. For a building of this type to be an HMO, it must meet both of the following tests:

- a) The building was not converted in accordance with the “appropriate building standards” (they being the Building Regulations 1991 or later versions of these Regulations); and
- b) Less than two-thirds of the self-contained flats are owner-occupied.

Single Household

A household is generally considered to be a single family unit, comprised of members of the same family. Couples whether married or not are deemed to be of the same family. Relatives that may form part of a single household include: parents, grandparents, children, grandchildren, brother, sisters, uncles, aunts, nephews, nieces, and cousins.

Basic Facilities

Toilets, personal washing facilities (e.g. showers, baths and washbasins) and cooking facilities (e.g. kitchens) are considered to be basic facilities.

HMO declarations

Sometimes, a building (or part of a building) is not solely used as living accommodation. In this situation, the HMO tests set out above (concerning sole use as living accommodation) cannot be met. However, if the building concerned is primarily used as living accommodation, and meets all the other relevant HMO tests, it may be appropriate for the Council, in the public interest, to declare the building as an HMO.

HMO declarations can be made by the Council in respect of buildings that would otherwise meet the “the standard test”, “the self-contained flat test”, and “the converted building test”. An HMO declaration cannot be made in respect of “converted block of flats”.

A relevant person can appeal to the Residential Property Tribunal against any decision of the Council to declare a building as an HMO.

Exemptions

Schedule 14 of the Act specifies buildings which are not HMOs for the purposes of the Act. However, when considering action under Part 1 of the Act (HHSRS and enforcement of housing conditions), the specified exemptions do not apply. This allows for risk assessment to reflect the true nature of occupation. The exemptions are:

- Buildings managed or controlled by LHAs, registered social landlords (“RSLs”) and certain other public sector bodies, such as the Police.
- Buildings that are otherwise regulated under prescribed legislation, such as care homes (see Schedule 1 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (SI 2006/373) for the full list of enactments).
- Buildings that are managed and controlled by certain educational establishments and are occupied by students. As of January 2014, only those establishments specified in The Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2013 (SI 2013/1601) are exempt. These regulations are regularly updated, usually on an annual basis.
- Certain buildings occupied by religious communities.
- Any building occupied by its owner and his/her family, and in which no more than two lodgers or tenants reside. HMOs defined by section 257 of the Act are excluded from this exemption.
- Buildings occupied by only two persons forming two households.

Exempt buildings are not subject to HMO licensing under Part 2 of the Act, or either of the two sets of HMO management regulations (see below). Furthermore, the provisions of Chapter 3 of Part 4 of the Act, which relate to the service of overcrowding notices in respect of HMOs not subject to licensing, do not apply to exempt buildings.

Public registers of housing licences

The Council is required to maintain a public register of all licences issued. The information required to be contained within a public register is prescribed by legislation.

The Council maintains a public register for mandatory HMO licensing. This can be viewed at the Council's main offices during working hours, by appointment. Paper copies of the registers are available; for which a fee may be charged.

The public registers includes the names and addresses of all licence holders and named managers. A summary of licenced premises may be published on the Council website, however this will exclude this information.

Licensed HMO Property inspections

The Council will inspect all properties subject to licensing and make an assessment under the HHSRS. The inspection will be carried out before, or as soon as possible after, the granting of a licence; however, the timing will depend on the priorities of the Council's inspection programme. The inspection will always take place during the licence period.

The licence holder, manager and occupiers will be given at least 24 hours' notice of the date and time that an HHSRS inspection will be undertaken. Any hazards identified will be dealt with following the enforcement principles in this policy.

The Council will also make unannounced inspections of licensed premises to ensure compliance with licence conditions and the Management Regulations.

Penalties for non-compliance with HMO licensing

There are two offences associated with HMO licensing.

Failing to obtain a licence for a property which is required to be licensed is an offence. The offence is committed by the person having control of and/or the person managing the premises. A person committing such an offence is liable on summary conviction to a fine.

Once a licence has been issued, the licence holder and any named manager (if applicable) must adhere to the licence conditions. The licence holder and/or the licence manager will commit an offence if they breach any of the licence conditions. A person committing such an offence is liable on summary conviction to a fine.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced unlimited fines for these offences.

In respect of licensing offences there is a defence of "reasonable excuse".

Prosecution

When a person fails to licence a property, or breaches a licence condition, the Council will begin an investigation to consider whether or not an offence has been committed.

Financial penalty

See above.

Restriction on terminating tenancies

No section 21 notice may be given in respect of unlicensed premises.

In this context, a "section 21 notice" is a notice served under section 21(1)(b) or (4)(a) of the Housing Act 1988 in order to regain possession of a property subject to a shorthold tenancy.

The following are not "unlicensed premises":

- A property subject to a valid temporary exemption notice;
- A property subject to a valid licence application that is being determined by the Council.

Rent Repayment Orders

In certain situations, the Council or a resident may make an application to the Residential Property Tribunal for a Rent Repayment Order (“RRO”).

If a property is licensable under the mandatory HMO or selective licensing regimes and the Council is of the opinion that an offence has been committed the Council may make an RRO application. An application can be made irrespective of whether the Council decides to prosecute for the offence.

Council applications will concern the repayment of housing benefit monies paid in respect of an unlicensed property. Applications may only relate to periods of up to 12 months.

RROs made in favour of the Council are a local land charge and the Council may use the enforced sale procedure under the Law of Property Act 1925 to recover its debt.

As detailed above, the scope of rent repayments orders has been extended to cover more than just HMO licensing offences.

HMO Management Regulations

Section 234 of the Act provides for the making of HMO management regulations by the Secretary of State.

If a person managing an HMO does not comply with the HMO management regulations issued by the Secretary of State, they are guilty of an offence (unless they have a reasonable excuse).

The Secretary of State has issued two sets of regulations:

- The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006/372). These regulations apply to all HMOs, except those defined as converted blocks of flats under section 257 of the Act.
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 (SI 2007/1903). These regulations apply only to HMOs defined as converted blocks of flats under section 257 of the Act.

Both sets of regulations impose duties on the persons managing HMOs in respect of:

- Providing information to occupiers;
- Taking safety measures, including fire safety measures;
- Maintaining the water supply and drainage;
- Supplying and maintaining gas and electricity, including having it regularly inspected;
- Maintaining common parts;
- Maintaining living accommodation; and
- Providing waste disposal facilities.

The regulations also impose duties on occupiers to ensure that they do not hinder the effective management of HMOs.

HMO licensing is an entirely separate legislative regime. The regulations apply to all types of HMOs, both licensable and non-licensable.

Enforcement of the Management Regulations

In general terms, the Council will seek to ensure compliance with the regulations by means of an educative and informal approach. Initiating prosecution as a first response will not normally be the Council's approach. Therefore, where contraventions have been identified, the Council will usually send an informal notice to the person(s) managing the HMO, setting out the nature of the failings and requiring the taking of remedial action within prescribed timescales. Further legal action would not be taken if such a notice is complied with satisfactorily. However, failing to comply with the timescales set out in an informal notice without reasonable excuse may lead to prosecution proceedings being initiated by the Council.

In some situations, the Council may decide to initiate a prosecution without recourse to informal procedures. Immediate prosecution may be considered for contraventions that:

- Are so serious that the failings have exposed occupiers to significant risk or caused actual harm;
- Are related to other forms of enforcement action being taken by the Council; or
- Have been repeated and the manager has already been subject to informal intervention under the HMO regulations.

Charging for enforcement and other fees

There are various provisions within the legislation stated above that allow the council to recover costs, or set fees.

Detailed below are the areas that the council will make changes for and any associated penalties:

HMO Licensing – Section 63(3) of the Housing Act 2004 Act provides that the authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

Charging for enforcement action – The Housing Act 2004 section 49 gives the local housing authority the power to charge for administrative and other expenses related to certain enforcement action. The provisions are clear that only the costs associated with determining whether enforcement action is necessary, identifying the type of action and the serving of the notice can be recovered.

Charges will be applied to enforcement action under part one of the Act, to improvement notices, prohibition orders, emergency remedial action, emergency prohibition orders and demolition orders.

It is not considered appropriate to charge for the service of hazard awareness notices as these do not require the work to be carried out and are placed as a local land charge.

Demand for payment of the charge will be applied where a prohibition order is served, emergency remedial action is taken or an emergency prohibition order is served.

A demand will also be sent where there is non-compliance with any part of an improvement notice.

Demolition orders will be charged for and the cost of instructing a surveyor to carry out the Neighbourhood Renewal Assessment (NRA) will also be added.

Penalty Charges for offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The maximum penalty for an offence under these regulations is £5000. It is proposed that the Council introduces the maximum penalty with a 25% reduction if payment is made within 14 days of the demand for payment.

Financial penalties for offences under the Electrical Safety Standards

Section 123 of the Housing and Planning Act 2016 makes provision for the local housing authority to impose a financial penalty on an owner of a property where they have failed to comply with the electrical safety standards.

This part of the Act has not yet come into force however it is the intention of the council to implement the regulations and set the penalty in line with this policy.

Works in default

As set out by provisions contained in Schedule 3 Part 3 of the Housing Act 2004, interest is to be paid on all costs associated with carrying out works in default (including the costs of the work itself) where the demand for payment remains unpaid after the initial 28 days. A £100 administrative fee is proposed with an interest rate of 3% to be applied annually.

APPENDIX K

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – HOUSING SERVICE

The purpose of this appendix is to provide more information about how the Council, as a registered provider of social housing, will enforce tenancy breaches. The Housing Service has a contractual/statutory relationship with tenants but has certain obligations relating to the provision of support to those who may be vulnerable or who may need it for other reasons. It should be noted that work to manage and support those who breach their conditions of tenancy should be balanced with our responsibilities to those other people who live on our estates and the wider community.

As a social landlord, the Council has statutory obligations. The following list of relevant legislation is not exhaustive; and these references are to be regarded as including references to them as amended, varied, replaced or re-enacted from time to time.

- Housing Act 1985
- Localism Act 2011
- Protection from Eviction Act 1977
- Landlord and Tenant Act 1997
- Civil Procedure Rules 1998
- Equality Act 2010
- Human Rights Act 1998
- Anti-social behaviour, Crime and Policing Act 2014
- Data Protection Act 2018

The regulatory framework for social housing, which is operated by the Regulator for Social Housing (RSH), contains a number of standards. Only those standards categorised as consumer standards apply to the Council as a registered provider of social housing, but they contain a number of required outcomes and specific expectations: <https://www.gov.uk/government/publications/regulatory-standards>

Objective

We will provide a flexible, effective and efficient tenancy management service that reflects best practice, complies with legislative and regulatory requirements and recognises the rights of our tenants, in order to manage our homes efficiently and effectively.

We will provide advice and assistance to tenants to help them to sustain their tenancy:

- To ensure we comply with all legal and regulatory requirements and standards.
- To reduce tenancy fraud and subletting within our stock.
- To seek possession of the homes in our management where appropriate
- To ensure that their security of tenure is only reduced as a result of a Court Order or by way of mutual exchange.
- To support them exercising their rights under the terms of their tenancy agreement.

Prevention of Tenancy Breaches

We will use a range of preventative measures to reduce breaches of tenancy. These will include but are not limited to:

- Identifying risk factors prior to allocating a home to a housing applicant using a home visit, wherever possible.

- Seeking landlord references and other background information in accordance with the provisions of the Devon Home Choice scheme, where possible.
- Using introductory and flexible tenancies
- Clearly explaining tenants' obligations at the start of the tenancy
- Closely monitoring new tenancies, and offering advice to new tenants, where appropriate
- Identifying tenants who need extra support and making appropriate referrals to external agencies
- Attending regular meetings and working in partnership with local Police, Early Help initiatives, and other agencies, as appropriate
- Undertaking regular inspections of properties with communal areas
- Undertaking Neighbourhood Walkabouts on a regular basis, inviting local people, Ward Councillors and other stakeholders, as appropriate
- Involving other agencies, as appropriate, to assist with addressing specific issues including those associated with non-payment of rent, anti-social behaviour, safeguarding and other serious issues
- Publicising our successes in tackling previous incidents of anti-social behaviour, in order to encourage people to report problems, and as a deterrent.

Tenancy Inspections

In accordance with our policy relating to tenancy inspections, the Housing Service will visit properties in the housing stock regularly. These visits are known as "Tenancy Home Checks". Regular inspections allow the Council to:-

Check that tenants are complying with the terms and conditions of their tenancy:

- Investigate alleged tenancy fraud;
- Identify abandonment and non-occupancy of a property;
- Prevent unauthorised subletting or assignment;
- Identify concerns around property condition, such as potential health and safety risks such as hoarding and disrepair;
- Identify opportunities for service improvement, and tenants who wish to become involved;
- Provide support to tenants;
- Increase customer profiling information; and
- Raise concerns about the condition of a property, or safeguarding issues following an inspection

For more information, please refer to the tenant inspection policy which is available to view on the housing pages of the Council's website:

<https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

If tenancies are not managed effectively and monitored by use of a robust tenancy inspection regime, there could be an increase in tenant arrears and anti-social behaviour which could have a negative impact upon neighbours and other residents in the local community.

Tenure Type

Our tenancy policy sets out our approach to the use of different types of tenancy.

The Council also has an introductory tenancy policy which is available to view on the housing pages of the Council's website:
<https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

This type of tenancy enables the Council to closely monitor the "trial period" of a tenancy. If the tenant complies with the conditions of the tenancy agreement, they will automatically become a flexible or secure tenant after 12 months, depending on their tenancy agreement. The introductory tenancy policy sets out how we will respond to tenancy breaches involving those who have an introductory tenancy.

The aim of the tenancy policy is to enable the Housing Service to make the best use of available social housing stock. This will include reducing overcrowding, tackling under-occupation and making best use of adapted housing for those with a disability. This will support the development of sustainable communities in the District.

For more information, please refer to the tenancy policy which is available to view on the housing pages of the Council's website:
<https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

This policy describes the different types of tenancies which are used by the Housing Service when letting properties, and the circumstances when we may use them. In particular, it explains when we might use a fixed term rather than a lifetime tenancy. It clarifies how a tenant or prospective tenant may appeal against a decision made about the type of tenancy offered.

It acknowledges that housing applicants may be vulnerable at the point when they are being allocated a new home and that this must influence the decision relating to the tenancy type which they will be offered. It states that advice and assistance will be made available to help tenants to manage their tenancies.

In addition, this policy sets out the circumstances under which flexible tenancies may not be renewed.

It is important for the Housing Service to review, to manage, to exchange or to end tenancies in accordance with relevant legislation and regulation. Failure to do so could result in delays in securing possession where this is being sought, or result in complex challenges which could be costly and which could also lead to risks associated with increased complaints and reputational damage. The Council must make best use of the housing stock and failure to manage the end of flexible tenancies, in particular, may have an impact upon the availability of suitable accommodation for those in housing need.

Tenancy Management

Our approach to tenancy management is also described in the tenancy policy. This policy states that our tenancy agreements will set out the rights and obligations of both tenant and landlord.

In addition, it defines our approach to tenancy fraud, mutual exchanges and supporting tenancies.

Our tenancy changes policy, which is available to view on the housing pages of the Council's website: <https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/> reinforces our approach to dealing these and with other tenancy matters including

succession rights, tenancy changes such as requests for a tenancy to become a joint one, and assignments.

It should be noted that unlawful occupation of one of our homes is not permitted. We will seek possession of the property through the County Court. The unlawful occupier will be liable for use and occupation charges along with any costs associated with legal proceedings.

Some tenants have the right to sublet their property and permission will be granted in accordance with the tenancy agreement. If a tenant does not have the right to sub-let all or part of their property, they will be in breach of the terms of their tenancy agreement. Where unlawful subletting is identified, legal action will be taken to regain possession of the property.

We will use all available tools and powers to remove any squatters found at any property in our management.

The Housing Service has a number of other policies which set out our approach to general tenancy management.

These include the following policies, which are all available to view on the housing pages of the Council's website: <https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

- Aids and adaptation policy
- Car parking management policy
- Decant policy
- Fire risk in communal areas policy
- Garage management policy
- Gas safety policy
- Hoarding policy
- Improvements to Council properties policy
- Leasehold management policy
- Neighbourhood management policy
- Pets and animals policy
- Recharges policy
- Tenant involvement strategy
- Tenant involvement policy
- Void management policy
- Vulnerability policy

Anti-Social Behaviour in our social housing

The Housing Service of the Council is committed to prevent, investigate, respond to and monitor incidents of anti-social behaviour (ASB) involving our tenants. It states that: "By being responsive to complaints, and tackling issues in a fair, consistent and proportionate way, we can provide safe and secure environments around our homes and neighbourhoods, where people want to live".

The ASB policy and procedures can be found on the housing pages of the Council's website together with our policies relating to domestic abuse and harassment: <https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

The ASB policy sets out how:

- we will investigate complaints of ASB and nuisance
- we will tailor action plans to take account of the circumstances of each case
- we will make best use of the remedies available
- we will involve vulnerable tenants, victims and perpetrators, to resolve ASB problems
- we will support victims, witnesses and perpetrators
- we will work in partnership with other agencies to resolve problems and to prevent ASB happening on our estates

Income Management

The Housing Revenue Account (HRA) supports the work of the Council's Housing Service. Most of the income into the HRA is derived from rents collected from tenants. The costs associated with managing and maintaining approximately 3,000 homes are significant and the HRA must balance. Therefore it is important that income is maximised in order to ensure that there are funds available to maintain the main asset of the Council, in good order.

We have an income management policy which relates to the Council's debt collection policy. These policies are able to view on the housing pages of the Council's website: <https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>

The aim of our income management policy is to create a rent payment culture, ensuring that rent and charges are collected quickly and effectively, whilst supporting our tenants in matters relating to financial inclusion and the ability to manage their money.

Our income management policy describes how we will oversee the management and recovery of arrears and other unpaid sums.

It states that we will adopt a "firm but fair" approach to recovery of rent arrears and that this will be sensitive to individuals' circumstances. It specifies that: "Proactive steps are to be taken to prevent and minimise the build-up of unpaid sums on rent and sub accounts where possible, recognising that from time to time tenants may experience financial difficulties". It states that in these circumstances: "Officers aim to support and work with tenants at the earliest opportunity to help tackle financial exclusion and to provide assistance to individuals experiencing financial difficulty".

Breaches of tenancy

We will take steps to prevent and manage breaches of tenancy quickly and effectively, taking a multi-agency approach where necessary, based on the principles of prevention, investigation, evaluation, response and monitoring.

APPENDIX L

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – STREET SCENE SERVICES (CIVIL PARKING ENFORCEMENT – OFF STREET)

The purpose of this appendix is to give further guidance on the provisions of the Traffic Management Act 2004 s82. The principles of the Civil Enforcement are clearly set out in the main Civil Parking Enforcement – off street) policy. The policy will be followed in conjunction with the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and the Civil Enforcement of Parking Contraventions (England) Representations and Appeal Regulations 2007.

General parking enforcement

Mid Devon District Council enforces Council owned car parks and as such are considered the Enforcement Authority in those locations only. The policy set out in this document is intended to provide guidance and information to the public and Council employees carrying out car park enforcement duties. The policies and approach are consistent with current best practice and aim to provide clarity, consistency and transparency within the enforcement process and compliance with the aspirations of the legislation and associated guidance, the Traffic Penalty Tribunal (TPT) and the Local Government Ombudsman. These policies represent a foundation upon which fairness, openness, transparency and discretion can be applied. The importance of flexibility in these matters has been recognised by the courts and, as a consequence, decisions made by councils must not be unduly rigid in their application.

By carrying out Civil Parking Enforcement within its own car parks Mid Devon District Council will:

- Maintain its car parks to a standard that encourages drivers to park legally and safely thereby improving traffic flow on the highway and making the Borough a more pleasant and environmentally safe place in which to live and visit.
- Provide parking at reasonable cost to the public so as to encourage the local economy.
- Actively support the needs of disabled people bearing in mind that, in some cases, they are unable to use public transport and are entirely dependent upon the use of a car. This will ensure that people with disabilities are able to have equal access to all facilities within the District.

APPENDIX M

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – STREET SCENE SERVICES (FIXED PENALTY POLICY – DOG FOULING, LITTERING AND FLY-TIPPING)

The purpose of this appendix is to give further guidance on the provisions of the fixed penalty notice for offences contained within the Clean Neighbourhoods and Environment Act 2005 and the Environmental Protection Act 1990.

General Fixed Penalty Enforcement

Fixed penalty Notices are a means of punishing offenders for unlawful behaviour and offer a quick, flexible means of dealing with certain offences. It avoids overloading the judicial system with unnecessary cases. They allow a person who admits to the committing of an offence to end the matter promptly, avoid Court action and possibility of a criminal record. As well as an enforcement tool the use of fixed penalty notices is intended to encourage behaviour change and bring improvements to local environmental quality and protect public safety.

Fixed Penalty notices can be issued for:

- Dog fouling
- Littering
- Fly tipping

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 18 March 2019 at 2.15 pm

**Present
Councillors**

F J Rosamond (Chairman)
Mrs H Bainbridge, Mrs F J Colthorpe,
Mrs C P Daw, R M Deed, Mrs G Doe,
Mrs S Griggs, T G Hughes, Mrs B M Hull,
F W Letch, T W Snow and N A Way

**Also Present
Councillor(s)**

R J Chesterton and R L Stanley

**Also Present
Officer(s):**

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Jill May (Director of Corporate Affairs and Business Transformation), Adrian Welsh (Group Manager for Growth, Economy and Delivery), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Tristan Peat (Forward Planning Team Leader), John Bodley-Scott (Economic Development Team Leader), Lisa Lewis (Group Manager for Business Transformation and Customer Engagement), Jane Lewis (Communications and Engagement Manager), Kevin Swift (Public Health Officer), Aarron Beecham (Forward Planning Assistant) and Carole Oliphant (Member Services Officer)

144 APOLOGIES AND SUBSTITUTE MEMBERS (00.00.48)

There were no apologies

145 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.01.00)

There were no declarations

146 PUBLIC QUESTION TIME (00.01.28)

There were no questions from members of the public present.

147 MEMBER FORUM (00.01.37)

There were no issues raised under this item.

148 MINUTES OF THE PREVIOUS MEETING (00.01.46)

The minutes of the meeting held on 18th February 2019 were approved as a correct record and **SIGNED** by the Chairman.

149 **DECISIONS OF THE CABINET (00.04.15)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 7th March 2019 had been called in.

150 **CHAIRMAN'S ANNOUNCEMENTS (00.04.21)**

The Chairman had no announcements to make.

151 **CABINET MEMBER FOR PLANNING & ECONOMIC REGENERATION (00.04.33)**

The Committee received and **NOTED** a *report from the Cabinet Member for Planning & Economic Regeneration

He outlined the contents of the report and stated that it reflected the wide area of the teams remit which was far greater than 10 years ago.

Discussion took place regarding;

- Rural productivity and the effect of the issues with broadband provision across the district
- Provision of wireless broadband in the rural areas
- Congratulations to officers who ensured the Council entered the Local Government Chronicle awards
- The successful occupation of business units as they became available
- If there was a demand for new homes in the district and the conclusions of the Local Plan
- The initial conclusions of the Inspector after the examination hearings for the Local Plan review
- The success of the Building Control Partnership with North Devon Council

In response to Members questions he confirmed that he would send details of action taken by officers with regard to scaffolding in Cullompton High Street and he would seek to provide the figures for the Housing Delivery Test broken down into the 3 main towns.

Note: *Report previously circulated and attached to the minutes

152 **PERFORMANCE AND RISK (00.50.43)**

The Committee had before it and **NOTED** a *report from the Group Manager for Performance Governance and Data Security providing an update on performance against the Corporate Plan and local service targets for 2018-2019 as well as providing an update on the key business risks.

She outlined the contents of the report highlighting the targets against the corporate plan aims and providing information from queries raised.

There was a general discussion on waste collections and Members were encouraged to get residents to report any issues to Street Scene so that they could be resolved.

Members discussed the formatting of the material provided.

Note: *Report previously circulated and attached to the minutes

153 CREDITON TOWN CENTRE MASTERPLAN (01.12.33)

The Committee received a *report of the Head of Planning Economy and Regeneration, presented to Cabinet on 7th March 2019, defining the scope for the commissioning of consultants to assist in the preparation of a Masterplan Supplementary Planning Document and Delivery Plan (SPD) for Crediton Town Centre in the budget year 20/21.

Members discussed the scope of the delivery plan and were broadly in favour of the plan.

There was a general discussion on the transport strategy and the Group Manager for Growth, Economy and Delivery confirmed that the proposed train station was incorporated in the plan.

Note: *Report previously circulated and attached to the minutes

154 SUPPORTING THE FORMATION OF SOUTH WEST MUTUAL (01.21.36)

The Committee received a *report of the Chief Executive on supporting the formation of South West Mutual previously presented to Cabinet on 7th March 2019.

The Chief Executive outlined the content of the report and explained that the first stage of the process was to obtain a bankers licence. He explained that Cabinet had recommended to Council that the scheme be supported and that it was felt that it brought community benefit.

There was a general discussion on the disappearance of high street banks in the district and that the Post Office had recognised a need for rural banking by opening up previously closed branches.

The Deputy Chief Executive (S151) explained that across the country there were a number of mutuals exploring the potential of opening local branches. He explained that at this stage it was too early to predict where the branches would be situated, but if the mutual bank were to be successful clearly the council would be seeking to highlight those communities where access to banking facilities was now severely limited in order to try and influence branch location

Note: *Report previously circulated and attached to the minutes

155 COMMUNITY ENGAGEMENT WORKING GROUP UPDATE (01.40.13)

The Committee received a verbal report from the Group Manager for Business Transformation and Customer Engagement providing an update on the customer service projects recommended by the work of the Scrutiny Committee Community Engagement Working Group.

She explained that a Town and Parish Council Survey was completed in 2018 and the results had been fed back to the Town and Parish Councils in September.

She further explained that officers had looked into the effectiveness of the Citizens Panel and had found that it was not an effective way of communicating with the public. A decision had been made not to pursue another panel but to look into a more targeted approach.

One of the recommendations from the Working Group was to introduce mobile units which would travel around the district but she explained that the costs were found to be prohibitive for the introduction of this service.

156 **SCRUTINY OFFICER UPDATE (01.45.02)**

The Committee received and **NOTED** a *report from the Scrutiny Officer.

He explained that he had circulated a Connecting Devon and Somerset briefing paper to Members which outlined the issues with progress of broadband roll out across the district.

He explained that Keri Denton, Head of Enterprise and Skills had not been able to attend the meeting and this would be re-arranged for a later date. Members felt that this should be delayed for some months until additional information on the roll out of broadband was more forthcoming.

He confirmed that the Trim Trail had been completed in Amory Park and encouraged Members to go and try it out. He confirmed that talks were taking place with Cullompton and Crediton Town Councils regarding provision of Trim Trails in the towns.

Note: *Report previously circulated and attached to the minutes

157 **FORWARD PLAN (01.51.48)**

The Group had before it and **NOTED** the Cabinet Forward Plan *.

Note: - *Forward Plan previously circulated and attached to the minutes

158 **ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (01.52.38)**

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Committee decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely

disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

159 3 RIVERS DEVELOPMENT LTD BUSINESS PLAN

The Committee had before it and discussed a *report of the Deputy Chief Executive (S151) presented to the Cabinet on 7th March 2019 and the 3 Rivers Development Limited Acting Managing Director requesting approval of the draft 5 year (21 February 2019) business plan for 3 Rivers Developments Limited.

Following the discussion the meeting returned into open session.

Note: *Report previously circulated

160 IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS (01.53.39)

There were no items identified

(The meeting ended at 4.26 pm)

CHAIRMAN

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **AUDIT COMMITTEE** held on 19 March 2019 at 5.30 pm

Present

Councillors

R Evans (Chairman)
Mrs C Collis, R M Deed, T G Hughes, R F Radford and
B A Moore

Apologies

Councillors

Mrs J B Binks and R Wright

Also Present

Councillor

C J Eginton

Present

Officers

David Curnow (Deputy Head of Devon Audit Partnership),
Joanne Nacey (Group Manager for Finance), Catherine
Yandle (Group Manager for Performance, Governance and
Data Security) and Sarah Lees (Member Services Officer)

Also in

Attendance

A Davies (Grant Thornton)

67. Apologies

Apologies were received from Cllr Mrs J B Binks who was substituted by Cllr B A Moore and apologies were also received from Cllr R Wright.

68. Declaration of Interests under the Code of Conduct

No interests were declared under this item.

69. Public Question Time

There were no members of the public present.

70. Minutes of the previous meeting

The minutes of the meeting held on 22 January 2019 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

71. Chairman's Announcements

The Chairman had the following announcements to make:

- This was the last meeting of the Audit Committee in the four year cycle of this Council.

- He and Cllr R M Deed had attended a Devon Audit Partnership (DAP) meeting on 11 March. He stated that an invitation had been extended to South Hams District Council and West Devon Borough Council to join the partnership as non-voting members. They were a shared authority who shared internal audit staff and they welcomed an opportunity to share in the discussions. It was recommended that their first year of attendance be on a trial basis to see if they wanted to join formally as voting members in 12 months' time.

72. **Performance & Risk (00:04:10)**

The Committee had before it, and **NOTED**, a report * from the Director of Corporate Affairs & Business Transformation providing Members with an update on performance against the Corporate Plan and local service targets for 2018-19 as well as providing an update on the key business risks.

It was stated that, regarding the Corporate Aim: **Build more council houses:** for Palmerston Park, handover of 12 units on practical completion due in March 2019 was no longer required with handover of all 26 units now due by August 2019.

Discussion took place regarding:

- The risks identified in the Risk Register as being 'High' and 'Very High'. This was particularly in relation to the 3 Rivers Development Company arrangements. It was explained that whilst independent advice had been sought and assurance received regarding the disclosure requirements, governance arrangements and the loan from MDDC, it was still correct to keep the risk severity as 'Very High' and for further in depth reviews to be undertaken by both the internal and external auditors.
- The target in relation to 'Bringing empty homes back into use' had been 72 for the year; this had been significantly exceeded with the current figure being 134. The Private Housing Sector team were congratulated.

Note: * Report previously circulated; copy attached to the signed minutes.

73. **Progress update on the Annual Governance Statement Action Plan (00:21:40)**

The Committee had before it, and **NOTED**, a report from the Group Manager for Performance, Governance and Data Security providing the Committee with an update on progress made against the Annual Governance Statement 2017/18 Action Plan.

It was confirmed that any outstanding issues at the year-end would be carried forward into the Annual Governance Statement for 2018/2019.

Consideration was given to a number of target action dates being moved on especially in relation to the Developmental Control legacy systems and the Skills Audit. Explanations were provided as to why this was, however, there was some concern that the length of time between the original target date and the now amended date appeared to be significantly 'fluid'.

The Committee felt it was very helpful to be able to see the tracked changes in the document and thanked the officer.

Note: * Report previously circulated; copy attached to the signed minutes.

74. Risk and Opportunity Management Strategy (00:24:58)

The Committee had before it a report * from the Group Manager for Performance, Governance and Data Security presenting it with the updated Risk & Opportunity Management Strategy for approval.

The following was highlighted within the report:

- Only risks scoring 10 and above were reported to the Committee and no change was proposed to this.
- The proposed financial thresholds within the revised risk scoring guidance were now more in line with the Financial Regulations.

Concern was expressed regarding missing review notes especially in relation to high scoring risks. The question was asked as to how Members could receive assurance that a risk had been reviewed if there was no review note. It was confirmed that if a risk had not been reviewed it would not have a coloured score on the report. It was felt that it was imperative to have a review note in all cases and that this be fed back to the Leadership Team. The Group Manager for Performance, Governance and Data Security explained that section 5.9 within the revised strategy did now state that Leadership Team and Members expected to see up to date and relevant review notes on all risks reported to Committee but she would also remind Group Managers.

RESOLVED that the updated Risk & Opportunity Strategy be approved subject to the removal of the words 'if necessary' from the second paragraph of section 5.4.

(Proposed by the Chairman)

Note: * Report previously circulated; copy attached to the signed minutes.

75. Internal Audit Progress Report 2018 - 2019 (00:40:46)

The Committee had before it, and **NOTED**, a report from the Deputy Head of the Audit Partnership providing an update on work within the Internal Audit area.

It was stated that, overall, based on work performed during 2018/19, the Head of Internal Audit's opinion continued to be one of 'Significant Assurance' on the adequacy and effectiveness of the authority's internal control framework.

Consideration was given to the following within the report:

- Customer satisfaction rates being above target.
- Work in relation to the Council being PCI compliant (Payment Card Industry) and the protections in places for customers making on line payments.
- The Council was still receiving payments by cheque approximately 20 times per month, however, customers paying in this way would be written to and informed that the Council sought alternative methods of payment, such as payment by cash through the kiosk in reception.

- Generally it was felt that the situation regarding outstanding audit recommendations had improved significantly over recent years due to a number of factors such as a change in management structure and a different emphasis entirely. However, there were still some recommendations outstanding from 2015. The view was expressed that if they had not been actioned by now they probably wouldn't be and therefore they should be removed.
- Any actions resulting from the recent business continuity exercise needed to be updated within the report.

Note: * Report previously circulated; copy attached to the signed minutes.

76. **Internal Audit Charter and Strategy 2019 / 2020**

The Committee had before it a report * from the Audit Team Manager presenting the Committee with the Internal Audit Charter and Strategy for effective operation of the internal audit service. This set out the terms of engagement and the methodology involved.

RESOLVED that the Internal Audit Charter & Strategy for 2019/20 be approved.

(Proposed by the Chairman)

Note: * Report previously circulated; copy attached to the signed minutes.

77. **Internal Audit Plan 2019 / 2020**

The Committee had before it, and **NOTED**, a report * from the Deputy Head of the Audit Partnership presenting the proposed internal audit activity for the year and an outline scope of the coverage.

The following was highlighted within the report:

- Audit needs had been discussed with management and the cyclic plan updated to take in this wider risk based remit.
- Key risks had been identified with Directors, with a key focus on, corporate responsibility in relation to safeguarding, key developments, commercialisation, information governance and cyber security.
- The report showed the rolling plan up until 2022/2023 where there would be a continued focus on financial security.
- Assessing the Risk Register was a key factor in assigning the number of days to audits.

RESOLVED that the Internal Audit Plan for 2019/2020 be approved.

(Proposed by Cllr T G Hughes and seconded by Cllr R M Deed)

Note: * Report previously circulated; copy attached to the signed minutes.

78. External Audit Progress Report and Sector Update (01:08:00)

The Committee had before it, and **NOTED**, a report * from Grant Thornton providing an update on progress in delivering their responsibilities as the Council's external auditors.

The following was highlighted within the report:

- Progress on the overall audit and the results of the interim audit undertaken in February 2019.
- A survey would be issued to Grant Thornton's clients in the autumn of 2019 requesting feedback on their performance.
- Some early substantive testing had been undertaken ahead of year end and an analysis made of the Medium Term Financial Plan and the assumptions underpinning that. No areas of concern had been brought to light thus far in the process.
- Work on the pooling of capital receipts had also been completed.

It was requested that consideration be given to providing Members with a briefing on the Council's response to the Financial Resilience Index consultation stated within Grant Thornton's report.

Note: * Report previously circulated; copy attached to the signed minutes.

79. Chairman's Annual Report for 2018/19

The Committee had before it, and **NOTED**, a draft report * by the Chairman of the Committee, a final copy of this report would be submitted to Council on 24 April 2019.

Note: * Report previously circulated and attached to the signed minutes.

80. Identification of items for the next meeting

In addition to the items already identified in the work programme for the next meeting it was requested that the following be added to the agenda:

- Annual Governance Statement Outturn report
- Internal Audit Progress Outturn report for 2018/2019

(The meeting ended at 6.47 pm)

CHAIRMAN

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **ENVIRONMENT POLICY DEVELOPMENT GROUP**
held on 5 March 2019 at 2.00 pm

Present

Councillors

R F Radford (Chairman)
D R Coren, Mrs C P Daw, R M Deed,
R Evans, D J Knowles, Mrs E J Slade,
J D Squire and R Wright

Also Present

Councillor(s)

C J Eginton

Also Present

Officer(s):

Andrew Pritchard (Director of Operations), Joanne Nacey (Group Manager for Finance), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Stuart Noyce (Group Manager for Street Scene and Open Spaces), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Kevin Swift (Public Health Officer), Matt Auty (Communications Officer) and Carole Oliphant (Member Services Officer)

53 APOLOGIES AND SUBSTITUTE MEMBERS (00.00.45)

No apologies were received.

54 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.00.54)

There were no declarations made.

55 PUBLIC QUESTION TIME (00.01.00)

There were no members of the public present.

56 MINUTES OF THE PREVIOUS MEETING (00.01.09)

The Minutes of the Meeting held on 6th January 2018 were approved as a correct record and **SIGNED** by the Chairman

57 CHAIRMAN'S ANNOUNCEMENTS (00.01.48)

The Chairman had no announcements to make

58 SINGLE USE PLASTICS UPDATE (00.02.03)

The Group received and **NOTED** a detailed *report from the Director of Corporate Affairs and Business Transformation providing progress to date on reducing the amount of single use plastics (SUP) used by the Council.

The Scrutiny Officer explained that reduction of single use plastics by the Council was as a result of Motion 549 (8th June 2018) put forward by Cllr R Evans and that his report had been collated from the Leisure Services function.

He explained that Mid Devon Leisure had a number of channels by which SUPs were purchased such as through vending machines or by suppliers to the café's in operation at Exe Valley and Lords Meadow. Since the motion was passed Leisure Management had engaged with the café's to review their products and practices.

He further explained that the Finance and Procurement functions of the council had sent letters to suppliers which included a survey about their intentions towards SUP's. He confirmed that there had been about 20 responses to date and those would be analysed before a more detailed report would be brought back to the Group in 6 months.

Members confirmed that when the Motion was introduced it was recognised that changes would not be immediate and that it would take time for the Council to use up old stock and change purchasing habits. They did however express disappointment that café's run by third parties in the Leisure Centres did not appear to be recycling plastic or bottles and asked if this could be addressed.

The Scrutiny Officer confirmed he would liaise with Leisure Management to consider actions which could be taken to encourage the recycling of materials from the on-site café's.

Discussion then took place regarding plastic free tea bags and the Scrutiny Officer was tasked with looking into the availability of these and to circulate to Members.

Note: *Report previously circulated and attached to the minutes.

59 ELECTRIC CAR CHARGING POINTS (00.12.02)

The Group had before it a *report of The Group Manager for Corporate Property and Commercial Assets confirming the increased usage of car charging points across the district. He explained that officers were in discussions with the current supplier regarding the possibility of installing further charging points in the future but that would be dependent on the financial liability for the company.

There was then a general discussion on where the current points were situated and members felt that the current locations had not been widely advertised.

The Group Manager for Corporate Property and Commercial Assets explained that the location of the points was dependant on a higher voltage power supply being installed as the points were rapid chargers and required a higher voltage than normal appliances. This restricted where the points could be placed but they were working with the supplier on possible additional locations. He confirmed that he would

arrange with the Communications team to advertise the location of the charging points and provide a link to the national register at <https://www.zap-map.com/>

Members agreed that they would like to see a co-ordinated approach to putting additional charging points across the district and the Group Manager for Corporate Property and Commercial Assets confirmed that discussions with the current supplier were ongoing.

Members **NOTED** the content of the report and recommended that officers continued with the review of the provision of electric car charging facilities in light of growing popularity of ULEVS (Ultra Low Emission Vehicles).

Members then discussed the current home and work charge schemes and questioned if the Council were currently encouraging developers to install home electric car charging points in new build properties. They discussed the future Government target of banning the sale of new petrol and diesel cars by 2040 and that the Council would need to consider this as part of future planning policy for new developments.

The Group then **RECOMMENDED** to Cabinet that the Council considers the provision of home electric car charging points in all new developments across the district for all new properties.

(Proposed by Cllr B Evans and Seconded by Cllr D J Knowles)

Members requested that the Cabinet Member for Planning and Economic Regeneration attend a future meeting of the Group to update them on progress of the recommendation.

Note: *Report previously circulated and attached to the minutes.

60 **VEHICLE SINKING FUND (00.37.31)**

The Group had before it the *report of the Group Manager for Finance explaining that the Council had been prudently putting aside funds to replace waste vehicles.

She explained that the Group Manager for Street Scene and Open Spaces had agreed with Exeter City Council to tender a joint Vehicle Contract Hire contract. If agreed the new contract would eliminate the need for the Council to buy vehicles. The Cabinet were due to make a decision on the contract at its next meeting on 7th March 2019.

She explained that the Council were due to replace some very expensive waste vehicles in the next year which was why the fund was significant.

She confirmed that the sinking fund currently held approximately £2m and of this £1.3m was uncommitted; however £250k of this would be set aside for the servicing of the new contract going forward. The residual amount should be set aside to provide a source of funding should the Council decide to explore relocating or changing the service model.

In response to members questions the Group Manager for Street Scene and Open Spaces explained that under the terms of the new contract as each vehicle came up for renewal it would be replaced on a supply and maintenance contract and those vehicles which were weren't yet due for renewal would go on a maintenance contract only until they were replaced. The current fleet would be sold at the end of their term and would be replaced by the contract company, removing the need for the Council to buy vehicles outright.

Members discussed if £250k, which would be available from the sinking fund to service the new contract, would be sufficient funding.

The Group Manager for Finance explained that the £250k was a prudent estimate which could be reconsidered if found not to be sufficient.

Note: *Report previously circulated and attached to the minutes

61 **FINANCIAL MONITORING (00.50.13)**

The Group received a verbal update from the Group Manager for Finance presenting financial monitoring information for the income and expenditure to date.

She explained that the overall deficit had improved from £65k in December to £45k in January and that on an overall budget of circa £9m this was a relatively small variance.

62 **PERFORMANCE AND RISK (00.52.59)**

The Group had before it and **NOTED** a report * from the Group Manager for Performance, Governance and Data Security providing Members with an update on performance against the Corporate Plan and local service targets as well as providing an update on the key business risks.

Members agreed that missed collections, although slightly below target, showed that only 0.04% of waste collections had been missed and they wanted to express gratitude to the crews for a job well done.

There were no comments on the risk report.

Note: * Report previously circulated and attached to the minutes

63 **CHAIRMANS ANNUAL REPORT (00.57.06)**

The Chairman presented his report to the Group which was **NOTED**.

The Cabinet Member for Environment thanked the members of the Group for their input over the previous four years.

64 IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS (00.58.02)

The Group requested that the Cabinet Member for Planning and Economic Regeneration attend a future meeting of the Group to give an update on the recommendation that the Council considers the provision of home electric car charging points in all new developments across the District for all new properties.

(The meeting ended at 2.59 pm)

CHAIRMAN

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **HOMES POLICY DEVELOPMENT GROUP** held on 12 March 2019 at 2.15 pm

Present

Councillors

W J Daw (Chairman)
Mrs G Doe, P J Heal, F W Letch and
J D Squire

Apologies

Councillors

Mrs E M Andrews, Mrs H Bainbridge, D R Coren and
R J Dolley

Also Present

Councillor

R L Stanley

Also Present

Officers

Claire Fry (Group Manager for Housing), Simon Newcombe (Group Manager for Public Health and Regulatory Services), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Michael Parker (Housing Options Manager), J P McLachlan (Principal Accountant) and Sarah Lees (Member Services Officer)

64 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from:

Cllr Mrs E M Andrews
Cllr Mrs H Bainbridge
Cllr D R Coren
Cllr R J Dolley

65 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

No interests were declared under this item.

66 PUBLIC QUESTION TIME

There were no members of the public present.

67 MINUTES

The minutes of the meeting held on 15 January 2019 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

68 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had the following announcements to make:

He reminded the Group that there was a joint meeting of the Homes, Environment and Community PDG's on Friday 15 March at 11.30am to discuss the Enforcement Policy for the Operations Directorate. It was imperative that each PDG represented at the meeting was quorate so if Members were unable to attend then they needed to let the clerk know.

69 **PERFORMANCE & RISK REPORT FOR 2018-19 (00:02:04)**

The Group had before it, and **NOTED**, a report * from the Director of Operations providing Members with an update on performance against the Corporate Plan and local service targets for 2018/19 as well as providing an update on the key business risks.

The following was highlighted within the report:

- The report contained data up until the end of January 2019.
- An update was provided in relation to the Corporate Plan Aim: **Build more council houses**: 12 units at Palmerston Park did not now need to be completed in March but could be delivered as part of the handover of all 26 units in August 2019.
- One property's gas certificate had expired. The tenant had passed away and so this would be remedied whilst the property was void.

Note: * Report previously circulated; copy attached to the signed minutes.

70 **FINANCIAL MONITORING (00:04:10)**

The Group received, and **NOTED**, a verbal update from the Principal Accountant presenting a financial update in respect of the income and expenditure so far in the year.

The following was reported:

- Current figures were showing a £20k improvement from the previous month which was having a positive effect upon the General Fund.
- There had been a reduction in underspend in the Environmental Services area with S106 air quality funds being utilised.
- There had also been an increased underspend in the Customer Services area with a salary reduction.
- The favourable variance in the Housing Revenue Account (HRA) had increased from £58k to £213k due to some salary savings.

71 **DEVON WIDE HOUSING ASSISTANCE POLICY 2019-22 AND ECO FLEX 3 (00:07:29)**

The Group received a report * from the Group Manager for Public Health and Regulatory Services presenting a revised Housing Assistance Policy under Article 4 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 following the one year review of the existing policy that was agreed and adopted in February 2018 (Housing Assistance Policy 2018-2019).

The following was highlighted within the revised policy:

- The policy aimed to provide a targeted consistent approach to providing funding where it was most needed. The Government was encouraging council's to allow people to stay in their homes wherever they could.
- The Better Care Fund (BCF) intentionally provides more funding to Devon than is currently required to meet the demand for mandatory Disabled Facility Grant's (DFG) only. A wider policy was now needed to allow the Devon councils to spend the BCF on assistance that helped a wider range of households and met the broader BCF objectives. In addition there had been changes to the ECO flex fund and therefore this needed to be reflected in the Statement of Intent (SOI).
- The delivery of the DFG programme was mandatory and a statutory function of the local housing authority. There were no proposed changes to this part of the policy other than to introduce clarification that additional works specifically required to manage disability caused by dementia or related conditions were eligible.
- The policy was designed to have more flexibility thereby reducing the process time previously endured by people needing help quickly.
- It was **AGREED** that in section 4.5, under 'Eligibility' the first bullet point be removed from the policy.
- ECO3 supports low income, vulnerable and fuel poor households meaning that all measures should be delivered to these groups. The scheme helped homes to reduce their energy bills and consequently tackled fuel poverty and vulnerability to the cold. However, one key change was that funding would not be available for replacement of oil or coal heating systems. In future, systems would be funded under schemes that sourced renewables such as air source heat pumps, ground source heat pumps and biomass boilers.

The following was discussed with regard to the Statement of Intent:

- Private homeowners qualified to apply through ECO flexible eligibility subject to meeting category 1 and category 2 eligibility criteria. Private tenants and residents of park homes would be eligible regardless of income.
- A reasonable gross household income for a couple had been set at £38k.
- If a large expensive adaptation had taken place on a property and then the tenant had passed away a charge would be place on the property in order to recoup some if not all of the costs.
- Mention of 'Pregnant mothers' in Category 2 of the SOI should be amended to read 'Pregnant women'.
- It was felt that the 'at risk' categories were very broad and that it would be helpful to keep a watching brief on this and review categorisations in a year's time once more data was available.

RECOMMENDED to the Cabinet that:

- a) The revised Housing Assistance Policy 2019-22 attached in Annex 1 be approved.
- b) The ECO Flex Statement of Intent (SOI) attached in Annex 4 associated with the revised Housing Assistance Policy be approved.

- c) Delegated authority be given to the Group Manager for Public Health and Regulatory Services in consultation with the Cabinet member for Housing to make minor adjustments to the policy based on demand and local priorities.
- d) Delegated authority be given to the Group Manager for Public Health and Regulatory Services in consultation with the Cabinet member for Housing to suspend some or all non-mandatory parts of the revised Housing Assistance Policy attached in Annex 1 (all elements of the Policy other than section 4.1 Disabled Facilities Grants) if adequate funding is not available.

(Proposed by Cllr F W Letch and seconded by Cllr P J Heal)

Note: * Report previously circulated; copy attached to the signed minutes.

72 **PRIVATE SECTOR HOUSING FEES AND CHARGES 2019/20 AND ENFORCEMENT UPDATE (00:25:16)**

The Group had before it a report * from the Group Manager for Public Health and Regulatory Services providing Members with the revised fees and charges in addition to an enforcement update for the relevant statutory and discretionary Private Sector Housing functions within the Community Team of Public Health and Regulatory Services.

The following was highlighted within the report:

- The rationale for coming to a revised cost in each area was provided by the Group Manager.
- Legislation provided the Council the power to recover all reasonable costs associated with the administration of the Houses of Multiple Occupation (HMO) licensing function. The officer time and resources involved in processing a new application had been reviewed and a revised fee calculated. It was proposed to charge a nominal administration fee for providing the register in electronic form or hardcopy.
- Proposed changes relating to the charging for enforcement action were described, for example, Prohibition Orders and Demolition Orders would now be charged for up front.

A brief discussion took place regarding the proposed increase in charges in the enforcement action area. It was noted that the increase proposed was 30% up on the previous year. It was explained that the previous year had been the first year these charges had been introduced and at the time a guess had had to be made as to what the level of costs were likely to be. It had since been discovered that the council had been undercharging and the proposed increase was merely a means of recouping the actual costs incurred.

RECOMMENDED to the Cabinet that:

- a) The revised fees and charges as set out in Annex 1 be approved.
- b) That Public Health and Regulatory Services are authorised to enforce The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016.

- c) That a charge is made for providing copies of the Mandatory HMO Licensing Public Register when requested.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs G Doe)

Note: * Report previously circulated; copy attached to the signed minutes.

73 EMPTY HOMES PLAN 2019-2022 (00:37:50)

The Group received, and **NOTED**, a report * from the Group Manager for Public Health and Regulatory Services providing Members with the revised Empty Homes Plan for 2019-2022.

- The Empty Homes Plan had been revised to reflect the progress that had been made and the learning of the team in delivering the current plan.
- Income generation from the New Homes Bonus (NHB) had become tighter and whilst the thresholds had been maintained for 2019/20 it was not certain what would happen in the future. Since the NHB funding was used to deliver the Empty Homes Plan this was a concern. The plan would need to be reviewed once the funding situation going forwards had been clarified.
- 140 properties had been brought back into use this year alone. This had far exceeded expectations and the team were congratulated.

Note: * Report previously circulated; copy attached to the signed minutes.

74 ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (00:43:35)

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Group decided that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

75 DEPOSIT AND RENTAL SCHEME (DARS)

The Group received, and **NOTED**, information regarding the Deposit and Rental Scheme from the Group Manager for Housing.

Note: (i) Report * previously circulated.

(ii) Following consideration of this item the Group **AGREED** to return to open session.

76 HOUSING UPDATE (00:45:00)

The Group had before it, and **NOTED**, a report * from the Group Manager for Housing providing an update on the latest developments within the social housing sector.

The following was highlighted within the report:

- Fire safety was still high on the agenda nationally in the wake of the Grenfell disaster.
- Recent court cases where severe penalties had been issued following a breach of health and safety laws.
- A Barking and Dagenham Council decision to set up, 'in principle', a housing association division for its housing company.
- Homes England had announced more strategic partners who would be expected to build approximately 11,000 new homes across the UK. This would include some social housing.
- The National Housing Federation, which represented housing associations, was raising concern with the Department of Work and Pensions regarding issues relating to Universal Credit payments during 2019/20. Many landlords charged rent every Monday. This meant that periodically there was a year with 53 weeks where rent is payable. 2019/20 would be one of those years.
- Universal Credit brought with it a big culture change with lots of Housing Associations predicting that tenants would not have enough money to pay their rent. Mid Devon District Council had a specialist team and would be working closely with tenants in regard to this issue.
- The High Court had found that a north London Housing Association had not discriminated against two non-Jewish families in a recent case regarding the allocation of housing to the orthodox Jewish community. This highlighted the need for all registered housing providers to comply with equalities legislation.

Note: * Report previously circulated; copy attached to the signed minutes.

77 CHAIRMAN'S ANNUAL REPORT FOR 2018/19 (00:53:34)

The Group had before it, and **NOTED**, a draft report * by the Chairman of the Group since May 2018, a final copy of this report would be submitted to Council on 24 April 2019.

He stated how proud he was of the housing department and how efficiently it was run. He asked for his comments to be taken back to the housing teams and for them to be thanked and congratulated.

Note: * Report previously circulated and attached to the signed minutes.

78 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (00:55:00)

There was some uncertainty regarding the long list of policies coming to the next meeting but every effort would be made to bring what could be mindful that it was the first meeting of the new Council. Some policies might need to be moved forward to the August meeting.

In addition to the items listed it was also requested that items be brought in relation to:

- Band E
- Deposit and Rental Scheme
- A update on the situation regarding the Syrian Refugee Settlement Scheme

(The meeting ended at 3.30 pm)

CHAIRMAN

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **ECONOMY POLICY DEVELOPMENT GROUP** held on 14 March 2019 at 5.30 pm

Present

Councillors

Mrs B M Hull (Chairman)
A Bush, Mrs C Collis, J M Downes,
S G Flaws, Mrs S Griggs, F J Rosamond
and Mrs N Woollatt

Apologies

Councillor

Mrs A R Berry

Also Present

Councillors

C R Slade and R Evans

Also Present

Officers

Stephen Walford (Chief Executive), Jenny Clifford (Head of Planning, Economy and Regeneration), Adrian Welsh (Group Manager for Growth, Economy and Delivery), Joanne Nacey (Group Manager for Finance), Catherine Yandle (Group Manager for Performance, Governance and Data Security), John Bodley-Scott (Economic Development Team Leader), Chris Shears (Economic Development Officer) and Sarah Lees (Member Services Officer)

67 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Mrs A R Berry.

68 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

No interests were declared under this item.

69 PUBLIC QUESTION TIME

There were no questions raised by the one member of the public present.

70 MINUTES

The minutes of the special meeting held on 29 January 2019 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

71 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements to make.

72 PERFORMANCE AND RISK FOR 2018/19

The Group had before it, and **NOTED**, a report * from the Director of Growth and Chief Executive providing Members with an update on performance against the Corporate Plan and local service targets for 2018/19 as well as providing an update on the key business risks.

It was explained that the report provided performance data up until the end of January 2019.

It was noted that the number of businesses assisted by the Economic Development team was above target and that progress was being made on the Tiverton Town Centre improvements.

Note: * Report previously circulated; copy attached to the signed minutes.

73 FINANCIAL MONITORING

The Group received a verbal update from the Group Manager for Finance presenting a financial update in respect of the income and expenditure so far in the year.

It was reported that in December 2018 the predicted unfavourable variance on the budget had been £65k this had now reduced to £45k representing a slightly improved position.

There was still a predicted overspend in the area of car parking and in property services, however some areas were showing a positive variance, for example, interest on investments.

74 GRAND WESTERN CANAL AND DEVON AND EXETER RAIL PROJECT

The Group received a report * from the Head of Planning, Economy and Regeneration reporting to Members on the funding provided to two grant aided bodies under the Economy PDG.

It was explained that no formal funding agreement currently existed between Mid Devon District Council and the two grant recipients discussed within the report. A better understanding was needed with regard to the use of these grants going forwards so as to inform the Council's decision making with regard to the level of future grant support funding. A formal process needed to be put in place to review the grants given prior to the next round of budget setting. The Canal Manager had agreed to provide a full report to the Council on a regular basis going forwards.

The Devon & Exeter Rail Project Working Party had met twice a year to discuss issues relating to railway provision in Devon and in particular the rail services that run in and out of Exeter. Following changes to personnel, DCC had decided that it could no longer administer the group and it was decided to change the working group into a forum aligned to the Devon and Cornwall Rail Partnership with wider community involvement. The District Council had been contributing £3,500 annually to the Devon & Exeter Rail Project for a number of years, however, with the change of structure it seemed appropriate to review future funding arrangements.

Consideration was given to:

- The benefit of the Canal to Tiverton and the wider district of Mid Devon in terms of tourism, education and health and well-being.
- More in depth scrutiny being welcomed.
- As the Devon and Cornwall Rail Partnership was new forum the Council needed to know how any financial contributions it made would be used.

RECOMMENDED to the Cabinet that:

- a) That the contribution to the Devon & Exeter Rail Project be reviewed following formation of a new Rail Forum.
- b) That the Council continues to offer an annual grant of £45,000 for 2019/20 to the Grand Western Canal to support its maintenance.
- c) That an assessment be undertaken, in liaison with Devon County Council, prior to the financial year 2020/21 to inform decision making with regard to the level of future grant support for the Canal.

(Proposed by Cllr Mrs N Woollatt and seconded by Cllr F J Rosamond)

Note: * Report previously circulated; copy attached to the signed minutes.

75 COST-RECOVERY AND COMMERCIALISATION IN GROWTH, ECONOMY AND DELIVERY

The Group had before it a report * from the Head of Planning, Economy and Regeneration presenting to Members steps to introduce cost recovery into the Growth, Economy and Delivery Service and to look at issues relating to further commercialisation within the service.

The contents of the report were outlined with reference to the following:

- Two examples of recent successful bids for external funding. One being the 'Connecting the Culm' Catchment Based Approach Study (Interreg funded) in partnership with the Blackdown Hills AONB. The other being the Mid Devon Destination Management Website (Leader Funded) in partnership with the Tiverton Museum and the Tourist Information Service.
- The need to propose charges that were consistent with those given for pre-application advice in the Planning department for example.
- The need to re-coup costs only.
- This would be a step by step process and would be monitored to see if fees were affecting the number of organisations contacting the Council.
- Often the Economic Development Officer was present at a pre-application meeting with a Planning and Conservation Officer whose time was being paid for by an applicant but his wasn't.

Discussion took place regarding:

- The cost / benefit of the proposed charges.
- Whether charging a fee would dissuade some businesses or individuals from contacting the Council for advice.

- Would some successful projects have come to fruition if a charging schedule had been in place? This was a difficult, hypothetical question to answer.
- Concern that some voluntary groups may not be able to afford to make contact with the Council.
- There were very few examples of economic development services operating on a partial cost-recovery basis across the South West, although many councils had moved straight to setting up arms-length commercial services companies which allow local authorities to make profit as opposed to only seeking cost recovery.
- The financial constraints upon the Council and the need to consider maximising income wherever possible.
- The need for more factual data in order to come to a more considered opinion.

It was **AGREED** that a more detailed report be brought back to the Group at their next meeting providing greater clarity about the possible effects of charging and whether discretion could be applied for certain businesses and non-businesses based upon their individual circumstances.

Note: (i) * Report previously circulated; copy attached to the signed minutes.

(ii) Cllr Mrs N Woollatt declared a personal interest as she is a mill owner.

76 CHAIRMAN'S ANNUAL REPORT FOR 2018/19

The Group had before it, and **NOTED**, a draft report * by the Chairman of the Group, a final copy of this report would be submitted to Council on 24 April 2019.

The Group were informed that the Economic Development team had been unsuccessful in the LGC 'Driving Economic Growth Awards' the previous evening, however, the Group wished to congratulate the team on making it to the shortlist which was a significant achievement for a rural district council.

Note: * Report previously circulated and attached to the signed minutes.

77 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING

In addition to the items already listed for the next meeting it was requested that the following be added to the agenda:

- Cost-Recovery and Commercialisation in Growth, Economy and Delivery

(The meeting ended at 6.35 pm)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the JOINT COMMUNITY/ENVIRONMENT/HOMES POLICY DEVELOPMENT GROUPS held on 15 March 2019 at 11.30 am

Present

Councillors

B A Moore (Chairman)
Mrs C P Daw, Mrs G Doe, F W Letch,
Mrs E J Slade, D R Coren, W J Daw,
R M Deed, R Evans and R F Radford

Apologies

Councillor(s)

Mrs E M Andrews, Mrs H Bainbridge, Mrs A R Berry,
R J Dolley, P J Heal, D J Knowles, J D Squire and
R Wright

Also Present

Councillor(s)

C J Eginton and R L Stanley

Also Present

Officer(s):

Andrew Jarrett (Deputy Chief Executive (S151)), Simon
Newcombe (Group Manager for Public Health and
Regulatory Services), Sarah Lees (Member Services
Officer) and Carole Oliphant (Member Services Officer)

70 APOLOGIES AND SUBSTITUTE MEMBERS (03.52)

The following apologies were received:

Cllr Mrs E Andrews, Cllr Mrs A R Berry, Cllr R Dolley, Cllr P J Heal, Cllr D J Knowles,
Cllr J Squire, Cllr R Wright and Cllr Mrs H Bainbridge who was substituted by Cllr R
Evans

71 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (04.01)

There were no declarations made.

72 PUBLIC QUESTION TIME (05.01)

There were no members of the public present.

73 CHAIRMANS ANNOUNCEMENTS (05.05)

The Chairman explained that the policy would be debated and that the
recommendations would be sought from individual the PDG's.

74 OPERATIONS DIRECTORATE ENFORCEMENT POLICY (05.24)

Members were provided with the updated Operations Directorate Enforcement
Policy* PH/EP/01/19. This policy was formerly the Public Health Services
Enforcement Policy PH/EP/02/16 adopted in August 2016. The policy was due for

review and had also been expanded to encompass the remaining enforcement functions in the Operations Directorate within Housing Services and Street Scene Services.

The Group Manager for Public Health and Regulatory Services outlined the content of the policy and explained that the Council was required by law to have an Enforcement Policy.

He explained that the policy was very much a reference guide for officers and decision makers and the appendices contained the details of how each area across the Directorate would comply with relevant information.

He explained that recent changes to Regulation of Investigatory Powers Act (RIPA) were reflected in the policy along with the new General Data Protection Regulation (GDPR) requirements and that the policy could be reviewed at any time due to further changes in legislation.

He explained that the policy ensured that the Council was transparent, fair and equitable.

He explained the main areas of the policy which came under the remit of the separate PDG's.

Consideration was given to:

- Licenses for sex establishments
- Standards of Water
- Decant Policy for Homes

There were no further comments raised by members.

It was therefore **RECOMMENDED** to Cabinet to recommend to Full Council that the updated Operations Directorate Enforcement Policy be approved.

(Proposed by the Chairman)

(The meeting ended at 11.53 am)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COMMUNITY POLICY DEVELOPMENT GROUP**
held on 19 March 2019 at 2.15 pm

Present

Councillors

B A Moore (Chairman)
Mrs H Bainbridge, Mrs C P Daw, R J Dolley,
F W Letch and Mrs E J Slade

Apologies

Councillor(s)

Mrs E M Andrews, Mrs A R Berry and Mrs G Doe

Also Present

Councillor(s)

C J Eginton and C R Slade

Also Present

Officer(s):

Andrew Pritchard (Director of Operations), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Rob Fish (Principal Accountant), Jeremy Pritchard (Team Leader - Commercial Team), Kevin Swift (Public Health Officer) and Carole Oliphant (Member Services Officer)

75 APOLOGIES AND SUBSTITUTE MEMBERS (00.01.07)

Apologies were received from Cllrs Mrs E M Andrews, Mrs A R Berry and Mrs G Doe.

76 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.01.28)

Cllrs F W Letch and B A Moore both declared a personal interest as trustees of Involve.

77 PUBLIC QUESTION TIME (00.01.55)

There were no questions raised by members of the public present.

78 MINUTES OF THE PREVIOUS MEETING (00.02.03)

The Minutes of the Meeting held on 22nd January 2019 were approved as a correct record and **SIGNED** by the Chairman.

79 CHAIRMANS ANNOUNCEMENTS (00.02.47)

The Chairman thanked the Members of the Group, Officers and the Clerk for assisting him over the previous three years.

80 GRANT FUNDED AGENCY (00.04.04)

Karen Nolan, the Chief Officer of Involve, gave an overview by way of a presentation on the work of the organisation. She explained that Involve had been operating for 25 years and were currently in touch with over 400 groups and projects. They were currently open for 3 days a week.

She explained that that the network offering had seen more activity and the number of groups engaging had significantly increased. She confirmed that the monies received from MDDC had been used towards funding the workshops.

She further explained that Involve were continuing to maintain their services and that they had adapted to changes in the provision offered by statutory agencies.

81 ENVIRONMENTAL HEALTH FEES AND CHARGES 2019/20 (00.21.32)

The Lead Officer of the Commercial Team provided members with the revised *fees and charges for statutory and discretionary functions within the Public Health & Regulatory Services Commercial Team.

He outlined the contents of the report and explained that the recommended charges reflected the actual cost of the service and were not to provide the Council with a profit.

He explained the area's in which the proposed fees showed a significant change which included:

- Private water supplies
- Legionella sampling
- Asbestos surveys
- Food safety advice
- Food export certificates

In response to Members questions he confirmed that the private water investigation charge would reduce from £100 to £50 as it was felt that the current charge was prohibitive.

There was a general discussion on the charge for food safety visits and whether businesses would pay for this service.

With regard to the introduction of a missed appointment charge the Director of Operations advised the Group that the charge should reflect what Building Services charge for a missed appointment. A different level for missed appointments had recently been agreed at the Homes PDG and it was suggested that the fees for missed appointments should be in line with those used across Building and Housing Services.

It was therefore **RECOMMENDED** to Cabinet to approve the Environmental Health Fees and Charges for 2019/2020 and that the missed appointment charge to be in line with the missed appointment charge within the extant Housing Policy used by Building and Housing Services.

Note: *Report previously circulated and attached to the minutes

82 PUBLIC HEALTH INITIATIVES COMMUNICATION STRATEGY (00.45.47)

The Public Health Officer provided Members with an overview of the Public Health Initiatives website page by way of a presentation and explained the timeframes for the launch of the service.

He explained that the aim was to incorporate subjects that the public would be interested in and provide links to current Government health initiatives.

In response to Members questions he confirmed that the Communications team would be undertaking a social media marketing campaign and that local GP surgeries would be encouraged to signpost the website for their patients.

83 FINANCIAL MONITORING (00.52.07)

The Principal Accountant provided Members with a verbal update on finances to the end of January and explained that the budget deficit had reduced by £20K to £45K due to recalculated interest payments from investments.

84 PERFORMANCE AND RISK (00.55.24)

The Committee had before it and **NOTED** a *report from the Group Manager for Performance, Governance and Data Security providing Members with an update on performance against the Corporate Plan and local service targets as well as providing an update on the key business risks.

Members were encouraged that the likelihood of the risks mentioned in the report actually occurring was at relatively low score of 2.

Note: * Report previously circulated and attached to the minutes

85 CHAIRMAN'S ANNUAL REPORT (00.59.02)

The Committee had before it, and **NOTED**, a draft report * by the Chairman of the Committee, a final copy of this report would be submitted to Council on 24 April 2019.

Note: *Report previously circulated and attached to the minutes

86 IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS (01.00.13)

No items were identified.

87 ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (01.10.14)

Prior to considering the following item postponed from item 10 on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution. The Committee decided that

in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore:

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by Cllr F W Letch and seconded by Cllr Mrs E J Slade)

88 PERFORMANCE AND RISK - RESTRICTED REPORT (01.10.25)

Members discussed the Community Performance Appendix 4 and the Leisure Centre memberships.

The Director of Operations gave the Group a complete overview of current performance of Leisure Services.

Following the discussion the meeting returned into open session.

(The meeting ended at 3.22 pm)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 6 March 2019 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs C Collis, Mrs G Doe, P J Heal,
D J Knowles, F W Letch, R Evans and
Mrs B M Hull

Apologies

Councillor(s)

Mrs H Bainbridge and B A Moore

Also Present

Councillor(s)

Mrs J B Binks, C J Eginton, C R Slade and
Mrs E J Slade

Present

Officers:

David Green (Group Manager for Development), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Lucy Hodgson (Area Team Leader), Alison Fish (Area Team Leader) Adrian Devereaux (Area Team Leader) and Ian Hooper (Flood and Coastal Risk Engineer – Environment Agency)

112 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Mrs H Bainbridge, who was substituted by Cllr R B Evans and Cllr B A Moore who was substituted by Cllr Mrs B M Hull.

113 PUBLIC QUESTION TIME

Cllr Mrs Binks referring to Item 9 on the agenda (Major Applications) and identifying 65 dwellings at Higher Road, Cridton and 257 dwellings at Creedy Bridge stated that the records still show that Simon Trafford is the lead officer, could this be updated? She requested a brief written update on both applications as she had to report to the Parish Council. She also asked if consideration could be given to whether the Ward Members could be consulted with regard to the S106 agreements when the time came for further discussions.

Mr Milverton referring to Item 1 on the Plans List (Cleave Barton) asked the following questions:

1. Where there is a flood issue, applicants have to submit both a Flood Risk Assessment identifying the risks, and a Flood Warning and Emergency Plan to address those risks. The EA repeatedly say that it is their role to point out the risks, but not to assess the mitigation in the Flood Warning and Emergency Plan, that being the role of the Local Planning Authority. This being the case, what

weight should be given to an objection from the Environment Agency to a proposed development which has not taken into account the contents of the Flood Warding and Emergency Plan?

2. In the instance of Cleave Barton, the Environment Agency state that it is not their role to assess the FWEP but within the report the planning officer says MDDC does not have the expertise to do so either. How can the Local Planning Authority arrive at an assessment of the application where a FWEP has been submitted?
3. If the Environment Agency advise that they have evidence which directly affects an application and which they rely on to justify an objection, is it not fair and reasonable for that evidence to be put in the public realm so it can be seen by all and responded to by applicants and their agents? At Cleave Barton, the Environment Agency have advised that they have evidence that Cleave Barton could not be evacuated in advance of less than 1 in a 100 year frequency and that waters on the edge of the flood plain would not be tranquil. This directly affects the assessment of the application - what is that evidence and why cannot it be produced.
4. The MDDC website states that all objections will be put in the public realm and my understanding is that it is actually a legal requirement to do so. With respect to Cleave Barton, both the Environment Agency and MDDC received material from the objector which has been treated as confidential and neither party would reveal to the applicant that material and neither the applicant, their agents or the ward member have seen it. Can officers advise what material submitted by the objector has been treated as confidential; why officers accepted it could be treated as confidential and have committee members been made aware that there is confidential material on the planning file and have they been given the opportunity to view it?
5. With regards Cleave Barton, can it be made clear that the key issue is whether the proposals within the Flood Warning and Emergency Plan reduce the risk of the use of the holiday let to a manageable level and that if the Committee decide that is the case, that they can legitimately approve the application, as they approved a flat at Bickleigh Mill in 2012?

114 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-09-25)

Members were reminded of the need to declare any interests when appropriate.

115 MINUTES OF THE PREVIOUS MEETING (00-09-39)

The Minutes of the meeting held on 6 February 2019 were approved as a correct record and **SIGNED** by the Chairman.

116 CHAIRMAN'S ANNOUNCEMENTS (00-10-15)

The Chairman had no announcements to make.

117 ENFORCEMENT LIST (00-10-27)

Consideration was given to the cases in the Enforcement List *.

Note: * List previously circulated; copy attached to the signed Minutes.

Arising thereon:

- a) No. 1 in the Enforcement List (Enforcement Case ENF/17/00326/RURAL – Unauthorised operational development in the permanent fixing of a shipping container on the land and unauthorised material change of use from agriculture to a mixed use of agriculture and the storage of materials not required for agriculture – Bradford farm, Uplowman)

The Area Team Leader outlined the contents of the report highlighting by way of presentation the site location plan, the location of the shipping container and the enforcement action proposed.

Consideration was given to:

- The views of the neighbour with regard to the impact of the container on his dwelling and his concerns about apparent unauthorised uses on the property.
- The views of one of the Ward Members .
- What the container was being used for.

RESOLVED that authority be given to the Group Manager for Legal Services and Monitoring Officer to take all such steps and action necessary to secure the removal of the unauthorised shipping container from the land and the cessation of the unauthorised use, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

(Proposed by Cllr R L Stanley and seconded by Cllr D J Knowles)

Note:

- (i) Cllrs R B Evans, Mrs B M Hull, D J Knowles and R F Radford declared personal interests as the neighbour was known to them;
- (ii) Mr Blackmore (neighbour) spoke;
- (iii) Cllr C R Slade spoke as Ward Member.
- b) No. 2 in the Enforcement List (Enforcement Case ENF/19/00036/LB – without listed building consent, the insertion of uPVC sliding doors and windows to the 20th century rear single storey extension and uPVC dormer windows to the south elevation – Loram Cottage, Copplestone)

The Area Team Leader outlined the contents of the report highlighting by way of presentation the location of the property, explaining the uPVC windows to the rear and that it was not considered expedient to take further enforcement action against the existing unauthorised doors and windows to the south elevation as it was considered that they did not harm the architectural or historic interest of the building. She explained the negotiations that had taken place to replace the windows on the

front elevations with timber flush fitting casements windows to the first floor and timber sliding sash windows to the ground floor.

RESOLVED that having regard to the provisions of the Mid Devon Development Plan and all other material planning consideration in accordance with Section 38 of the Town and County Planning (Listed Buildings and Conservation Areas) Act 1990; the recent approval of Listed Building Consent follow negotiated improvement through replacement windows on the front (north) elevation from (i) unauthorised uPVC windows to (ii) timber, slim double glazed, sliding sash and casement windows, the effect of the works on the character and historic interest of the building and the previous use of uPVC windows in the building at the time of it being listed that it is not considered expedient to seek any further action relating to the uPVC sliding door and windows to the rear (south) elevation.

(Proposed by Cllr P J Heal and seconded by Cllr R B Evans)

118 DEFERRALS FROM THE PLANS LIST (00-20-47)

There were no deferrals from the Plans List.

119 THE PLANS LIST (00-20-51)

The Committee considered the applications in the plans list *.

Note: *List previously circulated; copy attached to the signed Minutes.

(a) No 1 on the Plans List ***(18/00874/FULL – Conversion of artist studios to 2 holiday lets - Cleave Barton, Bickleigh)***

The Area Team Leader addressed the meeting highlighting the contents of the update sheet which contained additional comments by the agent and the removal of the second reason for refusal as the issue had been addressed.

She outlined the contents of the report by way of presentation highlighting the location of the application site, the position of the leat and the low lying land, the proximity of the buildings to one another, the distance from the site to the River Exe, the existing and proposed plans, floor plans and the escape route back to Cleave Barton House. Members also viewed photographs from various aspects of the site including the public footpath and an information sheet which provided evidence of previous flood damage (provided by the Environment Agency).

The Flood and Coastal Risk Engineer representing the Environment Agency was invited to address the meeting. He outlined the guidance within the National Planning Policy Framework and the strict tests that should be applied, he emphasised that the development could not be made safe from flooding and should not be permitted. He outlined the flood issues in the area and the magnitude of previous floods. He outlined the modelling that had taken place and the depth of water calculated which could be fatal. He addressed the flood mitigation for Cleave Barton House, the evacuation plan and whether the house would be able to withstand an extreme event even though it was tanked and whether visitors to the site would be able to react effectively to an extreme event.

The Area Team Leader then addressed the questions posed at public question time and provided the following answers:

- The Environment Agency was a statutory consultant and it helped identify matters to be addressed and reviewed the Flood Risk Assessment. An objection from the Environment Agency together with information and guidance within the NPPF and planning practice guides had led to the recommendation of refusal.
- With regard to question 2, the application was before the committee for determination.
- With regard to the evidence to justify an objection, the evidence was the flood risk.
- With regard to objections in the public domain, she stated that the objections to the application were in the public domain, however she had been sent some photographs from the objector who had requested that they remain confidential, the photographs had remained confidential and were therefore not mentioned in the officer report.
- Members had all the information to assess the case.

Consideration was given to:

- The National Planning Policy Framework
- The size of the floodplain
- Recent flooding events and climate change
- The change of use of the building from a gallery to overnight accommodation
- The views of the objector with regard to having observed the flooding of Cleave Barton site that had occurred on numerous occasions and the fact that the issue of flooding should not be underestimated, the proposed development at Cleave Barton would be a risk to visitors and the emergency services and if the applicants did experience a flood event they would realise that there was enough to do without having to supervise their guests as there was unlikely to be a safe haven, she urged the committee to consider a duty of care.
- The views of the applicant with regard to the Flood Risk Assessment and the Flood Warning and Emergency Plan which would manage the risk and act on any warning. She stated that Bickleigh Cottage received 2 hours notice of a flood warning, the Exe did not have flash floods and that the house was reinforced, there was already a commercial use for the building and that there were systems in place.
- The views of the Ward Member which was read by the Chairman: the application for holiday cottages would be acceptable in planning terms save the question of flooding, the objectors and near neighbours had experience of flooding events; the fact that flood warnings were issued, the evacuation plan and whether the approval of the application was a risk to life.

- Whether flood risk warnings were sufficient to put in place an action plan.
- The advice of the Environment Agency and whether that should be ignored.

RESOLVED that: planning permission be refused for the following reason: the application site is in flood zone 3 and it is at risk of flooding. The application proposes the conversion of the buildings into two units of holiday accommodation which is a 'more vulnerable' use as set out in the 'Flood risk and coastal change' planning practice published by the MHCL 6th March 2014. The local planning authority consider that it has not been demonstrated that the development would be flood resistant, that any risk associated with flooding could be safely managed for the lifetime of the development or that safe access and escape routes can be provided. It has not been demonstrated that the risk of flooding of the development would not present a risk to life. The proposal is therefore considered to be contrary to paragraph 163 NPPF, planning practice guidance "Flood and coastal change" and policies COR1 and COR11 Mid Devon Core Strategy as recommended by the Head of Planning Economy and Regeneration.

(Proposed by the Chairman)

Notes:

- i) Cllrs Mrs F J Colthorpe, Mrs C A Collis, Mrs G Doe, P J Heal, Mrs B M Hull, D J Knowles, F W Letch, R F Radford, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing with Planning Matters as had all received correspondence from the applicant;
- ii) Cllr Mrs F J Colthorpe declared a personal interest as a Member of the Fire Authority and she had visited the former gallery to view material exhibited by friends;
- iii) Cllr Mrs G Doe declared a personal interest as she had exhibited material at the Red Barn;
- iv) Mrs Ashworth (objector) spoke;
- v) Mrs Wright (Applicant) spoke;
- vi) The Chairman read a letter from Cllr R M Deed, the Ward Member;
- vii) Cllr Mrs C A Collis requested that her vote against the decision be recorded;
- viii) The following late information was reported:
 1. Additional comments have been submitted by the Agent. These have been emailed directly to members of the planning committee and a printed version is attached to the update sheet.
 2. Change to the recommendation. The report includes two reasons for refusal. Following the receipt of further survey reports relating to protected

species, it is considered that any impacts that the development would have on protected species (bats) can be mitigated by the provision of a specific bat loft in one of the other buildings at Cleave Barton. Full details of the bat loft would be required to be submitted with a European Protected Species Licence application. As a result of receiving the further protected species surveys the second reason for refusal has been removed.

3. Additional condition:

The development shall be carried out in accordance with the mitigation measures set out in the report by Blackdown Environmental received by the local planning authority on the 5th March 2019. Once provided the mitigation measures shall be permanently retained.

Reason:

To ensure the provision of suitable mitigation measures for protected species in accordance with policies DM2 and DM11 Local Plan Part 3 (Development Management Policies) and in accordance with the Conservation (Natural Habitats & Conservation) Regulations 1994 (Statutory Instrument No 2716) amended in 2007.

4. In the event that the application is approved the following informative is recommended:

A bat loft is to be provided within a building on site as detailed in the ecological report by Blackdown Ecological received 5th March 2019. The applicants are advised that if the provision of the bat loft would require building operations then advice should be sought regarding whether or not the required building operations require planning permission prior to the commencement of the works.

(b) No 2 on the Plans *List (18/02024/FULL – variation of conditions 2, 5, 7, 8, 9, 10 and 15 of planning permission 17/00711/FULL – land and buildings at NGR 301270 1112834 (Orchard House) High Street, Halberton)*

The Area Planning Officer outlined the contents of the report by way of presentation, highlighting the location of the site, the site plan, the position of the wall and the vehicular access. She focussed on the main alteration to the original plans, that being the wall to the frontage of the site to be replaced in a rendered style. The other alterations were the detail of the roof tiles and the barge boards. She stated that the Conservation Officer was happy with the proposals and informed the meeting of the latest response from Halberton Parish Council and members viewed photographs from various aspects of the site. She added that the alteration to the other conditions were further details of the discharge of conditions which were considered to be acceptable.

Consideration was given to:

- The colour of the proposed rendered wall, the proposed upkeep of the wall and whether it was in keeping with the walls already in the High Street.
- The parking area for public use.

- The views of the Parish Council with regard to the appearance of the wall and whether the scheme should enhance the Conservation Area. Concerns had also been raised with regard to the surface of the parking area, although the parking area was welcomed, a management plan for that area would be appropriate
- The views of the Ward Member with regard to the control of the parking area, the rendered wall was felt to be a negative step and that a management plan was necessary to cover the maintenance of the wall and of the parking area
- The surface of the parking area
- The stone walls in the vicinity of the application site

RESOLVED that the application be deferred to allow further discussions to take place with the applicant with regard to:

- A management plan for the car park
- The surface of the car park
- The materials for the wall, to be ideally stone-faced rather than rendered brick.

(Proposed by the Chairman)

Notes:

- i) Cllr R L Stanley declared a personal interest as a Director of 3 Rivers Developments Ltd and chose to leave the meeting during the discussion and vote thereon;
- ii) Cllr Mrs F J Colthorpe declared a personal interest as the Parish Council representative was known to her;
- iii) Cllr Hugill (Halberton Parish Council) spoke;
- iv) Cllr R F Radford spoke as Ward Member;
- v) The following late information was reported:

A consultee response from Halberton Parish council was received on 14th February as follows:

Halberton Parish Council considered this application at their meeting on 12/2/19.

The Council's objections to the proposed change from stone wall to rendered wall remain in place. The Council's view is that a sandstone wall is more in keeping with the Conservation Area.

Typo - reference to condition 12 – this should read condition 15.

- (c) No 3 on the Plans *List (18/02071/FULL – retention of log store – Bradford Farm, Upflowman)*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the proposal, the block plan of the log store, the floor plan

and dimensions of the building. He provided an old aerial photograph which identified the original log store in situ and informed the meeting that he did not feel that the retention of the store had a detrimental impact on the amenity of the occupiers of neighbouring property or the character of the site and surrounding area in general. Members also viewed photographs from various aspects of the site.

Consideration was given to:

- The photographs depicted a log store and a workshop
- The views of the objector with regard to whether it was an existing building or a total creation of a new building, why was a wood burner used to heat the room, why was the application retrospective and that there was still unauthorised parking on the site.
- The views of a representative for the agent with regard to the neighbourly dispute which was ongoing, the materials were not out of keeping with the existing buildings and that the car park did not form part of the current application.
- The views of one of the Ward Member's with regard to the intention for the log store, there was ample space within the existing buildings for a log store, the random selection of material for the log store and the fact that the woodburner would billow smoke across to the neighbours property.
- The quantity of wood already stored in the log shed
- The size of the store
- Whether the application was in accordance with Policy DM2

RESOLVED that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- The proposal was not in accordance with Policy DM2
- Whether the design and materials for the log store were of an acceptable quality and appearance, taking into account the quality of the stone barns and their setting.

(Proposed by Cllr R L Stanley and seconded by Cllr D J Knowles)

Notes:

- i) Cllrs R B Evans, Mrs B M Hull, D J Knowles and R F Radford declared personal interests as the neighbour was known to them;
- ii) Mr Blackmore spoke in objection to the application;
- iii) Mr Webb spoke on behalf of the agent;
- iv) Cllr C R Slade spoke as Ward Member;
- v) Cllrs Mrs F J Colthorpe, P J Heal and D J Squire requested that their vote against the decision be recorded.

120 MAJOR APPLICATIONS WITH NO DECISION (2-16-00)

The Committee had before it, and **NOTED**, a list * of major applications with no decision.

It was **AGREED** that:

Application 19/00118/MOUT – (land west of Siskin Chase) Colebrooke Lane, Cullompton be brought before the Committee for determination and that a site visit take place if the officer recommendation was one of approval.

Note: *List previously circulated; copy attached to the Minutes

121 APPEAL DECISIONS (2-17-00)

The Committee had before it and **NOTED** a list of appeal decisions * providing information on the outcome of recent planning appeals.

Note: *List previously circulated; copy attached to Minutes.

122 APPLICATION 18/02080/FULL - DEMOLITION OF GROUND FLOOR SHOP, INSTALLATION OF EXTERNAL CLADDING, SIGNAGE, CANOPY AND DISPLAY WINDOWS, ERECTION OF A MIXED USE BUILDING OF 3 APARTMENTS WITH GROUND FLOOR RETAIL UNITS WITH ASSOCIATED WORKS - 34 FORE STREET AND LAND TO REAR OF 36 FORE STREET, TIVERTON. (2-17-00)

The Committee had before it * report of the Head of Planning, Economy and Regeneration regarding the above application.

The Area Team Leader outlined the contents of the report highlighting by way of presentation the widening of the walkway through to the market area, the proposed demolition works, proposed illuminated floorspace and the elevations and section plans for the proposed buildings. Members viewed photographs from various aspects of the site including that from the Fore Street and the market.

Discussion took place regarding:

- The views of the applicant highlighting the proposed connection from Fore Street to the market, the widening of the walkway to provide a safer movement for people to move around the town, the 3 retail units and proposed residences in the centre of the town.
- The view of the Town Council with regard to the architectural heritage, the impact of the proposal on the Conservation Area, whether the development was sensitive and in line with the NPPF and whether the proposal was in accordance with Policy DM2.
- The views of the Ward Members with regard to the fact that the scheme was critical for the town and the market, there were 3 obvious benefits in that the scheme would enhance the area, there would be new retail units and 3 new flats in the town centre.
- Whether the design of the shops was in keeping with the area, although it was felt that there was no particular theme in the design of adjacent buildings.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with the following additional conditions:

No work shall be carried out on site to any external walls or roofs unless particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Such particulars will include the detailed finish (rough sawn, hand tooled, etc.) Slate hooks shall not be used.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No work shall be carried out to construct any external wall unless full details of the coursing, bonding and coping; mortar profile, colour, and texture along with a written detail of the mortar mix, have been provided in writing and supported with a sample panel to be provided at a time to be agreed in writing. The work shall be carried out in accordance with the agreed details, and the sample panel shall remain available for inspection throughout the duration of the work. Note: on sloping sites, the top of the wall should run with the slope of the land and not be stepped.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No repointing shall be undertaken on site unless full details, including elevational drawings, to indicate the areas to be repointed; details of the method of removal of existing pointing (in this regard mechanical tools shall not be used); details of the mortar mix, and a sample panel of new pointing that shall be carried out in the agreed mortar; have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the agreed details, and the sample panel shall remain available for inspection throughout the duration of the work.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No work shall be carried out to fit any doors, windows, boarding or other external opening, including Juliet balcony unless details of the design, materials and external finish of these elements have been submitted to and approved in writing by the Local Planning Authority. This will include detailed drawings including sections of at least 1:5. Such approved details, once carried out shall not be retained.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No work shall be carried out to form any new window or door opening unless details of any expressed lintel have been submitted to and approved in writing by the Local

Planning Authority. Such approved details, once carried out shall be permanently retained.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any windows are fitted.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No work shall be carried out in relation to roof eaves, verges and rainwater goods unless the design details of all roof eaves, verges and abutments, including detail drawings at a scale of 1:5, and all new cast metal guttering, down pipes, other rainwater goods, and external plumbing have been submitted to and approved in writing by the Local Planning Authority. Such details once carried out shall not be permanently retained.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

No work shall be carried out to fit the roof lights unless details of the roof light units have been submitted to and agreed in writing by the Local Planning Authority. Unless otherwise agreed in writing, the roof lights shall be top hung and flush with the roof covering. Such approved details once carried out shall not be permanently retained.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

Details of all making good of any existing structure abutting any of those to be demolished, shall be submitted to and approved in writing by the Local Planning Authority. Such approved details, once carried out shall not be permanently retained.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

All electrical and telephone services to the development shall be run underground. All service intakes to the dwelling(s) shall be run internally and not visible on the exterior. Any meter cupboards and gas boxes shall be positioned on the dwelling(s) in accordance with details, which shall have been previously submitted to and approved in writing by the local planning authority and thereafter retained in such form. Satellite dishes shall not be fixed to the street elevations of the buildings or to roofs.

Reason:

To preserve the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local plan part 3 (Development Management Policies).

(Proposed by Cllr P J Heal and seconded by Cllr D J Knowles)

Notes

- i) Cllr R L Stanley declared a personal interest as the Cabinet Member for Housing and chose to leave the meeting during the discussion and vote thereon;
- ii) Mr Busby (applicant) spoke;
- iii) Cllr Hill (Tiverton Town Council) spoke;
- iv) Cllrs Mrs E J Slade and Mrs B M Hull spoke as Ward Members;
- v) The following late information was reported:

Change to recommendation:

Reference to signing of a S106 should be removed as the Council cannot have an agreement with itself. Internal arrangements can be made regarding this matter.

Comments from MDDC Conservation Officer:

You will recall that we discussed the heritage statement prior to our joint discussions with the applicants agent. Your report is a sound outlining of the issues and the balance to be struck.

With regard to the heritage statement, I agree with and I am happy the conclusions with the following comments:

I do feel that they should have used the process as outlined by Historic England in General Practice Advice Note 3 on the Setting of Heritage Assets.

With regard to the new building to the rear:

They omit to assess the setting and appreciation of the Parish Church. Whilst I agree the site is well defined and the listed buildings have defined and intimate settings, the Church Tower stands above the surrounding buildings and is visible when approaching from Fore Street into the Pannier Market to the left. I do not feel that there is any harm, but we should acknowledge the intervisibility and assess it.

Overall I consider the form and massing of the development to cause no harm to the setting of the listed Pannier Market and Church and to preserve and enhance the conservation area. The form and detail, runs along the mediaeval burgrave plot, reflecting historic patterns of development, and whilst the design has a modern twist, it is restrained and does not compete with the Pannier Market or Church, or be overly assertive in the conservation area.

The frontage building onto Fore Street is relatively modern, is quite poor architecturally and gives little to the conservation area. At best it is benign. The

opening up of the archway reinstates a wider opening shown on the historic maps, and the projection on the front adds to the building and is not harmful to the conservation area or the setting of nearby listed buildings.

vi) *Report previously circulated copy attached to signed minutes.

123 **COSTS IN THE PLANNING SERVICE (2-47-00)**

The Committee had before it and **NOTED** * report of the Head of Planning, Economy and Regeneration highlighting some of the headline findings of the recent costs exercise to provide Members with background information on suggested service improvements and changes.

The Group Manager for Development stated that work had taken pace with regard to improving the efficiency of the Planning Service. He explained the time recording exercise that had taken place and the report subsequently produced by CIPFA which had highlighted a number of efficiencies and cost recovery opportunities for discretionary services.

Consideration was given to:

- The service cost headlines
- How the duty planning officer service costs would be covered
- The period of the time recording exercise

Note: *Report previously circulated copy attached to signed minutes.

(The meeting ended at 5.25 pm)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 3 April 2019 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
P J Heal, F W Letch, B A Moore,
R F Radford, J D Squire, R L Stanley and
R J Dolley

Apologies

Councillor(s)

D J Knowles

Also Present

Councillor(s)

D R Coren, R Evans, Mrs E J Slade and
Mrs J B Binks

Present

Officers:

David Green (Group Manager for Development), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Lucy Hodgson (Area Team Leader), Alison Fish (Area Team Leader), Adrian Devereaux (Area Team Leader), Helen Govier (Planning Officer), Oliver Dorrell (Planning Officer), Jake Choules (Planning Assistant), Ian Sorenson (DCC Highway Authority) and Sally Gabriel (Member Services Manager)

124 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr D J Knowles who was substituted by Cllr R J Dolley.

125 PUBLIC QUESTION TIME (00-02-55)

Mr Wood, referring to Item 1 on the Plans List (Credon Garden Centre) stated: I am a veterinary surgeon and I have a point about the Credon Garden Centre development. I have lived opposite this proposed development site for roughly six years and this area will always be designated as open countryside. I would like to ask the planning people why this has not been taken into account. 45% of this application site was land only purchased by the applicant in 2017, this land as I said has always been designated as open countryside and has previously had planning permission refused 6 times plus twice on appeal. This was to prevent harm to this countryside area and landscape so surely this should be a material consideration now. I would also like to know why a full landscape assessment has not been carried out, the

independent landscape assessment from Cambrian Landscape Architects strongly concluded this development would have a harmful effect on the landscape despite the revisions. Allowing this development would have a major negative effect on the surrounding area and especially the landscape. In addition it will affect my home where I have lived for 6 years and my business as well by making the traffic considerably more congested in this area. It's already difficult for traffic anyway and this will make it much much worse. Our residential amenity and privacy will also be affected by the noise and disturbance of the delivery and staff vehicles using entrances opposite our property. I hope the councillors will take account of the harm to the landscape and also our local residents' objections.

Mr Adams, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: – Can the planning officer please explain how the proposed retail restriction could possibly protect gardening retailers in Crediton such as Adams, Tuckers Country Store and Mole Avon? 25% of the footfall in Crediton High Street was shown by the Mid Devon retail study to be generated by my shop Adams. However we and other garden retailers would not be protected at all by the restrictions proposed. If we or other garden retailers in Crediton were to close it could be a tipping point for the towns future. Footfall on the high street would dramatically drop and the town centre would go into decline. Tesco and other supermarkets have some restrictions on general merchandise such as gardening items. However a garden centre just on the edge of town with 4800sq metres of space selling garden items would have an even stronger harmful effect on garden retailers in the town. This harm has not been taken into account in the retail implications report and so the actual impact would be much greater than that reported.

Mr Bond, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: – I own a greengrocers on the high street in Crediton. Can the officer please advise how the retail restrictions would protect the town at Christmas time? The seasonal space of this shop would be over 1080sq metres from October to January, that means half the entire shop would become A1 retail space for at least 4 months of the year. This would make the shop the biggest A1 retail unit in Crediton for a third of the year. This is bound to have a serious impact on gift card and general shops at a key selling time for the high street. It would certainly draw customers away from the town centre. This impact has not been taken into account in the retail impact report and its conclusion that the impact on the town is less than 3% is severely underplaying the impact which is likely to be nearer 10 – 20%.

Mr Schofield, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: – Can the planning officer please tell us why a small 230sq metre shop is being allowed to be developed into something 30 times larger including the café. Also why have the figures claimed that retail space have been taken at face value and not questioned at all by the planning office. The independent assessment from X-cel Planning showed that the scale of this retail development is far larger than what is currently there and is a shop development of inappropriate scale for the countryside location. The actual current shop building is shown to be only 230sq metres and the total rateable space actually on the site today is only 1/3 of what is claimed. Such an incremental development is clearly not appropriately scaled. Why has the impact of the cafes not been considered at all in the planning officers report? This development would have a major impact on café trade in and around Crediton as it would be the largest café in Crediton with a £1m turnover. A major restaurant of this size would most certainly draw people away from using the town centre café's. The drip drip

effect of allowing such an out of town development, especially only 1 mile from the town, will suck trade away and turn the town centre into a ghost town. I would kindly asked councillors to consider that such a large café would cause great harm and destroy café trade and family businesses in Crediton.

Mrs M Green, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - I would like to ask whether it is acceptable that road improvements should be carried out at the expense of public safety? One of the biggest concerns from objectors regarding this application is road safety. Many residents strongly believe that the road would become more unsafe as a result of this development. The independent report from Mark Baker Consulting clearly states that the entrance remains fundamentally unsafe.

Mr Baker says:

“Despite the submission of revised plans the applicant fails to demonstrate that a safe and suitable access can be achieved.

The impact of the proposed redevelopment will be unacceptable.

Accordingly, the planning application should be refused on highway safety grounds”.

I hope that councillors take this into account in making a decision, as safety should never be compromised for road improvements.

Mrs M Tucker, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - Can the planning officer please explain how this development can possibly be sustainable? It will be impossible to walk or cycle safely to the development. The westbound bus stop will also still be dangerous, as the 60 mile per hour road would need to be crossed by pedestrians to reach the centre.

Bus access will be limited, as buses to this area don't run on Sundays, which is one of the busiest days of the week for a garden centre. As a consequence, nearly all trips to this site would be via unsustainable car journeys. The independent report from Mark Baker Consulting strongly concludes that despite the latest revisions the location is not at all sustainable.

One of the key objectives of sustainability is an economic one, but this proposal would clearly undermine the economic viability of Crediton town centre and is therefore contrary to this aim.

My 2nd question is, please can the planning officer answer why this application has not been treated as a change of use? Even though the site is named Crediton Garden Centre, the previous owners operated the site as a retail nursery up until 2017. The use of the site was of a horticultural nature with plants grown on site sold to customers. Other goods sold were secondary to plants grown. However now there will be no growing at all on the site, only retailing of a much fuller range of gardening items. Such a change in use of the site from retail nursery to a large built form destination garden centre, should have been a material consideration. Can the planning officer answer why this has not been treated as material in his assessment?

Ms K Hutchings, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - Could councillors please take into account that this development would have a harmful impact on traffic in the area? The independent Highways report from Mark Baker Consulting concludes that despite the revisions there would be a severe and

unacceptable impact on the road network due to extra trips being taken, which have been severely underestimated in the Traffic Report.

Traffic flows would actually increase by over 12 times. Parking spaces would grow 9½ times from only 20 spaces, to 194 spaces. This is bound to have a major impact on our local roads, and the area does not have the infrastructure to cope with this extra traffic. Accordingly there would be traffic chaos in the area, and I trust that this will be taken into account in reaching a decision.

Mr D Tucker, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - I would like to ask is it acceptable that small garden centres may close down as a result of this development?

I also ask why the effect on village shops was not taken into account in the retail impact report?

At the last meeting it was said that small garden centres were not viable any more, which is why the applicant had to build something so large. This proposed development would be 3 times larger than our centre at Bow and the café would be 5 times larger. However we would be able to remain viable if such a massive development were not built on our doorstep.

Garden centres are not protected by policy per se. However we actually have a local post office counter and perform an important community role, so we should be protected as a village shopping asset. However because no impact on village shops was taken into account in the retail impact report at all, the effect that this development would have on village facilities has been completely missed.

Mr J Webber, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - Can the planning officer please advise why the required reports were not fully provided? Firstly, the retail impact report is only for 3 years rather than the 10 years required by the National Planning Framework. Secondly, a full sequential analysis should have been done for such a major development.

In addition the retail impact report does not take any account of the Government's policy to help the high street, and discourage out of town development. This is especially important to consider at a site only 1 mile from the town centre. Out of town developments draw people away from town centres, and policy advises that they should be resisted by local councils.

Mr Counter, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - Can the planning officer please tell us how extra air pollution from this development would be dealt with?

Most of the traffic travelling to this large proposed shop would go directly through Crediton town centre, which is already an air quality control zone.

There would be a massive increase in heavy goods vehicles, delivery vans, coaches and lots of extra cars. It would be in contradiction of policy DM6.

Crediton is currently consulting on how to prevent extra traffic and pollution, so how could the council possibly manage the harm from the extra pollution created?

Cllr S Penny, referring to Item 1 on the Plans List (Crediton Garden Centre) stated: - Considering that Devon Highways Authority have been involved in the planning of the road layout since the start of the process and have provided advice for a safe design, which have been followed, and that traffic surveys have been carried out by a well-

respected independent engineering consultancy, Hydrock; who have been employed by companies such as ASDA, Waitrose, B&Q and Rolls Royce why is this still being quoted as a safety issue?

Hollie Adams, referring to Item 1 on the Plans List (Crediton Garden Centre) stated:
- Following the first planning meeting the overall building size was reduced from 3335sqm to 2498sqm but this was still considered a concern during the last meeting, where the planning committee asked for further reductions in size. The current design now has an overall size of 1915sqm which is a 43% decrease from the original design. Do you agree that the plans now satisfy the request for a reduced size?

Steve Adams, referring to Item 1 on the Plans List (Crediton Garden Centre) stated:
- As the general retail area of the proposed Garden centre is restricted to approximately 200sqm and an independent retail study effectively states that the garden centre will have little impact on any surrounding businesses and, following the last planning meeting, Mid Devon Planning authority had their own studies done by Litchfields. In which they state that due to population growth, expenditure per person and market shares Creditons' comparison goods turnover will increase by 14.4% by 2022 and the impact that the proposed garden centre will have is between -1.7% and -2.2%. Do you agree that the concern that local businesses will be adversely affected is unfounded?

Mike Blackmore, referring to item 11 on the agenda (Bradford Farm) stated – At the previous meeting the vote was 8 to 3 to refuse this application. This decision was based on photographic evidence and during the discussions by the members several points were raised.

1. Is the building really just a log store?
2. Where do vehicles park to access the log store? On the unauthorised car park?
3. Quality of design and appearance contrary to policy DM2

The suggested wording for the refusal is strong enough for the committee to adhere to their original recommendation and I am trusting this refusal will remain to confirm that the democratic process can prevail against such retrospective and misleading applications.

The Chairman indicated that questions would be answered during the debate on each application.

126 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

Members were reminded of the need to declare any interests when appropriate. At this point, the Group Manager for Legal Services and Monitoring Officer also spoke to Members generally about their right to speak freely and predetermination.

127 MINUTES OF THE PREVIOUS MEETING

Subject to the inclusion of Cllrs R F Radford and R L Stanley in the attendance list, the minutes of the meeting held on 6 March 2019 were approved as a correct record and signed by the Chairman.

128 CHAIRMAN'S ANNOUNCEMENTS (00-29-14)

The Chairman had the following announcements to make:

- She informed Members of a special meeting taking place at Cullompton Town Hall on 17 April at 10.00am. A site visit to the NW Cullompton site would take place on Tuesday 16 April leaving Phoenix House at 10.30am and meeting on site at 11.00am.
- The next ordinary meeting would take place on Tuesday 23 April at Phoenix House, any site visits for that meeting would be held on Thursday 18 April.
- She introduced the 2 new members of staff who were present, Jake Choules, Planning Assistant and Oliver Dorrell, Planning Officer.

129 MOTION 553 - (COUNCILLOR R B EVANS - 13 FEBRUARY 2019) (00-33-08)

The Committee had before it a motion that had been passed to this Committee from Council for consideration.

Background

Members are aware that a number of planning applications need to go to Planning Committee for consideration; these applications have an array of detail and associated information for members to consider along with an officer recommendation and report.

Within this suite of reports there is often a detail on affordable housing and the section 106 agreement outlining jointly agreed contributions that will be applied to the build should the application be successful, these agreements are evidently part of the detail members are asked to consider and naturally will assist members in making their informed decision .

It has become apparent that after approval has been received, it is not uncommon for developers/ applicants to seek to alter such agreements retrospectively via negotiations with officers, common reasons cited are funding/ budget related.

This motion is sought to be applied to any planning application that has been considered by the planning committee and evidently agreed where a retrospective application to alter the affordable housing or the section 106 agreement is then received.

Proposed motion

Any planning application that is approved by Committee giving specific affordable housing provision and or a detailed section 106 agreement as part of the information for members to consider that subsequently receives any application to alter all or part of these agreements must be referred to the relevant ward member/s for their consideration and input.

Should both the officer dealing and the ward member/s agree to the changes these

can be allowed to form the new affordable housing agreement and or section 106 agreements.

Should the ward member/s and officer dealing fail to agree on the proposed changes or cannot negotiate agreeable alternatives then the application to change the affordable housing and or section 106 agreement should be referred back to the committee for their consideration and agreement / disagreement .

Cllr Evans was invited to speak to his motion; he addressed the meeting highlighting the procedure for amending Section 106 agreements approved in July 2016 and the fact that the procedure was not always followed and that some S106 agreements had been amended without Ward Members being informed. He had canvassed his thoughts among other members and it was suggested that the situation was not isolated to his ward. There was a need for the approved procedure to be implemented by officers and he therefore requested that the committee support his motion.

Consideration was given to individual cases and the need for the procedure to be followed with a possible signing off form. The Group Manager for Development requested that he be informed about individual cases which he would follow up.

It was therefore **RECOMMENDED** to Council that Motion 553 be supported.

(Proposed by the Chairman)

130 **DEFERRALS FROM THE PLANS LIST (00-45-59)**

The Chairman advised the meeting that item 2 on the Plans List, application 18/01800/MFUL – AD Plant and associated infrastructure at land east of Lords Meadow Industrial Estate, Crediton had been deferred.

131 **THE PLANS LIST (00-46-00)**

The Committee considered the applications in the plans list *.

Note: *List previously circulated; copy attached to the signed Minutes.

(a) Applications dealt with without debate.

In accordance with its agreed procedure the Committee identified those applications contained in the Plans List which could be dealt with without debate.

RESOLVED that the following application be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 6 on the Plans *List (19/00272/FULL – **Erection of a single storey extension – 1 Burrington Drive, Shobrooke, Crediton**)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: The following late information was reported on the update sheet: 14th March 2019 - Shobrooke Parish Council have no comment on this application.

(ii) No 7 on the Plans List ***(19/00225/FULL – installation of air conditioning units to western elevations and revised path access – Exe Valley Leisure Centre, Bolham Road, Tiverton)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: Cllr R L Stanley declared a personal interest as the application would be funded from within his Cabinet Member portfolio and he stated that he would abstain from voting.

(b) No 1 on the Plans List ***(17/02061/MFUL – Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, café and warehouse, formation of new vehicular access, provision of parking areas and landscaping – Crediton Garden Centre, Barnstaple Cross, Crediton)***.

The Group Manager for Development provided an update to the report stating that further representations in objection to the application had been received along with 44 letters of support and 2 petitions in support of the application. He was also in receipt of further correspondence from the objectors highway engineer which reiterated the argument with regard to road safety.

He provided answers to questions posed in public question time:

- With regard to a landscape assessment, this was not a requirement of the policy; officers would have assessed any landscape issues in relation to the impact of the existing buildings on site when considering the application.
- With regard to any retail restrictions, the PPG and the NPPF did not require an assessment of small shops, he had raised this issue with the Retail Consultant who had provided his opinion, that subject to the imposition of the retail sales conditions he had proposed the impact on surrounding businesses was acceptable.
- With regard to seasonal goods, this had also been raised with the Retail Consultant and this had been covered in Conditions 13, 14 and 15. Any seasonal goods not restricted would have to be within the 198 sq m of retail space.
- With regard to the café, Condition 16 restricts it to ancillary use and that this would address any impact on cafes within the town.
- With regard to highways issues, Mr Sorenson was present and would address the committee, however taking into consideration the highway assessment commissioned by the objectors, he was still of the opinion that the access was safe and that the traffic level was acceptable.
- With regard to sustainability, the site was a redevelopment of an existing business and therefore complied with Policy DM20. The development was considered to be sustainable. A retail impact assessment of 10 years was not required by the NPPF or NPPG (this would only be applicable for a major retail development), The NPPG focussed on assessment of the first 5 years and

the applicants assessment had done this and was therefore robust. Regardless of this it was the first 2 years following development that had the most impact and an assessment of impact over 10 years would show less impact as it would be offset by population and expenditure growth.

- With regard to air quality issues, this issue had been covered at previous meetings, the air quality assessment was not required as this was an existing business.
- With regard to any change of use, this was not required as there was an existing business on the site which was looking to expand.

The Group Manager then outlined the contents of the report identifying by way of presentation the application site, the existing buildings and the revised proposal and a block plan which depicted the reduced scheme and highlighted the scheme amendments within the report. He provided a plan which identified the comparisons between the original and revised scheme and explained that Condition 15 specified which goods could be sold along with identification of specific parts of the scheme. Plans of the highways improvements were supplied together with proposed cross sections, elevations and photographs from various aspects of the site.

Mr Sorenson on behalf of Devon County Council, Highway Authority addressed the meeting stating that the access was acceptable in highway terms, with regard to traffic regeneration, the trip data was acceptable and that the trigger points for the design of the junctions were available in the guidance, the installation of the minor arm would aid traffic issues. With regard to road safety, the visibility splay at the Higher Road, Barnstaple Cross junction was adequate. The objectors highway engineer had raised issues with regard to the safety at the crossing point, however this would be to the east. The technical details would be submitted to and approved by the Highway Authority through a Section 278 agreement and a four-stage safety audit would take place. The access and vehicle passing point could be expanded but was of a sufficient width for two cars to enter and exit simultaneously.

Consideration was given to:

- The increased size of the café
- The timetable for archaeological work proposed
- Whether the site was sustainable
- The square meterage of the proposal compared with the original
- The views of the objector with regard to how Government and local policy should help town centres and whether customers would be drawn away from the town centre, there was no protection for small businesses and the application would harm the town, affect jobs and increase air quality issues.
- The views of the agent highlighting the applicant's commitment to the planning process, the lack of objection from statutory consultees, the size of the retail section within the proposals, the pre commencement agreement, the timetable for the archaeology search and the proposed pedestrian improvements in the location.
- The views of Crediton Hamlets Parish Council with regard to the improvements, which would include a new pavement and bus stop, road improvements and create jobs in the area.
- The views of the Ward Members with regard to the reduction of size of the scheme to try to make it acceptable, the improvement to highway safety, the advice from the retail consultant, that the applicant had addressed the

concerns raised by the previous applications and that the scale of development was now acceptable.

- The location of the crossing point
- The impact of the proposal of the town centre
- The destination site would be good for the town.

It was therefore:

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs C A Collis)

(Vote 6 for: 5 against – Chairman's casting vote)

Notes:

- i) Cllrs: Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;
- ii) Cllrs P J Heal, and D R Coren made additional declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had face to face contact with objectors and/or the applicants;
- iii) Cllr F W Letch declared a personal interest as he knew the objectors;
- iv) Cllr Mrs G Doe declared a personal interest and that she had pre-determined the application and therefore chose to leave during the discussion and the vote thereon;
- v) Cllr R J Dolley declared a personal interest as he had spoken to people with regard to the application;
- vi) Mr Bond spoke on behalf of the objectors
- vii) Mr Kemp spoke as agent to the applicant;
- viii) Cllr Mortimer spoke on behalf of Crediton Hamlets Parish Council;
- ix) Cllrs D R Coren and P J Heal spoke as Ward Members;
- x) Cllrs R J Dolley, F W Letch, B A Moore, J D Squire and R L Stanley requested that their votes against the decision be recorded;
- xi) The following late information was reported: the receipt of an additional petition of 69 signatures in support of the application.

(c) No 2 on the Plans List ***(18/01800/MFUL – Construction of an on-farm anaerobic digestion plant and associated infrastructure land at NGR 285024 100245 (East of Lords Meadow Industrial Estate, Crediton).***

This application had been deferred as stated earlier in the meeting.

(d) No 3 on the Plans List ***(18/02024/FULL – 18/02024/FULL – variation of conditions 2, 5, 7, 8, 9, 10 and 15 of planning permission 17/00711/FULL – land and buildings at NGR 301270 1112834 (Orchard House) High Street, Halberton)***

The Area Team Leader outlined the contents of the report explaining that at the previous meeting Members had considered the application and resolved that it be deferred to allow further discussion to take place with the applicant with regard to the management plan for the car park, the surface of the car park and the materials for the wall, to ideally be stone-faced rather than rendered block. She informed the meeting that discussions had taken place and that the amendments had been made to the proposals to include a stone faced block wall and a low brick wall with railings, the car park would be surfaced with tarmac and the management plan had been clarified.

She identified by way of presentation the location of the site and photographs highlighting that low brick walls with railings featured in other locations in the High Street and was a common feature in the conservation area. She highlighted the management of the communal areas which were identified by plot.

Consideration was given to:

- The views of the applicant who stated that the application sought to simplify the elements not cheapen the quality of the build, the concerns of the committee at the previous meeting had been considered and addressed.
- The communal areas and the access to the site.

It was therefore:

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration subject to the rewording of Condition 5 to read: the approved boundary treatment shall be completed in accordance with a timetable which shall be submitted to and approved in writing by the Local Planning Authority prior to any of the approved units first being occupied and thereafter shall be so retained and to Condition 7 to read: the materials to be used for all the external surfaces of the buildings shall be as shown on the approved drawings and set out in the letter submitted with the application dated 11th December 2018. The hard surfaced area for the car park shall be tarmac as set out in the applicants letter dated 18th March 2019.

(Proposed by Cllr B A Moore and seconded by Cllr Mrs C A Collis)

Notes:

- i) Cllr R L Stanley declared a personal interest as a Director of 3 Rivers Developments Ltd and chose to leave the meeting during the discussion and vote thereon;

- ii) Mr Sanderson (Applicant) spoke;
- iii) The following late information was reported:

3/4/2019 Following the receipt of further information from the applicant, conditions have been updated, with those in italics being amended or new additions:

CONDITIONS

1. The development hereby permitted shall be begun before 4th July 2020.
2. Subject to the effect of any condition of this permission, the development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Before the development hereby permitted is first brought into use, the access and its associated visibility splays, parking and turning areas shall be provided and surfaced to avoid surface water discharge onto the highway. Following their provision these details shall be so retained and maintained.
4. All telephone, electricity and mains gas services to the building shall be placed underground.
5. *The approved boundary treatment shall be completed in accordance with a timetable which shall be submitted to and approved in writing by the Local Planning Authority prior to any of the approved units first being occupied and thereafter shall be so retained*
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E and F of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, erection of a porch outside any external door, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil of liquid petroleum gas, provision of a hard surface or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
7. *The materials to be used for all the external surfaces of the buildings shall be as shown on the approved drawings and set out in the letter submitted with the application dated 11th December 2018. The hard surfaced area for the car park shall be tarmac as set out in the applicants letter dated 18th March 2019*
8. Following the demolition of the barn in the north east corner of the site, shallow soil sampling in the areas identified as amenity space for plot 1 shall

be carried out to assess for the presence of asbestos fibres. Additional testing shall also be carried out in the area marked TP1 in the Phase2 Geotechnical Investigation and Contamination Assessment report carried out by Ruddlesden geotechnical dated December 2018, in order to determine the presence or absence of volatile organic compounds and/or semi-volatile organic compounds. Where contamination is identified a remediation statement shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing on site to erect any of the approved dwellings. The approved remediation scheme shall be carried out in accordance with its terms. The Local Planning Authority shall be given two weeks' written notification of commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, and before any dwelling is first occupied, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing of the Local Planning Authority.

9. The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, such details to include plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction.

10. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) The footway on the public highway frontage required by this permission has been constructed up to base course level
- D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

11. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme and shall be fully operational before any dwelling is first occupied.

12. No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

13. No development shall begin on the conversion of the barn until a schedule of works has been submitted to and approved in writing by the Local Planning Authority. The schedule of works shall include:

- (a) Details of any demolition or removal of any building fabric and any rebuilding or repairing works required to convert the building;
- (b) Details of all measures required to support any wall, floor, roof or other vertical or horizontal surface
- (c) Details of measures required to provide protection for the building against the weather during the conversion works.

The agreed schedule shall be strictly adhered to during the course of the conversion works.

14. The mitigation and enhancements proposed in the Ecological Appraisal (February 2017) prepared by Green Ecology shall be implemented and completed before any dwelling is first occupied and shall be retained in accordance with the requirements of that report.

(e) No 4 on the Plans *List (19/00024/FULL – variation of condition 2, of planning permission 17/00353/FULL to read “to be in accordance with the amended plans to regularise alterations”– land at NGR 307578 116857 (SE of Oakfield) Burlescombe).*

The Area Team Leader outlined the contents of the report explaining the scheme by way of presentation highlighting the minor amendments to the front elevations that of the front windows and the porches and the fencing to the rear of the site.

Consideration was given to the amendments to the design of the porches and whether these were aesthetically pleasing.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr B A Moore and seconded by Cllr P J Heal)

Notes:

- i) Cllr R L Stanley declared a personal interest as a Director of 3 Rivers Developments Ltd and chose to leave the meeting during the discussion and vote thereon;
- ii) Cllrs: Mrs H Bainbridge, Mrs C A Collis and Mrs G Doe requested that their votes against the decision be recorded.

(f) No 5 on the Plans *List (18/001866//FULL – Erection of a dwelling 12 Martins Lane, Tiverton).*

The Area Team Leader outlined the contents of the report identifying by way of presentation the location of the site in the rear garden of 12 Martins Lane, the access via the underpass from Water Lane and the built environment surrounding the site. She explained the shared parking area, the proposed elevations, roof and floor plans and provided photographs from various aspects of the site.

Consideration was given to:

- The number of parking spaces available
- The position of the tree and whether it would be removed
- The views of the objector with regard to whether the site was sustainable, the rejection of previous applications on the site, the plot size and concerns with regard to overlooking, the building mass and the provision of utilities to the site
- The view of the agent with regard to the need to use small plots which would be in walking distance to the town, the pre application advice, how the parking would be controlled and that the development would not have a detrimental impact on the Conservation Area
- The views of the Ward Member with regard to the planning balance and the denseness of the built environment
- The impact of the development on neighbouring properties.

It was therefore:

RESOLVED that planning permission be refused as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs H Bainbridge)

Notes:

- i) Cllr R J Dolley declared a personal interest as he knew the agent;
- ii) Ms Whittaker spoke in objection to the application;
- iii) Mr Bryant (Agent) spoke;
- iv) Cllr Mrs E J Slade spoke as Ward Member.

132 **MAJOR APPLICATIONS WITH NO DECISION (3-00-06)**

The Committee had before it, and **NOTED**, a list * of major applications with no decision.

It was **AGREED** that:

Application 19/00075/MFUL – Kelly Farm, Nomansland be brought before Committee for determination and that a site visit take place if the officer recommendation was one of approval.

Application 19/00210/MFUL – 36 Post Hill, Tiverton be brought before the Committee for determination, no site visit was required.

Note: *List previously circulated; copy attached to the Minutes

133 **APPEAL DECISIONS (3-07-01)**

The Committee had before it and **NOTED** a list of appeal decisions * providing information on the outcome of recent planning appeals.

Note: *List previously circulated; copy attached to Minutes.

134 **APPLICATION 18/02071/FULL - RETENTION OF LOG STORE - BRADFORD FARM, UPLOWMAN (3-07-19)**

The Committee had before it an * implications report of the Head of Planning, Economy and Regeneration regarding the above application; Members at the meeting on 6 March 2019, were minded to refuse planning permission, but a final decision was deferred pending consideration of an implications report.

The Area Team Leader addressed the meeting highlighting the location of the proposal, the block plan of the log store, the floor plan and dimensions of the building. He provided an old aerial photograph which identified the original log store in situ and informed the meeting that he did not feel that the retention of the store had a detrimental impact on the amenity of the occupiers of the neighbouring property or the character of the site and surrounding area in general. Members also viewed photographs from various aspects of the site.

Consideration was given to: the scope of Permitted Development Rights and the ongoing enforcement issues

It was therefore

RESOLVED that planning permission be granted as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Notes:

- i) Cllr R J Dolley and R F Radford declared personal interests as the neighbour was known to them;
- ii) Cllrs R F Radford and R L Stanley requested that their votes against the decision be recorded;
- iii) The following late information was reported:

3/4/2019 - A letter has been received from an Ian Firth of Bondstones writing on behalf of the applicant asking that the following observations be brought to the attention of the committee:

1. The building has, by all accounts, been used for the benefit of the farmhouse (as a wood/fuel store - with or without a roof) for decades

2. The site is located within the curtilage of Bradford Farm - i.e. its location, historic ownership, functional association, and use are all directly connected and subservient to the residential enjoyment of the dwelling and thus fall within the established curtilage.
3. The building has been constructed within / over an existing structure and is a part of a larger, existing building – also within the curtilage of the house and which, incidentally, features a dual pitch roof.
4. The log store and workshop – as built – is approximately 2.65m to the eaves (i.e. the point at which the external wall intersects the roof covering) and 3.3m to the apex of the roof (where the roof intersects the parent building to the rear).
5. The location of the structure is well in excess of 2m from the property boundary
6. The footprint of the store is very significantly less than 50% of the curtilage of the farm house.
7. No part of Bradford Farm is listed or located in a 'designated' area and therefore would have been permitted development if constructed slight lower in height.

(The meeting ended at 5.47 pm)

CHAIRMAN

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **LICENSING COMMITTEE** held on 1 March 2019 at 11.00 am

Present

Councillors

D R Coren (Chairman)
T G Hughes, D J Knowles, Mrs G Doe,
L D Taylor and Mrs E J Slade

Apologies

Councillor(s)

Mrs E M Andrews, R J Chesterton, Mrs F J Colthorpe,
A Bush and S G Flaws

Also Present

Officer(s):

Simon Newcombe (Group Manager for Public Health and
Regulatory Services) and Carole Oliphant (Member
Services Officer)

9 APOLOGIES AND SUBSTITUTE MEMBERS (00.01.00)

Apologies were received from Cllrs Mrs E M Andrews; A J Bush, K I Busch, R J Chesterton and S G Flaws

10 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.01.26)

There were no declarations made

11 PUBLIC QUESTION TIME (00.01.38)

There were no members of the public present

12 MINUTES (00.01.45)

The minutes of the meeting held on 9th October 2018 were agreed as a true record and duly signed by the Chairman

13 CHAIRMANS ANNOUNCEMENTS (00.03.51)

The Chairman had no announcement to make.

14 OPERATIONS DIRECTORATE ENFORCEMENT POLICY (00.04.04)

Members were provided with the updated Operations Directorate Enforcement Policy* PH/EP/01/19. This policy was formerly the Public Health Services Enforcement Policy PH/EP/02/16 adopted in August 2016. The policy was due for review and has also been expanded to encompass the remaining enforcement functions in the Operations Directorate within Housing Services and Street Scene

Services. It continues to encompass the Licensing Authority functions of Public Health and Regulatory services.

The Group Manager for Public Health and Regulatory Services outlined the content of the Policy and explained that the Council was required by law to have an Enforcement Policy.

He explained that the Policy was very much a reference guide for officers and decision makers and the appendices contained the details of how each area across the Directorate would comply with relevant information.

He explained that recent changes to Regulation of Investigatory Powers Act (RIPA) were reflected in the policy along with the new General Data Protection Regulation (GDPR) requirements and the Policy could be reviewed at any time due to further changes in legislation.

He explained that the Policy ensured that the Council was transparent, fair and equitable.

It was **RESOLVED** that the Operations Directorate Enforcement Policy was adopted for the Licensing statutory functions within the Directorate.

(Proposed by Cllr G Doe and seconded by Cllr T G Hughes)

Note *Policy previously circulated and attached to the minutes

(The meeting ended at 11.35 am)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **REGULATORY COMMITTEE** held on 1 March 2019 at 12.30 pm

Present Councillors

Mrs F J Colthorpe, D R Coren, T G Hughes,
D J Knowles, Mrs G Doe, L D Taylor and
Mrs E J Slade

Apologies Councillor(s)

R J Chesterton, R Wright, S G Flaws and A Bush

Also Present Officer(s):

Simon Newcombe (Group Manager for Public Health and
Regulatory Services) and Carole Oliphant (Member
Services Officer)

13 APOLOGIES AND SUBSTITUTE MEMBERS (00.00.19)

Apologies were received from Cllrs A J Bush, R J Chesterton, S G Flaws and R Wright. Cllr K I Busch was replaced by Cllr Mrs E J Slade.

14 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.00.37)

No declarations were made.

15 PUBLIC QUESTION TIME (00.00.45)

There were no members of the public present.

16 MINUTES (00.00.53)

The minutes of the meeting held on 27th November 2018 were agreed as a true record and duly signed by the Chairman.

17 CHAIRMANS ANNOUNCEMENTS (00.01.42)

The Chairman had no announcement to make.

18 OPERATIONS DIRECTORATE ENFORCEMENT POLICY (00.02.07)

Members were provided with the updated Operations Directorate Enforcement Policy* PH/EP/01/19. This policy was formerly the Public Health Services Enforcement Policy PH/EP/02/16 adopted in August 2016. The policy was due for review and has also been expanded to encompass the remaining enforcement functions in the Operations Directorate within Housing Services and Street Scene

Services. It continues to encompass the Licensing Authority functions of Public Health and Regulatory services.

The Group Manager for Public Health and Regulatory Services outlined the content of the Policy and explained that it was the same policy as Members had been presented in the preceding Licensing Committee.

He explained that there would be some grammatical changes to the final policy and it would be updated to reflect the number of members on the Regulatory Committee.

There were no questions or comments from the Committee.

It was **RESOLVED** that the Operations Directorate Enforcement Policy was adopted for the Regulatory statutory functions within the Directorate.

(Proposed by Cllr T G Hughes and seconded by Cllr Mrs F J Colthorpe)

Note: *Policy previous circulated and attached to the minutes.

(The meeting ended at 12.37 pm)

CHAIRMAN

Annual Report from the Chairman of the Audit Committee 2018 – 2019

As your chair of Audit it gives me great pleasure in presenting an outline of the work and discussions that your Audit committee undertook over the past Twelve months.

As with previous reports this is not a fully detailed report of Committee work, but an overview, should you dear reader wish to understand the full detail all Committee minutes are available for your information on the web pages.

May 2018

Positions of responsibility comes with two prerequisites, an agreement and determination to undertake them to the best of your ability and a humility that you have been asked by your peers is a privilege.

Therefor to have been voted as your Audit Chair was again a privilege and I thank the Committee for their support.

Cllr Collis was voted as the vice chair.

Members are aware internal audit provision is undertaken by the Devon Audit Partnership, (D.A.P) Committee were required to agree the two representatives for MDDC to attend the DAP meetings for the coming year, It is a general agreement amongst all partners that the chair of the attending authorities Audit committee will automatically be one and committee agreed that Cllr Bob Deed was voted as your second representative.

Committee had various reports to consider

- **The annual governance statement**

This now included the new staff charter

- **Internal Audit report**

This gave details of work undertaken and concluded that the Authority as a whole maintained significant assurance and significant effectiveness in its work

- **Outstanding audit recommendations**

Further progress was reported against outstanding actions

- **Draft report and accounts**

No issues reported to prevent final report to be ready for the required deadline

- **External audit reports (Grant Thornton)**

Report indicated the authority was seen as offering Value for money , an important measurement of any authority's performance, we were also informed that the fee for Grant Thornton, that is set by the public sector Audit Appointments Ltd was to be £36,729.00

Finally it was agreed meetings should continue to be held at 17:30 .

July 2018

This meeting was brought forward given the excellent work undertaken by all parties, Grant Thornton, D.A.P. along with our own staff in all departments and financial officers in ensuring all documents were finalised.

The timing of the meeting was to once again allow MDDC to be one of the first Authority's in the UK to submit their accounts, a feat that should be celebrated by all members and staff alike.

The meeting started with the formal introduction of Mr David Curnow, David is the deputy head of DAP and the lead auditor for our internal audit partners working within MDDC.

- **The annual governance statement**

The annual governance statement is a required document under statutory guidance, the report was approved by committee and it was recommended that the chief executive and leader if the council could sign the document as required.

- **Annual report and accounts for 2016/17**

The committee had the final version of the annual accounts as presented by the director of finance assets and resources (section 151 officer) Mr Andrew Jarrett .

This report must be considered in tandem with the external auditors report from Grant Thornton.

After final deliberation the report was approved by committee.

- **Grant Thornton audit findings 2016/17**

The report was presented by the associate director of Grant Thornton Mrs Geraldine Daley who concluded that there final work had found no required adjustments and no challenges had been received.

The meeting was concluded by myself as chair stating I would be writing to all members of the finance team, individually thanking them for their continued hard work, enabling the council to submit their accounts on time and with a clean bill of health.

September 2018

The meeting opened with chairman's announcements, these inclined reminding members that committee had requested officers to prepare an all member briefing on 3 Rivers, this had been arranged for October 4th.

Committee were reminded that having raised concerns around development control performance, the chair was meeting with the leader, the portfolio holder, the chief executive and the head of planning the following day and would report back as required.

- **Performance and risk**

Committee noted the report

- **Annual governance statement**

Committee noted the report

- **Internal audit progress report**

Committee noted the report

- **Effectiveness of the audit committee**

Committee received a report from the Deputy Head of the Devon Audit Partnership considering the Chartered Institute of Public Finance and Accountancy (CIPFA) self-assessment checklist for Audit Committees.

This was designed for Members to acknowledge their performance in their role as the Audit Committee against the CIPFA checklist and to decide in which areas they have evidence of their effectiveness and which areas they would suggest could be developed further.

It was agreed that the committee would undertake the review

November 2018

Meeting opened Chairman's announcements , these included information that Cllr Deed and The chair had attended training events provided by Grant Thornton in October and both had also attended the DAP meeting held at Devon County Offices in November .

- **The committee received update reports performance and risk and the annual governance statement .**

Both were noted

- **Minor changes were considered to the anti fraud and corruption , the anti money laundering and the data quality policies.**

All were noted and agreed.

- **Internal audit progress report**

Overall, based on work performed during 2018/19 and experience from the current year progress and previous years' audit, the Head of Internal Audit's opinion was of 'Significant Assurance' on the adequacy and effectiveness of the Authority's internal control framework.

- **External audit progress report and sector update from Grant Thornton.**

Committee received a report from Grant Thornton providing the Audit Committee with a report on progress in delivering their responsibilities as the Council's external auditors.

January 2019

To start, the Chairman stated that because of the need to rotate external auditors on a regular basis he had been due to meet with Geraldine Daly from Grant Thornton for the last time prior to the meeting to discuss the handover with her replacement Associate Director. However, due to illness Ms Daly had been unable to make the meeting. Ms Masci had been in attendance however and the Chairman stated that she would introduce herself formally to the Committee when the Grant Thornton items were reached on the agenda.

It is hoped that Geraldine will be attending the March meeting in order that the committee can give their thanks for Geraldine's work and assistance over the past 5 years, for many of the current committee Geraldine had been a permanent attendee.

- **Review of officer responsiveness to Members in Planning**

Members are reminded that within the September meeting 2018 the chair was due to meet with the Chief Executive, the leader, portfolio holder and head of planning to discuss committees concerns.

It was agreed at that meeting that the chief executive would attend this meeting to give his update.

Following the chief executives update a general discussion took place concluding that performance was seen to have improved over the past weeks.

- **Performance and risk**

As part of the report discussion took place against the MDDC recycling results compared with the UK national average figure.

It was explained that the recycling rate for the whole of England for 2017-18 was 44.8% (2016-17 45.1%). The Council's rates were 51.9% for 2017-18 (2016-17 53.3%) so exhibiting the same pattern (i.e. 2017-18 being lower than 2016-17) but with much better results.

- **Annual governance statement**

The committee noted the report and updates

- **Financial regulations review including amended 2018 financial regulations V2**

Various discussions took place regarding the amendments to the above and the importance that MDDC policies and working practices reflected the updates, it may interest members that there was also detailed discussion on the following ...

The significance of IR35 tax legislation to the Council and its operations.

When it came to the disposal of land, Ward Members were not always informed. However, the Chief Executive confirmed that disposal of land over 0.25 of a hectare was reported through CSAG (which had Member representation on it) and also the Cabinet. Officers needed to be reminded that anything under this amount needed to be reported to individual Ward Members.

- **Internal Audit progress report**

The Internal Audit Manager's opinion continued to be that there was 'Significance Assurance' on the adequacy and effectiveness of the Authority's internal control framework.

Core Audits were on track to be completed by the year end. There were no major concerns on controls although system user access controls were still not fully reviewed on staff changes.

Performance monitoring had received increased focus from Leadership Team.

- **Assurance mapping**

Committee discussed the concept and felt that it could get over complicated when they were essentially satisfied that adequate risks and mitigation measures were already in place. However, it was felt that this was something that needed further consideration by officers and the new Audit Committee following the election in May

- **Devon Audit Partnership review**

This item was requested by the chair, it was felt that after such a major change in provision that a brief review should be undertaken to ensure the change had been as expected, thus would be normal practice in all outside business reviews.

It was felt that the service was efficient and provided opportunity to feedback on areas which could be improved. Reports were timely, understandable and constructive. This could be seen as a 'dry' area, however, reports were delivered by the Deputy Head of the Devon Audit Partnership with enthusiasm and commitment. Mid Devon audit staff had had an opportunity to gain additional skills and the transition had gone well.

- **External audit plan , Grant Thornton**

Julie Masci introduced herself as the new Grant Thornton Engagement Lead for Mid Devon. She provided a brief summary of her professional background, relevant experience and the need for a rotation of staff within the professional framework.

She explained that Grant Thornton had a responsibility to express an opinion on the Council and group's financial statements as well as the Value for Money arrangements. The precise details of the level of audit work needed in relation to the 3 Rivers Development Company were not known at the moment but it was expected to be a high level review.

The report was noted.

- **External audit progress report and sector update**

The report was noted.

Conclusion.....

As ever I am grateful to all Committee members for their time and input, we must also give great credit to our internal and external Auditors for their tremendous work that allow reports to be received in a format that can be easily understood by non-qualified individuals, not an easy task.

Audit is a very particular committee and I guess a bit like marmite, however without the checks, challenges and observations from all concerned the Authority could not and would not run as it does.

Finally my personal and very warm thanks to our committee clerk, Sarah, without her guidance, reminders, and general keeping me in check the above would simply not happen.

Bob Evans
MDDC
Lower Culm
Chair of Audit

This page is intentionally left blank

Environment PDG – Chairman’s Report – 2018-2019

This past year has been no different to other years, the challenges do not get any easier, as long as austerity lasts, we will face the same challenges. Last year I was able to report of our move to Carlu Close, this has now proven to be a positive good financial move for the District, particularly now we have moved the ground maintenance to Carlu.

May 2018

Motion 542 (Councillor Mrs Jenny Roach – 30 November 2017) -That this Council consider the use of recycling trolleys as a pilot project, hopefully in Silverton, as an alternative to assisted collections for those who wish to try out such a system - **RECOMMENDED** to Council that Motion 542 be rejected.

Motion 545 (Councillor L Taylor – 10 April 2018) - That this Council considers the use of British Hedgehog Preservation Society (BHPS) stickers on all Mid Devon grass cutting machinery, requesting that all users check the area to be cut before using the equipment. The stickers are free and are being used by other Councils such as East Devon District Council, Derbyshire County Council and Manchester City Council to name but a few - **RECOMMENDED** to Council that Motion 545 be supported

Bereavement Service fees and charges for 2018/19 - **RECOMMENDED** to the Cabinet that, subject to the removal of a charge for ‘Exclusive Rights of Burial and Right to Erect a Memorial’ for 30 years for those who die under the age of 18, the proposed Bereavement Service fees and charges for 2018/19 be approved.

Street Scene Education and Enforcement Services - **RECOMMENDED** to the Cabinet that:

- a) The fine for littering be increased to the statutory maximum of £150.
- b) The time allocated to discretionary duties be varied as specified in paragraph 2, Table 2.
- c) Policies, systems and procedures necessary to enable Fixed Penalty Notices (FPN’s) to be served on the relevant person(s) associated with littering from vehicles be introduced.

Also at our May meeting, we made a recommendation to Cabinet that the annual target in relation to residual household waste be reduced from 420kg per year to a more challenging target of 378kg.

July 2018

Motion 549 (Councillor B Evans – 27th June 2018) - That this Council phase out the use of single use plastics (SUP) by MDDC and its suppliers by the end of 2018 or whenever current contracts expire that would be effected by the required removal of the use or supply of SUP that may run past this date - It was **RECOMMENDED** to Council that the Motion be supported.

Repairing Footpaths and Roads Policy - It was **RECOMMENDED** that the Cabinet approve the revised Repairing Footpaths and Roads Policy as attached in Annexe 1 and that the number of inspections be added to the Performance and Risk Report.

Members also had the usual performance and risk before them, updating them against the corporate plan and local service targets for 2018/2019, as well as providing an update on the key business risks.

The Group were proposing that fixed penalty figures be removed from the performance report and fly tipping be included in its place.

September 2018

Area of Outstanding Natural Beauty (AONB) status for the Exe Valley - **RECOMMENDED** to the Cabinet that the Council consider option 1 to seek full AONB Designation. This created quite some discussion. Members discussed their disappointment that the public consultation exercise, that had been conducted by Members, which showed overwhelming support for the local Towns and Parishes, had not been included in the report. Members acknowledged that there would be a cost of pursuing the ANOB status but they felt that this would not outweigh the benefit.

The Group noted a verbal report from the Group Manager for Finance presenting the financial update in respect of the income and expenditure so far in the year.

The figures included a £52k overspend in the Environment portfolio and this could be contributed to additional staff costs, a reduction in income received from recycling cardboard and vehicle maintenance costs. The Group discussed the cost of kerbside recyclable waste and the Group Manager for Street Scene and Open Spaces stated that it was still better value for money than going to mixed collection and then having to sort the waste.

November 2018

Waste and Recycling update- The Group Manager for Street Scene and Open Spaces provided the following service update by way of presentation. He provided the Committee with further information on:

- The amount of waste collected
- Dry recycling rates
- Waste growth numbers
- Service updates
- Garden waste customer numbers
- The relocation of the Grounds Maintenance Team to Carlu Depot

He also explained potential changes to legislation in the pipeline.

The Group also had before it and noted a report from the Deputy Chief Executive (S151) asking it to consider the initial draft 2019/2020 budget and options available in order for the Council to set a balanced budget and agree a future strategy for further budget reductions for 2020/2021. It was agreed that the Group would look at the budget proposal again in January when funding from Government was known. The Group then discussed the

proposed increase in Bulky Waste charges for the 140 litre bin and a report would come back in January.

January 2019

Bulky waste and garden waste bin charges and an alternative charging structure - **RECOMMENDED** to Cabinet to abolish the Fixed Price Items charge of £27.00

The Group had before it an update on the 2019/2020 Budget for a **RECOMMENDATION** to Cabinet. The Provisional Statement confirmed some of our previous assumptions. As a Council we have been fortunate to receive recognition of our rurality and also an unexpected redistribution of excess Business Levy although the New Homes bonus top slice of growth had not been quite as high as we anticipated. It is encouraging that the Council has managed to significantly close the budget gap which had created significant pressures in the areas of Waste and Street Scene Operations.

After significant discussions on the 2019/2020 Budget proposals we were able to support a recommendation to support the Budget as set out in our papers.

March 2019

We will have various agenda items that we will consider and discuss which will be noted or given appropriate recommendations. These will be available on our website after the meeting.

This Environment PDG does recognise the efforts and co-operation that the Town and Parish Councils have given us, it has been a difficult year for Mid Devon which will only get more difficult each year as funding gets less and less and we are asked to do the same or more with less funding. This is likely to go on for the next year or two. I would like to thank Members of my PDG who have given their valuable support and keen insight into matters covered and discussed. We could not have operated without the stinting help we have had from all of the staff at Mid Devon District Council. Our move to Carlu Close has proven successful and with everyone's co-operation it went remarkably well.

I do thank the staff in Member Services for all the help they have given our PDG, particularly Carole Oliphant, she has been great to keep us on the right course. Many thanks.

Thank you to all members of the PDG.

Cllr Ray Radford – Chairman of the Environment PDG 2018-2019

This page is intentionally left blank

Homes Policy Development Group

Chairmans Annual Report

Looking back on the year of work that our group has discussed and made recommendations on it is clear that as ever we have had a busy time over the last 12 months.

As well as our usual workload of policy revisions, performance and risk and budget reports we have looked in great detail on many aspects of Housing that affect all providers in the sector.

There are ongoing challenges that we face continually not least those of working within tight budget constraints yet still providing a top class service to all of our tenants, something which must be paramount in all our undertakings .

Once again this year our housing team have met the challenge of maintaining the very high standards that all our tenants should and do expect, our portfolio of accommodation is challenging , not least because we are a rural authority and travel time and costs are ever rising, often by things that are beyond our control especially on fuel costs for vehicles.

Our housing service works on a very tight timescale of voids turnarounds and it may be that we have driven the times down as low as realistically can be achieved, but this timescale is important to enable us to work within our budgets.

As a group we have studied policies that change to meet the ongoing legislation laid upon us as a housing provider, and in the ongoing fallout from the Grenfell tower fire we have strengthened our Neighbourhood Management Policy to prevent any such event happening in our area.

In October we met as a group to consider our response to the green paper on social housing and worked through all of the 48 questions and gave strong responses.

Our Tenant Involvement Group has worked well again and this has been recognised by them being shortlisted for awards again at the 2019 TPAS awards. We are fortunate that our tenant group work so diligently and closely with our housing officers and I hope their involvement goes from strength to strength.

We must congratulate all those involved in our ongoing council house building programme, whilst we still face the challenge of Right To Buy it is comforting to know that we are forging ahead in trying to increase our housing stock, I know our Cabinet Member will robustly discuss the problems of Right To Buy with Government Ministers at the earliest opportunity.

On behalf of our group I would like to thank all the staff that make up our housing service, once again this past year they have risen and met the substantial challenges before them to provide a service that as members we can be proud of.

I must also take this chance to record the thanks of all the group to all the officers who have attended our meetings and especially our Clerk Sarah Lees who keeps us up to date with things and is as ever so helpful to me as Chairman.

In May we will see a new Council formed, some of us will come back to this group and no doubt we will see some new faces at our meetings, I know they will be welcomed and supported by the more experienced members as we start a new year.

John Daw

Chairman

Economy Policy Development Group – 2018 / 2019

Chairman's annual report

Economy of Mid Devon

The PDG were encouraged to hear that more new businesses have started up in the last year. The continuing development of Hitchcocks Business Park in Willand is going from strength to strength creating more employment. We were encouraged to hear that Hitchcocks beat a number of the South West's best construction and property development businesses to win in the 'Best Commercial Development' category during 2018.

A proposal has been put forward to reinstate railway stations at Cullompton and Wellington but discussion is still in the early stages.

MDDC has been working with three other local authorities on specific projects, these include EHOD (Exeter & Heart of Devon) Strategy and the GESP (Greater Exeter Strategic Plan). Those authorities include East Devon, Exeter and Teignbridge. Further updates will be given by the Chief Executive and Cabinet Member for Planning and Economic Regeneration in due course.

MDDC has been shortlisted for a national award by the Local Government Chronicle as an example of a council pushing forward economic growth. Officers were invited to undertake a presentation in London; the final outcome is expected on 13th March 2019.

Mills & Hydro Power Project

This is a topic that has been discussed at most meetings. Although the original bid for funding to progress the Tiverton Weir site failed, alternative sources of funding have been sought. The project continues to be developed and refined and we now have more of a detailed understanding of what might be acceptable to the Environment Agency.

Broadband

Broadband is another ongoing topic with little progress made in the rural areas since last year. We need faster Broadband speeds to encourage more businesses to operate in Mid Devon. Businesses are able to apply to the Gigabit Broadband Voucher Scheme for vouchers up to the value of £2.5k to help with the cost of installation. The Growth, Economy and Delivery team is currently promoting the government's voucher scheme and have been distributing information to businesses within Mid Devon regarding this opportunity. The Scrutiny Committee will be meeting with Connecting Devon and Somerset in March to update themselves on the current situation with the continuing roll-out of superfast broadband.

Tiverton Market and Town Centre

There have been a number of successful events held in the market throughout the year. Plans are in place to widen the entrance from Fore Street. This will improve access to and from the market, increasing the market's visibility and enabling more housing and small retail outlets to be delivered.

The Town Centre Masterplan for Tiverton is underway. These will be followed by masterplanning for Cullompton & Crediton. Cullompton's bid to the Heritage Lottery for a Townscape Heritage Scheme was once again unsuccessful. It is understood that the government will be launching a heritage element to the Future High Streets Fund in the near future and Cullompton will be well placed to pursue this funding as a result of the previous bid preparation. Other funding opportunities will be explored following the masterplan work for all three towns.

A small amount of money, £15k, has been allocated by MDDC to maintain / reinstate shop front enhancements for the 3 main towns. This could hopefully attract additional funding from elsewhere.

AONB (Area of Outstanding Natural Beauty)

The PDG considered whether or not AONB status should be sought for Exe Valley. After much consideration the consensus was that no further action should be taken at this stage. The Government is reviewing national parks and AONB's and we should not move forward until the review has been concluded.

Economic Strategy

Over several months the Group has attended a number of informal workshops in order to refine the Economic Strategy for Mid Devon. Officers and Councillors have spent a considerable amount of time on the subject. The outcome is that the Strategy contains five key themes:

- Employment & Skills
- Place
- Infrastructure
- Hi Tech, Innovation & Green Energy
- Agriculture, Food & Drink

Finally I would like to thank the Chief Executive, who has attended all of our meetings, the officers and the councillors for their commitment and hard work. I must also thank our Committee Clerk for her continued help & support through the year.

Cllr Brenda Hull
Chairman of the Economy Policy Development Group

Community PDG Chairman's Report 2018-19

It has now been 3 years since I took over as Chairman of the Community PDG. By way of reminder its specific areas of interest are Community Leadership, Leisure Centres, Community Consultation / Development / Participation, Community Planning, and Town Centre Improvements. This is a broad remit. In my opinion the committee has continued to make positive progress in pursuing its objective of active promotion, within its powers, of community benefit.

Much of the work of the PDG has continued to be centred around checks and balances based on regular reports from officers and outside organisations. Some of these have been routine from financial monitoring, risk reviews through to public health plan performance and anti-social behaviour statistics. Concentrating on areas on interest rather than the mundane, the PDG continues to embrace active debate on important elements of reports received.

Less routine reports have included presentations from some of the charities that MDDC supports including Citizens Advice, Mid-Devon Mobility (formerly Tiverton and District Community Transport Association) and the Tiverton Museum of Mid-Devon Life. Much good work is done for the community by these and others. Whilst the PDG sought to increase levels of financial support this proved impossible due to overall funding constraints.

Feedback was sought on some of the initiatives taken in 2017-18. It was reported that the extension to the Exe Valley Leisure Centre had resulted in a very positive outcome in customer take-up. Improvements in Lords Meadow should lead to similar community benefits. In addition, leisure-service price strategy had been implemented with little negative feedback. In a similar vein the PDG has taken a keen interest in the implementation of the district's first Trim Trail. Sited in Tiverton this was opened to the public at end February 2019.

Some policies and plans require regular review to ensure currency against current legislation and guidance. The Air Quality Action Plan was introduced in 2017-18 with positive progress being reported a year later. A new, necessary and comprehensive policy addressing the sensitive topic of Unauthorised Encampment was reviewed and eventually adopted by full Council.

As in 2017-18 the budget was a challenge with further reductions in government funding to the District. Most of the activity for which the PDG is responsible is mandatory with economies already taken such that further reductions in staffing would be counter-productive. Where possible, charging regimes will be optimised as far as government rules permit (eg planning) or in line with market benchmarks (eg leisure services).

Perhaps the most stimulating event of the year was a CPDG-promoted Member Briefing on the current topic of Diet and Nutrition. With 3 engaging guest speakers the committee as well as other Councillors were encouraged actively to promote healthy initiatives such as Sugar Smart through MDDC to the benefit of the community. Hopefully this theme will be continued into next year.

This report marks the last in the 4-year term for the currently-elected Members of the CPDG. It has been my privilege to lead this committee for much of that time. I'd like to thank the Members and Officers for their thoughtful and at times challenging but always constructive contributions. In addition, I would like to thank Carole Oliphant our Clerk for keeping us in order in the past year.

This page is intentionally left blank

COUNCIL
24 APRIL 2019

APPOINTMENT OF INDEPENDENT REMUNERATION PANEL MEMBERS

Cabinet Member(s): Councillor Clive Eginton, Leader of the Council
Responsible Officer: Kathryn Tebbey, Group Manager for Legal Services and Monitoring Officer

Reason for Report: to approve the recommended appointments to the Independent Remuneration Panel for Members' Allowances in Mid Devon

RECOMMENDATIONS:

- (1) that Mr Paul Baker, Mrs Karen Stone and Mrs Marianne Hulland be appointed to the Independent Remuneration Panel until the Annual General Meeting in May 2023**
- (2) that the members of the Independent Remuneration Panel be paid travelling expenses for attendance at meetings of the Panel at the same rates as those paid to councillors and officers from time to time**

Financial Implications: it is recommended that the Council continues its current practice of paying travelling expenses when Panel members attend their meetings. The cost can be met within existing budgets.

Legal Implications: The Local Authorities (Members' Allowances) (England) Regulations 2003 set out the requirements relating to the appointment of Independent Remuneration Panels.

Risk Assessment: The Council must have an Independent Remuneration Panel of a least three members.

Equality Impact Assessment: None directly arising from this report.

Relationship to Corporate Plan: None.

1.0 Introduction/Background

- 1.1** The Council must have an Independent Remuneration Panel to review members' allowances and the Panel must comprise at least three members. The Panel also acts as the relevant Parish Remuneration Panel within the district.
- 1.2** Historic guidance from the former Office of the Deputy Prime Minister emphasises that the membership of the Panel must be truly independent – and be perceived to be such. Political appointments and those made through any personal association with the Council should always be avoided.
- 1.3** Further, it is desirable that there is continuity of experience in the Panel – with appointments being made for a period of several years and to ensure that

there is always at least one member of the Panel with sufficient experience of the role.

2.0 Current Membership

2.1 By law, the minimum number of panel members is three. Following the resignation of one panel member in 2018/19, there were three remaining Panel members. However, a further Panel member has now resigned, leaving just two remaining members who are willing to continue. It is recommended that their appointments continue from 2nd May 2019 for the duration of the new Council i.e. until May 2023. The two current members are:

- **Paul Baker** – Deputy Director for Primary Care, NHS
- **Karen Stone** – Business Manager, South West Councils

3.0 New Appointment

3.1 With the Panel until recently at the minimum level of three and in the knowledge that one member intended to resign, the Monitoring Officer authorised an advert for new panel members in February. An advert was placed in a local newspaper, on the website, through social media and via the South West Councils' website.

3.2 Panel members receive expenses, but are not remunerated. Although there were a number of enquiries, only one application was received by the deadline of 31 March 2019. Given the importance of the role and the need for confidence in their ability to perform it, the applicant was nevertheless interviewed on Thursday 11th April 2019 by a panel comprising the Monitoring Officer, the Member Services Manager and the Director of Corporate Affairs and Business Transformation. Satisfactory references were also requested and received.

3.3 The applicant was found to combine both a good understanding of the role of local authority members with political sensitivity and an understanding of the work of independent remuneration panels. Whilst now retired, with a journalistic background and then as a Communications Manager for councils in the East of England, she also managed a transition to shared services. With the support of the current members of the Independent Remuneration Panel, it was felt that the applicant would be well suited to the role.

3.4 It is therefore recommended that **Marianne Hulland** be appointed as the third member of the Panel for the period May 2019 to May 2023.

4.0 Future appointments

4.1 Given the requirement for a minimum of three panel members, it would be desirable to make at least one further appointment. However, it would be better if this took place after the Panel has completed the fundamental review of members' allowances - which has recently begun. It is anticipated that this review will be completed by the end of this calendar year in time for

recommendations to be made to Council and any changes approved to be reflected in the budget for 2020/21.

Contact for more Information: **Kathryn Tebbey**, Group Manager for Legal Services and Monitoring Officer, (01884) 234210 ktebbey@middevon.gov.uk

Circulation of the Report: Cabinet Member seen and approved

List of Background Papers:

- The Local Authorities (Members' Allowances)(England) Regulations 2003
- Historic ODPM Guidance on members allowances and the appointment of the Independent Remuneration Panel

Background of applicant recommended for appointment –

- Former journalist – freelance and in PR
- Local authority communications and internal comms
- Communications Manager for two councils in the east of England 2001-2017
- Experienced at working with leadership teams and members
- Now retired and resident in Mid Devon
- No connection with any officer or member of the Council