

# Public Document Pack

Mid Devon District Council

## Community Policy Development Group

Tuesday, 24 March 2020 at 2.15 pm  
Exe Room, Phoenix House, Tiverton

Next ordinary meeting  
Tuesday, 2 June 2020 at 2.15 pm

Those attending are advised that this meeting will be recorded

## Membership

Cllr C R Slade  
Cllr W Burke  
Cllr Mrs C P Daw  
Cllr J M Downes  
Cllr B Holdman  
Cllr E G Luxton  
Cllr Miss J Norton  
Cllr Mrs M E Squires  
Cllr L J Cruwys

## A G E N D A

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

- 1      **Apologies and Substitute Members**  
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 2      **Declarations of Interest under the Code of Conduct**  
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.
- 3      **Public Question Time**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.  
  
Note: A maximum of 30 minutes is allowed for this item.
- 4      **Minutes of the Previous Meeting (Pages 5 - 8)**  
Members to consider whether to approve the minutes of the last meeting of the Group held on 28<sup>th</sup> January 2020 as a correct record.

The Group is reminded that only those members of the Group 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 **Chairmans Announcements**

To receive any announcements that the Chairman may wish to make.

6 **Community Safety Partnership** *(Pages 9 - 14)*

To consider a report from the Group Manager for Public Health and Regulatory Services outlining the Council's Community Safety Action Plan, and to seek Members recommendation to acknowledge and accept the priorities action plan

7 **Contaminated Land Cost Recovery Policy** *(Pages 15 - 42)*

To receive the 5 yearly review of the Contaminated Land Cost Recovery Policy from the Group Manager of Public Health and Regulatory Services.

8 **Financial Monitoring** *(Pages 43 - 64)*

To consider a verbal report from the Principal Accountant presenting the financial monitoring information for the income and expenditure to date.

9 **Performance & Risk** *(Pages 65 - 76)*

To provide members with an update on performance against the corporate plan and local service targets for 2019/2020 as well as providing an update on the key business risks.

10 **Chairman's Annual Report** *(Pages 77 - 78)*

To receive the Chairman's draft annual report on the work of the Committee since May 2019, which will be submitted to Council on 29th April 2020

11 **Identification of Items for the Next Meeting**

The following items have been identified for the next meeting:

- Grant Payment to external organisations (the strategic grants process)
- Use of CCTV Policy and Guidance
- Performance and Risk
- 6 month Leisure Services update

Note: This item is limited to 10 minutes. There should be no discussion on the items raised.

**Stephen Walford**  
Chief Executive  
Monday, 16 March 2020

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 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 Carole Oliphant on:

Tel: 01884 234209

E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **COMMUNITY POLICY DEVELOPMENT GROUP**  
held on 28 January 2020 at 2.15 pm

### **Present Councillors**

W Burke, Mrs C P Daw, J M Downes,  
B Holdman, E G Luxton, C R Slade and  
L J Cruwys

### **Apologies Councillor(s)**

Mrs M E Squires

### **Also Present Officer(s):**

Lee Chester (Leisure Manager), Rob Fish (Principal Accountant), Clare Robathan (Scrutiny Officer) and Carole Oliphant (Member Services Officer)

#### **55 APOLOGIES AND SUBSTITUTE MEMBERS (00.49)**

Apologies were received from Cllr Mrs M E Squires.

#### **56 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (01.01)**

There were no declarations of interest made.

#### **57 PUBLIC QUESTION TIME (01.17)**

There were no members of the public present.

#### **58 MINUTES OF THE PREVIOUS MEETING (01.23)**

The Minutes of the Meeting held on 10<sup>th</sup> December 2019 were approved as a correct record and **SIGNED** by the Chairman.

#### **59 CHAIRMANS ANNOUNCEMENTS (01.57)**

The Chairman had no announcement to make.

#### **60 DRAFT BUDGET (02.02)**

The Group had before it the \*draft budget report from the Deputy Chief Executive (S151).

The Principal Accountant explained that the budget gap was currently calculated at £234k and that it had risen due to the changes to the car parking charges proposals made by the Cabinet which would see a £57k reduction in projected income.

He gave further detail on the following:

- Budget proposals for 2020/2021 and the Capital Programme
- Advance payment of the next 3 years pension deficit
- The revised Medium Term Plan
- The proposed revision of the minimum General Reserves (General Fund) limit to £2m

The Group gave consideration to the following:

- Clarification required of the flower beds to be removed
- The reduction of income due to the changes to the car parking charges in Tiverton and how the income was to be replaced
- Clarification of the how the reduction in the public convenience budget was to be achieved
- Clarification of the proposals for bin emptying on the Canal

The Group discussed the removal of the weed team and it was explained that the Homes PDG had made a recommendation to the Cabinet that the weed team be retained. The Group **AGREED** to endorse the recommendation of the Homes PDG.

(Proposed by Cllr Mrs C P Daw and seconded by Cllr L Cruwys)

Note: \*draft budget report previously circulated and attached to the minutes.

## 61 **FINANCIAL MONITORING (28.00)**

The Group had before it and **NOTED** the \*Financial Monitoring report presented by the Principal Accountant giving an overview of the income and expenditure to November 2019 and explained.

He explained that the variance had moved £148k and was now £243k in November.

He gave the Group an overview of the main areas of movement between the October and November monitoring reports and consideration was given to:

- Revenues and Benefits – Housing Benefit overpayments recovery
- Planning – Income was less than forecast in this demand lead services
- NNDR – Business Rates were lower than forecast following successful appeals.

Note: \*Financial Monitoring report previously circulated and attached to the minutes

## 62 **SHOWER FACILITIES AT LORDS MEADOW LEISURE CENTRE (33.02)**

Following a request at the previous meeting for information, the Leisure Manager explained to the Group that the poolside communal changing block at Lords Meadow Leisure Centre had been updated and additional signage had been installed which informed users who was permitted to use the facilities.

He informed the Group that sliding shower screens could be installed at the cost of circa £500 and that the budget would be found through the Property Services Budget.

**63 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (38.46)**

Members requested that the Leisure Manager provide details of the business case for the spread of classes across different demographics in his 6 monthly update in June 2020.

(The meeting ended at 2.56 pm)

**CHAIRMAN**

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**COMMUNITY PDG  
24 MARCH 2020**

## **COMMUNITY SAFETY PARTNERSHIP PRIORITIES AND ACTION PLAN 2020-21**

**Cabinet Member(s):** Cllr Dennis Knowles  
**Responsible Officer:** Simon Newcombe, Group Manager for Public Health & Regulatory Services

**Reason for Report:** To ensure the Community Policy Development Group is aware of the Community Safety Partnership (CSP) priorities and the planned activities of the partnership for the coming year.

**RECOMMENDATION: To note the priorities of the Community Safety Partnership (CSP) and planned activities within the partnerships action plan for 2020-21.**

**Financial Implications:** There are no direct financial implications as a result of this report. Funding for the Partnership is provided by external grant from the Office of the Police and Crime Commissioner (OPCC). The action plan for spending is agreed with the OPCC each year as a condition of the funding itself. Furthermore, the OPCC is represented on the wider (non-statutory partner) CSP delivery group and have had input into the priorities for action as set out herein.

*Approved by Finance: yes/æ - Group Manager for Financial Services*

**Budget and Policy Framework** Financial implications are discussed above. There are no direct local policy implications as the CSP is a statutory partnership required to set its priorities based on local input from its statutory partners including the Police in addition to the formal Devon-wide Strategic Assessment (see Section 2.0). Nonetheless, it is important that all stakeholders including the PDG are aware of the CSP direction of travel and how this is shaped by strategic risks, best practice approaches and the need to maximise added value from limited resources.

*Approved by Finance: yes/æ - Group Manager for Financial Services*

**Legal Implications:** The Crime and Disorder Act 1998 makes it a statutory requirement for the police and local authorities to engage with partners to form a community safety partnership for the purposes of reducing crime and disorder. The 1998 Act requires the partnership to carry out a strategic assessment of the area which is used to inform the partnership priorities. The partnership is also responsible for conducting Domestic Homicide Reviews and these are supported by Devon County Council.

*Approved by Legal: yes/æ – Elizabeth Palmer, Solicitor on behalf of Head of Legal Services*

**Risk Assessment:** The Council is at risk of failing to meet its statutory duties if it does not engage with the partnership. If the CSP were to set its priorities in a manner at odds with the strategic assessment it would be contrary to these duties but would also

represent a failure to focus its activities where the risks are highest so that the most vulnerable persons can be protected and/or supported.

*Approved by Performance/Governance: yes/na – Group Manager for Performance, Governance and Data Security.*

**Equality Impact Assessment:** The 2018-21 CSP Plan has had an equality impact assessment (EIA) completed. The Partnership intends to transition to a plan that follows the Trauma Informed Approach and this has also had an equality impact assessment completed. Overall, the work of the CSP is to support the most vulnerable groups in East and Mid Devon as evidenced-based by the strategic assessment and with local input from the range front-line community services delivered by all CSP multi-agency partners and its wider delivery group.

**Relationship to Corporate Plan:** The priorities of the CSP and the activities undertaken as part of the action plan compliment the ambitions of the Corporate Plan. In particular this activity contributes to the priority of Community. The CSP works directly with local partners and the wider community to ensure the district is a safe place to live, work and visit.

**Impact on Climate Change:** None directly arising from the report.

## 1.0 Introduction

- 1.1 The East & Mid Devon Community Safety Partnership (CSP) has been formed in order to meet our statutory duties under the Crime & Disorder Act 1998 and is a multi-agency group working together to reduce crime and disorder.
- 1.2 The CSP is structured to include a Board that consists of the statutory partners involved in the CSP and a wider group of agencies and partners that help to deliver the plan (delivery group).
- 1.3 The East and Mid Devon CSP is scrutinised through each Council's Scrutiny Committee. This is a statutory requirement of the Police and Justice Act 2006 to ensure there is a method of scrutinising the functions of the partnership. The latest report was presented to Scrutiny on 5 August 2019 (<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=131&MId=1139&Ver=4>)
- 1.4 The principal purpose of this report is for the Community Policy and Development Group to be aware of the planned activities for the CSP going forward. A separate report covering performance against current year (2019/20) objectives and budget will be provided to the Scrutiny Committee in due course.

## 2.0 Priority Areas

- 2.1 The East & Mid Devon CSP Priorities for 2020-21 are based on the evidence given in the Safer Devon Partnership (SDP) Strategic Assessment, which was refreshed in 2019. This gave clear indications that the biggest areas of concern

are hidden risk, harm and exploitation alongside emerging issues. East and Mid Devon risks are clearly mirrored within the report, matching the key areas.

2.2 The CSP has therefore adopted the following six priorities moving forward:

1. Domestic Violence & Abuse and Sexual Offences
2. Extra-familial Youth Risk and Vulnerability
3. Problem Alcohol & Drug
4. Exploitation (including Modern Slavery & Human Trafficking)
5. Radicalisation & Extremism
6. Violent Crime

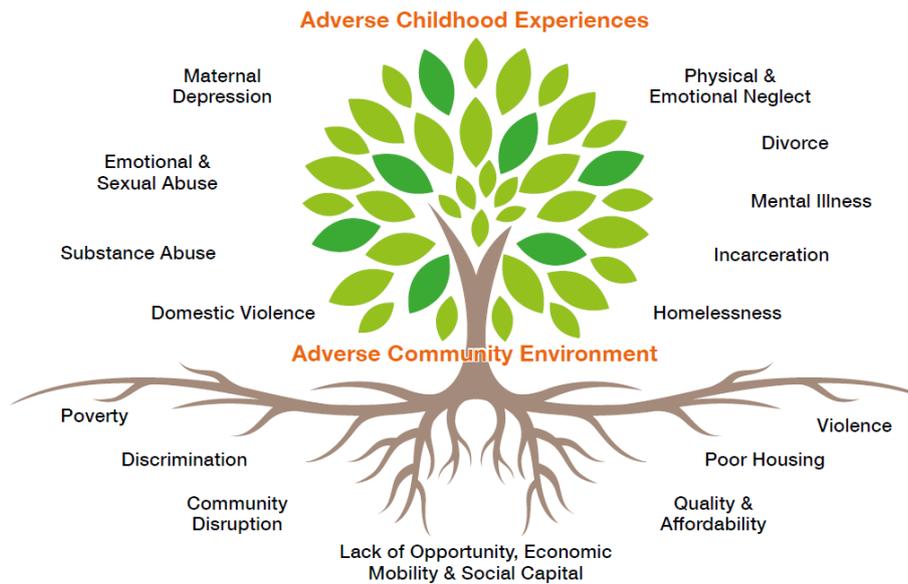
2.4 As resources across all partner agencies become more stretched we will commit to putting our energy into areas where we can add best value. We will introduce and adopt a 'Trauma Informed' approach across the partner agencies. This approach encourages practitioners and staff to recognise that many service users and community members have experienced some form of traumatic event that they live with day to day which may impact on their life choices, activities and actions.

2.5 2020-21 will be a transition year allowing our plan to become more aligned to the trauma lead work. Preventative work will become more of a focus for the partnership rather than the current method of responding to urgent symptomatic issues which are often a result of trauma.

### 3.0 **Adverse Childhood Experiences and a Trauma Informed Approach**

3.1 The CSP recognise that Adverse Childhood Experiences (ACEs) can have a massive, potentially detrimental effect on many children who, as a result, may experience less opportunity than others as they reach adulthood. There is clear correlation between ACEs and mental health issues, addiction, and vulnerability. We have an opportunity to recognise those links and put in place working practices and support that reduce the risk to individuals, family members and the wider community.

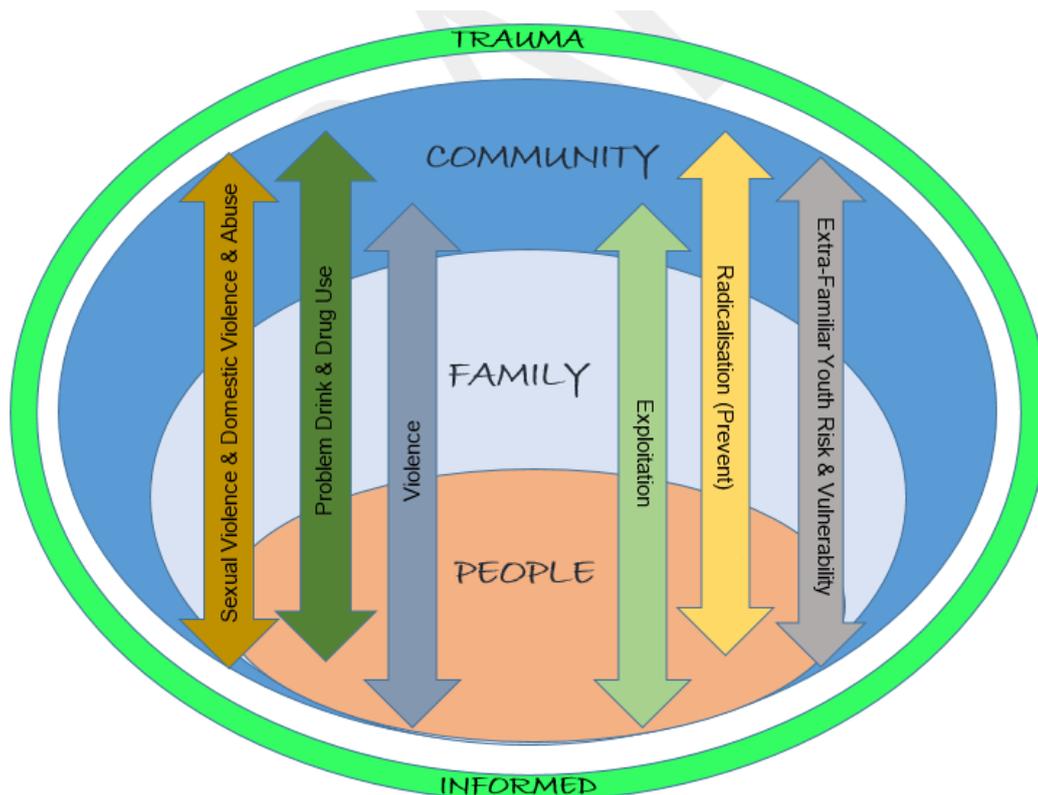
3.2 Preventing ACEs should also be seen within the wider context of tackling inequalities within society. While ACEs are found across the population, there is more risk of experiencing ACEs in areas of higher deprivation and/or isolation. Adverse Childhood Experiences are therefore often described alongside Adverse Community Environments as a 'pair of ACEs', as shown below.



3.3 The CSP will aim to look for ways to introduce support to children and young people in order that they are supported through trauma and not put at a disadvantage as a result. For adults who have experienced childhood trauma we will look to offer an improved, more positive experience when engaging with professional staff from the CSP agencies.

#### 3.4 Trauma Informed Approach

The diagram below shows how the six priority areas of the CSP impact and cut through all elements of society, i.e. individuals, families and the wider community. The trauma informed approach can be used to encompass all these areas of working practice.



#### 4.0 Action Plan 2020-21

##### 4.1 Work over the coming year will include:

- Training and awareness raising for staff and practitioners on the Trauma Informed approach
- Raising awareness of ACEs and the lifelong legacy with staff and community leaders
- Resilience building for children and young people
- Explore and support nurturing and supportive provision for young people who are experiencing ACEs/trauma
- Support positive ways to 'close the loop' in the negative cycles trauma can bring to families
- Analysing and responding to the new responsibility for Local Authorities around Violent Crime.
- Support young people and families through the transition year from primary to secondary education which can be very challenging
- Remaining aware and vigilant of emerging threats and local priorities within our communities, and respond in a positive, proactive way.

#### 5.0 Recommendation

- 5.1 That the PDG notes the priorities of the Community Safety Partnership (CSP) and planned activities within the partnership's action plan for 2020-21.

**Contact for more Information:** Julia Ryder, Specialist Lead - Community Safety & Emergency Planning, Tel: 01884 234996 or [jryder@middevon.gov.uk](mailto:jryder@middevon.gov.uk) or Simon Newcombe, Group Manager for Public Health and Regulatory Services Tel. 01884 244615 or [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk).

**Circulation of the Report:**

Cabinet Member for Community Well-being (Cllr Dennis Knowles)

Members of the Community Policy Development Group

All Leadership Team

All Group Managers

All CSP statutory partner representatives

(Devon and Cornwall Police, Devon and Somerset Fire and Rescue, CSP leads at East and Mid Devon authorities – Andrew Ennis and Simon Newcombe respectively, CSP member leads at each authority and Health and Probation Services)

**COMMUNITY PDG  
24 MARCH 2020**

## **CONTAMINATED LAND COST RECOVERY POLICY**

**Cabinet Member(s):** Cllr Dennis Knowles (Community Well Being)  
**Responsible Officer:** Simon Newcombe, Group Manager for Public Health & Regulatory Services

**Reason for Report:** The Contaminated Land Cost Recovery requires review by virtue of time bar.

**RECOMMENDATION:** That the PDG recommends to Cabinet that the revised Contaminated Land Cost Recovery Policy (attached in Annex A) be adopted

**Financial Implications:** The objective of the policy is to formalise the approach taken to the recovery of costs and to ensure that the approach is transparent and consistent. The apportionment of remediation costs and exclusion/hardship tests can be complex and having an up to date policy means a consistent decision-making framework is in place if and when required which Defra consider is a best-practice approach.

There may be significant financial implications for Mid Devon District Council arising from its statutory duty to investigate and secure the remediation of contaminated land (under Part 2A of the Environmental Protection Act 1990). These will vary considerably on a case by case basis depending on the nature of the required remediation and the financial status of the liable persons. Nonetheless, formally designating land as contaminated has to pass substantial scientific and legal thresholds and isn't done lightly or frequently as a result. Consequently, whilst we continue to drive remediation of historic land contamination through the planning process, we have had no requirement to designate any land in the district under the Part 2A regime since the policy was last reviewed in 2015. However, triggers leading to investigation of land under the legislation could occur at any time.

The proposed revised policy in itself will not give rise to any additional expenditure. However, in the event of the Council needing to undertake a substantial remediation project it is very unlikely that costs can be met from existing budgets. Furthermore, from March 2017 the Council can no longer apply for external funding from the Defra Contaminated Land Capital Projects Programme to cover its capital costs. In adopting the original version of this Policy it was highlighted that whilst this programme was available at the time (and had been available for a number of years), it was provided at the discretion of Defra and could be withdrawn or changed in the future, which was clearly the case.

Minor amendments have therefore been made to the policy to reflect the withdrawal of this programme.

The suggested approach should facilitate a more efficient and robust method for the recovery of remediation costs.

Failure to adopt an appropriate Cost Recovery Policy may lead to uncertainty and inconsistency in any cost recovery action taken by the Council and may result in financial loss.

*Approved by Finance: yes/nø - Group Manager for Financial Services*

### **Budget and Policy Framework**

This is a policy regarding cost-recovery arising from undertaking a specific statutory function. The internal budget implications (and potential third-party financial implications) are discussed under Financial Implications above and herein throughout the body of the report and the policy itself. The policy implications are as set out under Legal Implications below and also within the body of the policy itself as determined by the statutory framework.

*Approved by Finance: yes/nø - Group Manager for Financial Services*

**Legal Implications:** Under Part 2A of the Environmental Protection Act 1990, the Council has a statutory duty to identify and remediate land where contamination is causing unacceptable risks to human health or the wider environment.

It is not the purpose of this policy to set out when and how land may be determined as contaminated (if at all). That is a matter of the Part 2A legislation, the accompanying statutory guidance and other technical guidance. The purpose of this policy is to ensure a consistent and transparent approach when seeking to recover costs for remediation of Contaminated Land where it is formally determined.

Since the previous adoption of this policy in 2015, following the withdrawal of Defra grant funding (see above), the Council has ceased proactively investigating potential historic contaminated land (i.e. land developed prior to the introduction of planning controls in 1990 and/or the introduction of the Environmental Damage Regulations in March 2009). However, the Council may become aware of land that is potentially contaminated through historic activities that may pose a risk to public health or the environment and therefore under the statutory duties set out within the Part 2A legislation be required to investigate.

In undertaking cost recovery decisions the Council must have regard to any hardship which the recovery might cause to the appropriate person. In doing so, the Council must have regard to the Statutory Guidance for Part 2A (Defra, April 2012). Specific guidance on cost recovery and hardship is given in Section 8 of the Guidance.

*Approved by Legal: yes/æ – Elizabeth Palmer, Solicitor on behalf of Head of Legal Services*

**Risk Assessment:** Failure to adopt an appropriate Cost Recovery Policy may lead to uncertainty and inconsistency in any cost recovery action taken by the Council and a failure to meet Statutory Guidance/legal requirements. As a consequence, this may also result in a failure to secure appropriate remediation, thereby not protecting the community from harm to health or preventing further pollution to the environment. Furthermore this could lead to a financial loss by the Council and reputational damage.

*Approved by Performance/Governance: yes/æ – Group Manager for Performance, Governance and Data Security*

**Equality Impact Assessment:** No equality issues are specifically identified in this report and the policy does not impact in any way on legally protected characteristics. Nonetheless, the policy specifically addresses issues of financial hardship and equitable apportionment of costs in a manner which is consistent with statutory requirements.

**Relationship to Corporate Plan:** Having an adopted, transparent policy for cost recovery for contaminated land remediation will help secure the remediation of such land and is consistent with the latest Corporate Plan (2020-24) priority for sustainable communities.

**Impact on Climate Change:** None directly arising from the report. Indirectly, allowing people to stay in their homes and regenerating existing development has a lower net-carbon footprint than new-build.

## **1.0 Background and policy changes**

1.1 The report presents a revised version of the current Contaminated Land Cost Recovery Policy approved by Cabinet. It was recommended that the policy was reviewed every 5-years and revised where necessary. A review has been undertaken and the policy does not require substantial revision therefore is largely unchanged from the previous version. Minor changes have however been made to reflect the following:

- Reformatting the policy in-line with current policy document templates and changing reference to the 'local authority' to 'the Council' where necessary for clarity.
- Minor legislative updates (EU Exit regulations on Environmental Regulations in 2019 and repeal of Housing Act 1996 in England)
- Pending changes to updated Environment Agency Guidance (Land contamination: risk management (LCRM – due to replace current model procedures called CLR11 in 2020)
- Closure of the Defra Contaminated Land Capital Projects Programme in March 2017
- The updated Housing Assistance Policy 2019-22 (availability of Healthy Homes Grants in addition to the on-going Wessex Home Improvement Loan product)

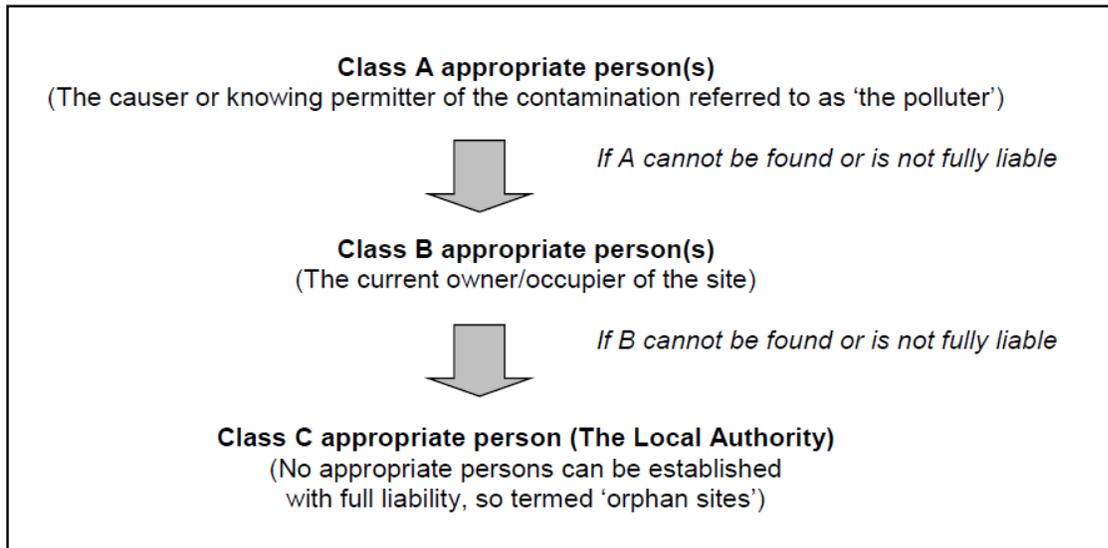
## 2.0 **Statutory duty – the Part 2A Contaminated Land regime**

- 2.1 Part 2A (Section 78) of the Environmental Protection Act 1990 (as inserted by Section 57 of the Environment Act 1995) came into force in 2000 and introduced a duty for all local authorities to identify and remediate land where contamination is causing unacceptable risks to human health or the wider environment. Local authorities are the primary regulator and only they can determine if land is formally contaminated under the legislation.
- 2.2 The main purpose of Part 2A is to deal with the legacy of land contamination arising from the long history of industrial, military and waste disposal activities in the UK. Contamination can also occur as a result of the geology of the area, or through agricultural use. In applying its duties under Part 2A local authorities safeguard public health and the wider environment.
- 2.3 The aim is to take a proportionate approach and identify sites where there is most significant land contamination. Thereafter, local authorities have to evaluate whether or not there is a connection between the contamination or pollution in the ground and whether, by a variety of different routes or pathways, the pollutants could come into contact with various different receptors including humans and ground water. Under Part 2A contaminated land is legally defined where there is this source, pathway and receptor connection and that the degree of contamination is such that it could cause a significant possibility of significant harm to human

health, harm to property or significant pollution of designated eco-systems and controlled waters (e.g. groundwater, rivers and lakes). It is the responsibility of local authorities to ensure that unacceptable risks are remediated or mitigated to the extent that the land is no longer capable of meeting the legal definition of contaminated land.

- 2.4 The Council can secure remediation in two ways, by voluntary negotiation or by serving a Determination Notice and using its legal powers to 'clean-up' a site.
- 2.5 In common with other environmental legislation, Part 2A utilises the 'polluter pays' principle to ensure those responsible for polluting are liable for the financial costs of remediation.
- 2.6 The 'polluter pays' principle does not however fit particularly well in the case of the Part 2A legislation. This is because, for example:
- the original contamination may have occurred many years ago and the responsible companies may have ceased to exist, or responsible persons be dead or untraceable
  - the pollution may have migrated from one site to another
  - it may be inappropriate to expect the present occupiers to be aware of past occurrences when they purchased their houses
- 2.7 There is a highly complex series of scientific and legal tests that need to be fulfilled before the 'polluter' can be pursued and liability to pay for remediation established. The outcome of the investigations may identify more than one person who would meet the definition of polluter or it might identify none.
- 2.8 For the purposes of the legislation the polluter is the person who caused or knowingly permitted the contamination to occur and this group is known as the Class A appropriate person. Where no party fits this description liability falls upon the current owner/occupier of the site (this group is known as the Class B appropriate person).
- 2.9 In cases where no appropriate person can be established and/or where the appropriate persons are not liable for part or all of remediation costs, the local authority (Class C appropriate person) becomes the appropriate person and is responsible for remediating the site. Figure 1 illustrates the hierarchy for liability.

Figure 1: Contaminated Land Liability under Part 2A EPA 1990



- 2.10 When all appropriate persons have been identified and the liability for remediation has been apportioned, then legal tests are carried out on any Class A or B persons to see if any should be excluded from all or part of their liability. These tests include hardship. When these tests have been completed no appropriate persons may be left fully liable. All or part of the liability that remains will fall to the local authority as the Class C person. There are no exclusion tests for local authorities.
- 2.11 There is no specific definition of 'hardship' within Part 2A and it therefore carries its ordinary meaning; hardness of fate or circumstance, severe suffering. How hardship is proposed to be specifically interpreted and applied in this context within Mid Devon is detailed in the attached proposed Cost Recovery Policy.
- 2.12 Class A and C person(s) are potentially liable for all land that is contaminated and for all impacts to all receptors (i.e. human-health, property, designated ecosystems and controlled waters). Class B persons are only potentially liable for the specific area of land they own/occupy and are excluded from liability for impacts to controlled waters.
- 2.13 Where a determination notice has been served and the local authority is left with all or part of the liability to remediate contaminated land (as the Class C person) then it can no longer apply for monies under the Defra Contaminated Land Capital Projects Programme. Therefore the Council is potentially liable for the full costs of remediation.

- 2.14 Under its previous inspection strategy, the Council had identified more than 930 historic sites that have the *potential* to meet the Part 2A definition of contaminated land. These sites have been risk assessed and placed in five categories A – E, with A having the highest risk of significant contamination and E the lowest with greatest weighting given to potential for significant harm to human health. Currently approximately 12% of all sites have been investigated and remediated where required. To date, the vast majority of these sites have been ‘voluntarily’ remediated through redevelopment and the planning process rather than via regulatory intervention using Part 2A and this situation is unlikely to change.
- 2.15 In 2010, under Part 2A the Council formally determined one high-risk former timber treatment site in Yeoford (redeveloped for housing in the 1970-80s) following an assessment of all category A sites in the area. Cost recovery for the remediation of the land affected, comprising the curtilage of part or all of four properties in total, was subsequently secured in accordance with the Contaminated Land Cost Recovery Policy. Without the policy in place then the recovery of costs would have been made significantly more difficult and open to challenge.
- 2.16 Despite redevelopment being the main driver in achieving the remediation of land contamination, the Council has previously been able to commence active intrusive investigations of sites under Part 2A following the completion of identification and risk assessment work. Focus was on sites in either category A or B where redevelopment of the land concerned was unlikely in the near future but where there is current residential occupation or other sensitive use (e.g. housing or allotments).
- 2.17 Following the withdrawal of Defra capital funding (see above) the Council is no longer able to pro-actively target potential sites. The legal duty to investigate land in our district remains and land may come to our attention at any time as result of other triggers e.g. change of ownership and environmental liability queries or a health event arising from a change of use and we will continue to rely on surveillance and notification by Public Health England to alert us to potential issues. As a consequence the Council may still have to formally determine land as contaminated under Part 2A in the future and must therefore have in place an adequate Contaminated Land Cost Recovery Policy.

### **3.0 Policy principles**

- 3.1 The attached policy has been drawn up against the background given above and is based upon the relevant sections of the primary legislation (Part 2A) and statutory guidance (Defra April 2012). In developing this policy originally, the

Council have also consulted external officers and policies other local authorities who have determined land as contaminated under Part 2A (e.g. South Oxfordshire DC, Mendip DC, Lewes DC, North Hertfordshire DC, LB Camden). We have also been able to identify a small number of new policies adopted by other authorities since the last review but identified no major policy differences.

- 3.2 Should the Council have need to implement the policy it must continue to have regard to the primary legislation and statutory guidance (as may be updated) in addition to any relevant case law.
- 3.3 It is important however, that the Council recognises there is a wide variation in the circumstances associated with land contamination and its approach is to apply nationally published guidance in terms of principles and approaches rather than rigid rules. The policy defines how the Council will apply these principles and approaches in a manner that is as transparent, consistent, fair and equitable as is possible and in particular seeks to minimise the financial burden on Class B persons and the taxpayer. Overall, where possible the costs of remediating contaminated land are to be borne by the original polluter (Class A person).
- 3.4 The policy contains a mechanism to conduct an assessment of hardship which includes 'means testing' in order to establish an appropriate person's ability to pay for remediation works and therefore their level of liability. Information gathered in respect of this decision making process will be treated in confidence and in full accordance with data protection legislation. Information received will only be used for the purpose of cost recovery decisions and in making judgements regarding the ability to pay in each individual case.
- 3.5 Overall, the policy will act as a guide for the decision making process in respect of the recovery of costs.

#### 4.0 **Recommendation**

- 4.1 That the PDG recommends to Cabinet that the revised Contaminated Land Cost Recovery Policy (as attached in Annex A) be adopted

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## **Circulation of the Report:**

Cabinet Member for Community Wellbeing (Cllr Dennis Knowles)  
Members of the Community Policy Development Group  
All Leadership Team  
All Group Managers

## **List of Background Papers:**

1. Environmental Protection Act 1990 – Part 2A, sections 78A-78YC
2. The Contaminated Land (England) Regulations 2006 (Statutory instrument 2006 No.1380)
3. Defra Circular 01/2006
4. Defra Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance (2012)
5. Environment Agency Contaminated Land Report CLR 11 – Model Procedures for the Management of Land Contamination and Land contamination: risk management (LCRM – due to replace CLR11 in 2020)
6. Environment Agency Managing and reducing land contamination: guiding principles (GPLC 2016)
7. Mid Devon District Council Housing Assistance Policy (current version 2019-22)

**Annex A – Contaminated Land Cost Recovery Policy 2020.**

**Mid Devon District Council**

**Public Health and Regulatory Services**

**CONTAMINATED LAND COST RECOVERY POLICY**

**Policy Number:** PH/EP/CL/01/09

Target audience:

Investigating Officers and Decision-Makers, Leadership Team, Legal Services and any person, organisation, company or business affected by regulatory action regarding land legally determined as Contaminated Land under the Provisions of Part 2A of the Environmental Protection Act 1990.

**February 2020**

## Version Control Sheet

*Title: Contaminated Land Cost Recovery Policy PH/EP/CL/01/09*

*Purpose:* The purpose of this policy is to ensure a consistent and transparent approach when seeking to recover costs for remediation of Contaminated Land determined under Part 2A of the Environmental Protection Act 1990

*Owner:* **Group Manager for Public Health and Regulatory Services**  
[snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

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

Public Health and Regulatory Service team leads  
Group Managers  
Leadership Team  
Legal Services

### Document History

This document obtained the following approvals.

<b>Title</b>	<b>Date</b>	<b>Version Approved</b>
Cabinet	16/07/09	1.0
Cabinet	02/04/15	1.1
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## CONTENTS

Introduction

Purpose of this Policy

Policy

1. Application
2. General Considerations
3. Estimating Remediation Costs
4. Information for Making Decisions
5. Threat of Business Closure or Insolvency
6. Trusts
7. Charities
8. Registered Social Landlords (RSLs)
9. Specific Considerations Applying to Class A Persons
10. Where Other Potentially Appropriate Persons Have Not Been Found
11. Specific Considerations Applying to Class B Persons
12. Precautions Taken Before Acquiring a Freehold or Leasehold Interest
13. Environmental Insurance
14. Policy in the Event of Insufficient Means Being Proved (Class B Persons)
15. Policy in the Event of Sufficient Means Being Proved (Class B Persons)
16. Responsibility for Final Decisions regarding Cost Recovery
17. Policy Review

Appendix 1 Potential Scenarios and Outcomes

## Introduction

The costs of cleaning up contaminated land are not automatically covered by the public purse. The Government's policy is that the polluter (all persons who put the contamination there in the first place) should pay for any contamination they have caused by bearing the financial costs of cleaning it up.

Once a site has been legally determined as Contaminated Land, the Council has a duty to compile a list of **ALL** potential liable parties; this is to include anyone who has owned, occupied or operated on the site and may result in quite a long list. A series of tests is applied to each party (known as exclusion tests) to determine who, if anyone, is the liable party.

The enforcing authority (usually the local authority, therefore Mid Devon District Council in our area) will serve a remediation notice on the polluter to ensure the works are carried out. The remediation notice is a legal document so therefore open to appeal in the courts. Appealing a remediation notice will undoubtedly slow the remediation works.

The legislation (Environmental Protection Act 1990 section 78F) states, however that there are three parties that may become the potential recipients of a remediation notice, only one of which is the polluter. A conflict with the 'polluter pays' principle therefore exists. Potential liable parties are:

- The person(s) who **caused** or **knowingly permitted** the contaminating substances to be in, on or under the land in question (known collectively as the 'polluter' and referred to in the legislation as the Class A appropriate person)
- The **owner** for the time being of the contaminated land (Class B appropriate person)
- The **occupier** for the time being of the contaminated land (Class B appropriate person)

The most obvious person who should be the recipient of the remediation notice is the original polluter of the site (Class A person). If there is more than one polluter of a site, where for example the site has had a long history of different contaminative uses then the enforcing Council has to decide how much each (Class A) person should pay towards remediation works.

Although the primary responsibility for the cost of the remediation rests with the person who caused or knowingly permitted the contamination if they cannot be found after reasonable inquiry by the regulator, responsibility falls upon the current owners and occupiers of the land (Class B persons). The Council will in all cases do its best to ensure a fair and equitable solution can be found should liability fall upon the current owner/occupier.

Class B parties are only liable for remediation of contamination within the boundaries of their property and cannot be held liable for any pollution of controlled waters (underlying groundwater or surface water features including rivers, lakes and streams).

Responsibility for cleaning up Contaminated Land will only fall on the Council when no liable parties can be found for the site in question; so termed Orphan sites (this is only the case when the Council is not regarded as a potential Class A or B party). Should this be the case, the Council could previously apply to Central Government for financial assistance in covering its reasonable costs. However, the previous assistance scheme (Defra Contaminated Land Capital Projects programme) was closed in 2017 and at time of policy writing this had not been reinstated or replaced which may place a financial burden on the Council where it has been required to take action under the Part 2A legislation.

If a remediation notice is served and not complied with or the Council chooses not to serve a remediation notice, the Council will bear the costs of the clean-up themselves (where external funding cannot be found) and seek to recover those costs from the appropriate persons.

Financial circumstances have no bearing on the identification of the appropriate person, the application of the exclusion tests, apportionment or attribution of liability between liable groups involved in shared actions, although it may entitle the appropriate person to a reduction or release of liability under the hardship provisions when the Council are making cost recovery decisions.

Before attempting to recover any costs from an appropriate person, the Council will take into account any hardship that full recovery of costs will cause and adhere to all applicable statutory guidance. Hardship is given no specific meaning under the Contaminated Land regulations, and so carries its *normal* meaning: 'hardness of fate or circumstance, severe suffering or privation'.

### **Purpose of this policy**

The purpose of this policy is to ensure a consistent and transparent approach when seeking to recover costs for remediation of Contaminated Land determined under Part 2A of the Environmental Protection Act 1990. The following documentation should be read in conjunction with the policy:

1. Environmental Protection Act 1990 – Part 2A, sections 78A-78YC
2. The Contaminated Land (England) Regulations 2006 (SI 2006/1380) with some technical amendments to be made by The Environment (Amendment etc) (EU Exit) Regulations 2019 (SI 2019/458)
3. Defra Circular 01/2006\*
4. Defra Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance (2012)
5. Environment Agency Contaminated Land Report CLR 11 – Model Procedures for the Management of Land Contamination and Land contamination: risk management (LCRM – due to replace CLR11 in 2020)
6. Environment Agency Managing and reducing land contamination: guiding principles (GPLC 2016)
7. Mid Devon District Council Housing Assistance Policy (current version)

\*replaced by 4. but as non-statutory guidance it has not been replaced and sets out useful background and commentary

## **POLICY**

### **1. Application**

1.1 This policy will apply in the following instance:

- Where the remediation work has been agreed voluntarily or otherwise as a result of direct implementation of section 78 of the Part 2A of the Environmental Protection Act 1990 ('Part 2A') and all sub-sections therein but excluding all remediation provisions regarding designated 'Special Sites' where the Council is not the regulator (this is the Environment Agency in England). The GPLC guidance (see Purpose of Policy) contains more information on Special Sites.

1.2 The flexible nature of this policy is deemed necessary in order for it to be in keeping with the Government's stated objectives for the Contaminated Land Regime (Part 2A), i.e. the encouragement of voluntary remediation and to seeking that the cost burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable whilst recognising the present lack of specific Government capital grant funding for remediation works. Ultimately, the Part 2A regime provides a duty (to inspect land where required) and powers to remediate land subsequently determined as being harmful (or highly likely be harmful) to human-health and/or polluting to the environment.

### **2. General Considerations**

2.1 This document sets out Mid Devon District Council's ('the Council') policy considerations in relation to the recovery of costs incurred during the remediation of contaminated land.

2.2 In general terms, the Council will;

- Seek to recover in full its reasonable costs incurred when performing its statutory duties in relation to the remediation of contaminated land. In doing so, only apportion remediation costs where they are legally due. For example Class B appropriate persons are only liable for remediation linked to dealing with contamination that is (or potentially is) harmful to human health within their property boundary and are not liable for remediation of controlled waters.
- Wherever possible, apply the 'polluter pays' principle, whereby the remediation costs are borne by the original polluter.
- Where this is not possible, seek all external sources of finance for remediation.
- Have due regard to avoiding hardship that the recovery of costs may cause.
- Aim for an overall result, which is fair and equitable as possible to all parties (including the Council) who may have to meet the costs of remediation

- 1.3 Accordingly, the Council will consider the degree and nature of responsibility of the appropriate person for the creation, or continued existence, of the circumstances that led to the land in question being identified as contaminated land.
- 1.4 The Council will also consider whether it could recover more of its costs by deferring recovery and securing them by a charge on the land in question under section 78P of the Environmental Protection Act 1990. Such deferral may lead to payment from the appropriate person either in instalments (section 78P(12)) or when the land (premises for the purposes of the act) is next sold within a specified period of no more than 30-years from the date of the Charging Notice. Interest may be payable at the rate determined by the Council under section 78P(4).

### **3. Estimating Remediation Costs**

- 3.1 The following procedure will be followed by the Council to estimate the remediation costs on a site specific basis. The procedure must be completed before any decisions are made on waiver or reduction in liability on any appropriate person (Class A or B).
- 3.2 A basic remediation options appraisal will be undertaken by the Council based upon the principles set out in the Environment Agency guidance documents *CLR11: Model Procedures for the Management of Land Contamination and Land contamination: risk management (LCRM 2020)*. The following principles will apply for this policy:
  - Identification of a minimum of 3 feasible remediation options for each pollutant linkage.
  - Carrying out an evaluation of a minimum of 2 feasible remediation options for each pollutant linkage sufficient to obtain a budget estimate of the cost of remediation.
  - Selection of 1 remediation option for each pollutant linkage proposed for implementation on the site and the production of a remediation method statement to refine costs and finalise a budget estimate.
  - The involvement of an independent environmental consultant to propose and estimate remediation costs.
  - In the event of disagreements between the Council and the Class A or B appropriate person (on the proviso that the policy has been followed appropriately) the Council is not obliged to expend any more resources on the estimation of remediation costs.

### **4. Information for Making Decisions**

- 4.1 The Council will expect that anyone who is seeking a waiver or reduction in the recovery of remediation costs will need to present any financial or related information required to support their request within a reasonable time period.
- 4.2 The Council will also seek to obtain such information as is reasonable, having regard to

- How the information may be obtained
- The cost, for all the parties involved, of obtaining the information; and
- The potential significance of the information for any decision

4.3 The appropriate person will be informed of any cost recovery decisions taken, explaining the reasons for those decisions. There shall be no appeal mechanism against the decision unless it can be demonstrated that:

- Information supplied for an assessment was erroneous; or
- The circumstances of the appropriate person have substantially changed between the time of the selection of the remediation methodology/costs and the completion of works in a way that require an assessment to be repeated

## **5. Threat of Business Closure or Insolvency**

5.1 In the case of a small or medium-sized enterprise<sup>1</sup> which is the appropriate person, the Council will consider:

- Whether recovery of the full cost attributable to that person would mean that the enterprise is likely to become insolvent and thus cease to exist; and if so, the cost to the local community of such a closure
- Where the cost of remediation would force an enterprise to become bankrupt, the Council will consider waiving or reducing its costs recovery to the extent needed to avoid making the enterprise insolvent.

5.2 The Council will not normally waive or reduce its costs recovery where:

- It is clear that an enterprise has deliberately arranged matters so as to avoid responsibility for the costs of remediation
- It appears that the enterprise would be likely to become insolvent whether or not recovery of the full cost takes place; or
- It appears that the enterprise could be kept in, or returned to, business even if it does become insolvent under its current ownership.

<sup>1</sup>A small or medium sized enterprise is considered to be an independent enterprise with fewer than 250 employees, and either a balance sheet total not exceeding £18m or an average business income not exceeding £36 million (based on The Companies, Partnership and Groups (Accounts and Reports) Regulations 2015 implementing the EU Accounting Directive).

## **6. Trusts**

6.1 Where the appropriate persons include persons acting as trustees, the Council will assume that such trustees will exercise all powers which they have, or may reasonably obtain, to make funds available from the trust, or from borrowing that can be made on behalf of the trust, for the purpose of paying for the remediation. The Council will, nevertheless, consider waiving or reducing its costs recovery to the extent that the costs of remediation to be recovered from the trustees would otherwise exceed the amount that can be made available from the trust to cover these costs.

6.2 The Council will not waive or reduce its costs recovery:

- Where it is clear that the trust was formed for the purpose of avoiding paying the costs of remediation; or
- To the extent that trustees have personally benefited, or will personally benefit from the trust.

## **7. Charities**

7.1 The Council will consider the extent to which any recovery of costs from a charity would jeopardise that charity's ability to continue to provide a benefit or amenity, which is in the public interest. Where this is the case, the Council will consider waiving or reducing its costs recovery to the extent needed to avoid such a consequence. This approach applies equally to charitable trusts and to charitable companies.

## **8. Registered Social Landlords (RSLs)**

8.1 The Council will consider waiving or reducing its costs for recovery if:

- The appropriate person is body eligible for registration as a social housing landlord under section 80 of the Housing and Regeneration Act 2008
- Its liability relates to land used for social housing, and full recovery would lead to financial difficulties for the appropriate person, such that the provision or upkeep of the social housing would be jeopardised.

8.2 The extent of the waiver or reduction will normally be sufficient to avoid any financial difficulties.

## **9. Specific Considerations Applying to Class A Persons**

9.1 The Council will not normally waive or reduce its cost recovery where it was in the course of carrying on a business that the Class A person caused or knowingly permitted the presence of the significant pollutants. This is because the appropriate person is likely to have earned profits or assets from the activity, which created or permitted the presence of those pollutants.

## **10. Where Other Potentially Appropriate Persons Have Not Been Found.**

- 10.1 In some cases where a Class A person has been found, it may be possible to identify another person who caused or knowingly permitted the presence of the significant pollutant linkage in question, but who cannot now be found for the purposes of treating them as an appropriate person. For example, this may apply where a company has been dissolved.
- 10.2 The Council will consider waiving or reducing its costs recovery from a Class A person if that person demonstrates to the satisfaction of the Council that:
- (a) Another identified person, who cannot now be found, also caused or knowingly permitted the significant pollutant to be in, on or under the land: and
  - (b) If that other person could be found, the Class A person seeking the waiver or reduction of the Council's costs recovery would either:
    - (i) Be excluded from liability by virtue of one or more of the exclusion tests set out in Defra Circular 01/2006, or
    - (ii) The proportion of the cost of remediation of which the appropriate person has to bear would have been significantly less, by virtue of the guidance on apportionment set out in Defra Circular 01/2006.
- 10.3 Where an appropriate person is making a case for the Council's costs recovery to be waived or reduced by virtue of paragraph 10.2 above, the Council will expect that person to provide evidence that a particular person, who cannot now be found, caused or knowingly permitted the significant pollutant to be in, on or under the land. The Council will not normally regard it as sufficient for the appropriate person concerned merely to state that such a person must have existed.

## **11. Specific Considerations Applying to Class B Persons**

- 11.1 In some cases the cost of remediation may exceed the value of the land in its current use after the required remediation has been carried out. In such circumstances, the Council will consider waiving or reducing its costs recovery from a Class B person if that person demonstrates to the Council that the cost of remediation is likely to exceed the value of the land including any property. In this context, the 'value' should be taken to be the value that the remediated land would have on the open market, at the time the cost recovery decision is made, disregarding any possible blight arising from contamination.
- 11.2 In general, the extent of the waiver or reduction in costs recovery will be sufficient to ensure that the costs of remediation borne by the Class B person do not exceed the value of the land. However, the Council will seek to recover more of its costs to the extent that the remediation would result in an increase in the value of any other land from which the Class B person would benefit.

- 11.3 In determining the value of the land the Council will formally request that the Class B person provides an independent property valuation completed by an appropriately accredited professional. If there is any doubt or disagreement regarding a valuation that has been provided then the Council retains the right, at its own expense, to obtain a separate independent valuation of the property concerned from the District Valuer or other organisation.
- 11.4 For Class B person owners and occupiers, the Council will consider waiving or reducing its costs recovery where that person satisfies the Council that, at the time the person purchased the dwelling, they did not know, and could not reasonably have been expected to have known, that the land was adversely affected by presence of a pollutant (refer to section 12).
- 11.5 Any such waiver or reduction will be to the extent needed to ensure that the Class B person in question bears no more of the cost of remediation than it appears reasonable to impose, having regard to their income, capital and outgoings.
- 11.6 Inherited property will be treated as though the property was purchased.
- 11.7 In accordance with the contaminated land legislation (Part 2A) a Class B person will not be liable for any remediation costs in respect of pollution of controlled waters.
- 11.8 Where the contaminated land in question extends beyond the dwelling and its curtilage, and is owned or occupied by the same appropriate person, the approach described in paragraph 11.4 and 11.5 above will only be applied to each dwelling and its curtilage independently.
- 11.9 In judging the extent of a waiver or reduction in costs recovery from an owner/occupier of a dwelling, the Council will apply a form of means test ('the Means Test') similar to that used for applications for adult Disabled Facilities Grants (DFGs). These grants are assessed on a means-tested basis, as presently set out in the Housing Renewal Grants Regulations 1996 (SI 1996/2890). The DFG test determines how much a person will contribute towards the cost of necessary renovation work for which they are responsible, taking into account income, capital and outgoings, including allowances for those with particular special needs. For this purpose, any upper limits for grants payable under DFGs will be ignored.
- 11.10 In the event that the Means Test indicates that the Class B person is not eligible for any cost reduction the Class B person will be liable for all of the costs of the remediation work unless section 11.12 of this policy applies. Section 15 of this Policy addresses the scenarios that may arise in this event.
- 11.11 In the event that the Means Test indicates that the Class B person is eligible for a reduction of the costs of remediation, the Council will only be able to recover the proportion, as indicated by the Means Test, of the costs incurred in carrying out the remediation work allowing for any waiver or reduction in the event that section 11.12 of this policy applies. Section 14 of this Policy addresses the scenarios that may arise in this event.

11.12 The Council may also consider a waiver or reduction in costs that a Class B person may be liable for in the following circumstances:

- It can be demonstrated that the Council has acted unreasonably in any grant of planning permission, tenancy agreement or building control approval in that it failed to take into account direct evidence provided to the Council of actual or potential significant contamination and/or failed to take all reasonable steps to establish a potential contamination constraint in accordance with its statutory duties (as they applied at the time the permission, agreement or approval was granted).
- In *exceptional* circumstances a Class B person may be eligible for a Healthy Homes Grants or Wessex Home Improvement Loan (or equivalent as set out under the current, adopted Council Housing Assistance Policy) if the contamination present is sufficient for it to be categorised as a Class 1 hazard in accordance with current national Housing Health and Safety Rating System (HHSRS) or any equivalent replacement risk assessment system. In the case of a grant then the Council will consider reducing the amount of liability to a maximum extent of the upper limit of a grant payable under Housing Assistance Policy.

## **12. Precautions Taken Before Acquiring a Freehold or Leasehold Interest**

12.1 In some cases, the appropriate person may have been reckless as to the possibility that land they have acquired may be contaminated, or they may have decided to take a risk that the land was not contaminated. Conversely, precautions may have been taken to ensure that he did not acquire land which is contaminated.

12.2 The Council will consider reducing its cost recovery where a Class B person who is the owner of the land demonstrates to the satisfaction of the Council that:

- (a) They took such steps prior to acquiring the freehold, or accepting the grant of assignment of a leasehold, as would have been reasonable at that time to establish the presence of any pollutants;
- (b) When they acquired the land, or accepted the grant of assignment of the leasehold, they were unaware of the presence of the significant pollutant now identified and could not reasonably have been expected to have been aware of its presence; and
- (c) It would be fair and reasonable, taking into account the interests of national and local tax payers, that they will not bear the whole cost of remediation.

12.3 The Council will bear in mind that the safeguards which might reasonably be expected to be taken will be different in different types of transaction. For example, acquisition of recreational land as compared with commercial land transactions, and as between buyers of different types e.g. private individuals as compared with major commercial undertakings.

12.4 Any acquisition of land made by a Class B person prior to the coming into force of Part 2A of the Environmental Protection 1990 (1 April 2000) will not be required to be accompanied by evidence of reasonable precautions. This is because prior to the introduction of the legislation it can reasonably be argued that the purchaser could not have been aware of their potential liabilities and also enquires made to the Council would not have been made in the same manner as enquires made after the legislation came into force.

### **13. Environmental Insurance**

13.1 A range of commercial and homeowner environmental insurance policies have been available in the UK for a number of years. These include Environmental Impairment Liability Policies, Property Transfer Policies, First-Party Liability Policies, Homeowner Environmental Insurance Policies and other related insurance products.

13.2 A valid environmental insurance policy if held by a Class A or B appropriate person often provides protection against risk of liability under the contaminated land legislation (Part 2A). Such policies, especially for domestic properties, normally only cover pre-existing contamination unknown at the time the property/land was purchased. In this context this may include Part 2A sites where there was no evidence of significant contamination at the time of the property transfer. Some commercial policies do cover pre-existing contamination known to the insurer and insured when the policy is taken out.

13.3 In the event of any liability residing with an appropriate person the Council will enquire if a valid environmental insurance policy is held and the scope of cover it provides. If cover provided by the policy protects the insured against all or part of any liability under Part 2A the Council will take this into account when making any cost-recovery decisions.

### **14. Policy in the Event of Insufficient Means being Proved (Class B Persons)**

14.1 There are two possible scenarios:

(a) The Class B person is proved to have insufficient equity and no means to pay for any proportion of the remediation works. In this situation hardship has been proven and all costs will be waived. The Council will then be liable for the relevant remediation costs as the Class C appropriate person.

(b) The Class B person has sufficient equity but has no other means to pay for all of the remediation works. In this situation hardship has not been fully established but a reduction in liability can be considered. The Council can approve a loan, repayable at the Bank of England base interest rate, to cover all or part of cost of the necessary work that the Class B person cannot afford at the time of the assessment. The Council will require that the grant be registered as a legal charge against the property. This will remain a legal charge on the property until the Class B person decides to repay the loan or the property is sold and the debt is repaid.

## **15. Policy in the Event of Sufficient Means being Proved (Class B Persons)**

15.1 The Class B person will be responsible for all of the costs of the remediation. There are two options available to them:

- (a) The Class B person reaches an agreement, in writing, with the Council to arrange, organise and directly commission the necessary remediation works. In this circumstance the Class B person will be required to repay all of the Council's reasonably incurred costs in completing the necessary remediation work. This is subject to there being sufficient resources available within the Council's capital works or other relevant budget.
- (b) Alternatively, the Class B person may take responsibility for arranging, commissioning and paying for the remediation works directly. In such a situation the role of the Council is to review the work undertaken and ensure it is satisfied that the works have been undertaken to an appropriate standard. This will be done in the same manner as the review of remediation work undertaken by the Council as part of a conditional planning permission.

## **16. Responsibility for Final Decisions regarding Cost-recovery**

16.1 The responsibility for making final decisions in respect of cost recovery on a case by case basis shall be held by Group Manager for Public Health and Regulatory Services in consultation with the Deputy Chief Executive (s151 officer) and the portfolio holder for Community Well-being.

## **17. Policy Review**

17.1 The Council should monitor the application of this policy in order to assess its impact and effectiveness with regard to its duties under contaminated land legislation and in its fulfilment of the Council's objectives.

17.2 Accordingly, this Policy should be reviewed from time to time in order to reflect its performance and take account of any changes to legislation guidance, case law, best-practice and Council objectives etc. In any event, the policy should be formally reviewed every 10 years as a minimum.

## APPENDIX 1: Potential Scenarios and Outcomes

The following example scenarios describe how financial liability could potentially be determined and apportioned under this policy. They are fictional, simplified and for illustrative purposes only.

<b>Scenario 1</b>
<p>A residential site built in the 1970s has been determined as Contaminated Land due to unacceptable concentrations of arsenic in the garden soils. Prior to the site being residential it was a saw mill and that timber treatment may have been carried out for a short period during this occupation using arsenic based chemicals to prolong the life of wood. No information was provided (or other evidence available) at the time planning permission was granted that indicated timber treatment had been carried out and there was no national planning policy in place at the time requiring contaminated land to be a material consideration in the planning decision. The site was therefore NOT investigated for arsenic contamination prior being redeveloped for housing. The developer no longer exists in any legal capacity but the company operating the timber works does. Investigations have not found the site to have any other previous uses and the concentrations of arsenic are significantly above average arsenic concentrations compared with 'background' local soils.</p>
<b>Potential Outcome</b>
<p>The timber treatment works (or more specifically its legal entity) should be classed as the Class A appropriate person as they are the original polluter of the site. They would be the recipient of the remediation notice and be required to conduct remediation to the appropriate standard.</p> <p>Note: Should the developer of the houses still be in existence than liability may be divided between them and the operator of the Timber treatment works. The developer increased the sensitivity of the site without undertaking any contamination assessment and so may be seen as a 'knowing permitter' (Class A appropriate person) and therefore potentially liable.</p> <p>If the Class A person can demonstrate that it can be excluded from liability by one or more of exclusion tests available under the legislation then liability may fall to the current residential property owners (Class B persons). The policy on cost-recovery will apply with particular attention on assessing hardship.</p>

<b>Scenario 2</b>
<p>A site is determined Contaminated Land due to presence of oils in the soils. The site is derelict but if left the contamination has the potential to move onto adjoining residential properties. The owner and operator of the site cannot be established.</p>
<b>Potential Outcome</b>

Investigations have not been able to determine a Class A appropriate person (polluter) or a Class B appropriate person (current owner/occupier). The site is regarded as an orphan site and the liability for ensuring contamination is cleaned up to prevent it moving offsite falls to the Council. No remediation notice will be served (the Council cannot serve a notice upon itself - instead a remediation statement will be issued outlining what the necessary works will entail).

### Scenario 3

A site has been determined Contaminated Land. No Class A appropriate person (polluter) can be established. The current occupier of the site rents the site from its owner. Neither the owner nor the occupier of the site undertakes any activity that would have caused the contamination of the site.

### Potential Outcome

Class B liability would be considered to be the owner of the property and the policy on cost-recovery will apply with particular attention of assessing hardship. The tenant (occupier) would not be considered to have any liability in this case.

### Scenario 4

A site has been determined as Contaminated Land. A Class A appropriate person (polluter) has been established. A valuation of the polluting company's assets estimates it to be worth £1.2million. An options appraisal has indicated that remediation works are likely to cost £2million.

### Potential Outcome

The company is likely to apply for hardship. The Council must consider whether serving a remediation notice will cause the company hardship. The Council may therefore not serve the remediation notice; it will assess the company's ability to pay and apportion those reasonable costs to the company. The Council will apply for external Central Government funds to cover the remainder of the works (if available).

### Scenario 5

A site has been determined as Contaminated Land; the site has 3 privately owned residential properties. The site has been determined on the basis of arsenic and lead in the garden soils. The site was a lead pipe factory from 1960-1975 and a timber treatment works (using arsenic products) from 1975-1990. The operator of the lead pipe factory no longer exists. The company that built the houses no longer exists. The operator of the timber treatment works still exists.

Property 1 has **lead** and **arsenic** present in the soil

Property 2 has **lead** in the soil  
Property 3 has **arsenic** in the soil

#### **Potential Outcome**

The liable party responsible for remediating property 1 and 3 would be the operator of the timber treatment works as the original polluter of the site (Class A appropriate person). The original polluter for property 2 is no longer in existence and therefore the liability falls upon the current owner/occupier of the property and the policy on cost-recovery will apply with particular attention to assessing hardship.

#### **Scenario 6**

A site was determined Contaminated Land in 2018; the site has 3 privately owned residential properties. The contamination is believed to have migrated onto the site from an adjoining industrial site that was in operation between 1975 and 1980; the original polluter of the site (Class A appropriate person) cannot be established. The residential properties are Victorian and were built in 1880. All of the properties are single homes and worth £335-345,000.

Property 1 was bought in 1950 for £35,000, the property is owned outright.  
Property 2 was bought in 2019 for £340,000, the property is owned outright.  
Property 3 was bought in 2017 for £335,000 with a 95% mortgage.

#### **Potential Outcome**

The owner of property 1 would not be considered as a class B appropriate person on the basis that it was not contaminated when they purchased the property. It is likely that the financial costs of remediation will have to be met by the Council (through external Central Government funding if available).

The owner of property 2 purchased it without a mortgage after it was determined Contaminated Land and failed to undertake adequate due diligence; by owning the property outright they also have full equity to the current value of the property (£340,000). They are unlikely to be considered for hardship.

The owner of property 3 has little or no net equity from their property; hardship may be proven and works funded by the Council (again through external Central Government funding if available).

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## COMMUNITY PDG 24 MARCH 2020

### FINANCIAL UPDATE FOR THE NINE MONTHS TO 31 DEC 2019

**Cabinet Member** Cllr Alex White  
**Responsible Officer** Andrew Jarrett – Deputy Chief Executive (S151)

**Reason for Report:** To present a financial update in respect of the income and expenditure so far in the year.

#### RECOMMENDATION(S):

- 1. The Community PDG note the financial monitoring information for the income and expenditure for the nine months to 31 December 2019 and the projected outturn position.**

**Relationship to the Corporate Plan:** The financial resources of the Council impact directly on its ability to deliver the Corporate Plan; prioritising the use of available resources brought forward and any future spending will be closely linked to key Council pledges from the updated Corporate Plan.

**Financial Implications:** Good financial management and administration underpins the entire document.

**Legal Implications:** None.

**Risk Assessment:** Regular financial monitoring information mitigates the risk of unforeseen over or underspends at year end and allows the Council to direct its resources to key corporate priorities.

**Equality Impact Assessment:** It is considered that the impact of this report on equality related issues will be nil.

**Impact on Climate Change:** There are no direct impacts from the content of this report.

#### 1.0 Introduction

- 1.1 The purpose of this report is to highlight to Cabinet our current financial status and the likely reserve balances at 31 March 2020. It embraces both revenue, in respect of the General Fund; the Housing Revenue Account (HRA), and Capital and aims to focus attention on those areas which are unlikely to achieve budget. It is particularly important for next year's budget setting and, looking further ahead, for the medium term financial plan.
- 1.2 Favourable variances generating either increased income or cost savings are expressed as credits (negative numbers), whilst unfavourable overspends or incomes below budget are debits (positive numbers).

## 2.0 Executive Summary of 2019/20

2.1 The table below shows the opening position of key operational balances of the Council, the forecast in year movements and final predicted position at 31 March 2020:

Usable Reserves	31/03/2019	Forecast in year movement	31/03/2020
	£k	£k	£k
<b>Revenue</b>			
General Fund (see paragraph 3.2)	(2,501)	270	(2,231)
Housing Revenue Account (see paragraph 4.2)	(2,000)	0	(2,000)
<b>Capital</b>			
Capital Receipts Reserve	(3,620)	(1,047)	(4,667)
Revenue Contribution to Capital Earmarked Reserve	(415)	235	(180)

## 3.0 The General Fund Reserve

3.1 This is the major revenue reserve of the Council. It is increased or decreased by the surplus or deficit generated on the General Fund in the year. This reserve held a balance of £2.501m as at 31/03/19.

3.2 The forecast General fund **deficit** for the current year is £270k after transfers to and from Earmarked Reserves as shown at Appendix A.

The **most significant variances** comprise:

	£k
Waste Services – Shared savings scheme and vacancies	(151)
Trade Waste and recycling - Increase in customers and reduced discounts etc.	(64)
New vehicle contract – Funded by EMR (Not an overspend on the contract)	67
Public Health – Air Quality S106 (covered by EMR) and legal costs	92
Planning – Downturn in Planning income less salary savings	154
Garden Village project – funded by EMR	23
Garden Village – Capacity funding	(150)
S106 spend re Public Open Space – funded by EMR	178
Cullompton Master Plan – funded by EMR	56
Local Plan – Funded by EMR	32
Tiverton Town Centre Regen – abortive capital costs	87
Bank charges – Additional charges	10
Cemeteries – Income below anticipated in budget	25
Car Parking – Shortfall Premier Inn; extra security and electricity usage	33
Private Sector Housing – legal costs of prosecution	19

General Fund Housing - Grant funding – to be earmarked	(127)
Property – Loss of income; etc. partly offset by salary savings	61
Customer services – Vacancy and overtime savings	(48)
HR – Review of service needs - restructuring	24
Legal – Various including consultancy budget saving	(53)
Democratic Services – District Elections shortfall	25
Electoral Registration – Increase in IER funding and delayed boundary review	(69)
Member Services – Vacancy saving	(7)
Leisure – Vacant posts, growth in membership etc. offset by utilities overspend and reduction in casual swim	47
Revs and Bens – Various including reduced overpayment recovery and software costs	65
3 Rivers Impairment – Partly offset by a statutory reversal of £757k	883
Statutory Adjustments – Reversal of Capital impairment 3 Rivers	(757)
Statutory Adjustments – Reduction in Minimum Revenue Provision (less borrowing than anticipated)	(50)
Interest income – additional income	(100)
Interest Payable – reduction in charge	(60)
Earmarked Reserves transfers	(120)
Net Business Rates retention – more levy due to growth (benefit in future year)	88

3.3 The major variances are highlighted at Appendix B. The current incomes from our major funding streams are shown at Appendix C, whilst current employee costs are shown at Appendix D.

#### **4.0 Housing Revenue Account (HRA)**

4.1 This is a ring-fenced account in respect of the Council's social housing function. Major variances and proposed corrective action are highlighted at Appendix F.

4.2 It is anticipated that the forecast variance of £668k surplus will increase the budgeted transfer to the Housing Maintenance Fund and so the HRA reserve balance will remain at £2m.

4.3 Overall, the HRA is forecast to underspend by £668k in 2019/20, made up of several deficits and surpluses, the most significant of which comprise the following:

- £70k estimated surplus in Affordable Rents (tenancy)
- £50k forecast increase in revenue from rechargeable works (DLO)
- £50k underspend relating to planned revenue works – Building Services (DLO)
- £150k underspend in relation to staffing within repairs team, Building Services (DLO)
- £100k forecast reduced activity (reduced income) on DFG works – Building Services (DLO)
- £90k underspend relating to staffing within Housing Services (tenancy)
- £230k underspend relating to future HRA Projects

- £125k underspend on an external contract for modernisation works (Capital) which is funded by the MRA
- £60k overspend

## 5.0 Capital Programme

- 5.1 Capital projects, by their very nature, often overlap financial years. The status of this year's capital programme is shown at Appendix G.
- 5.2 The approved Capital Programme amounts to £35.193m (this includes the approved 2019/20 Budget £14.597m, slippage rolled forward from 2018/19 of £12.077m, additional projects detailed in quarter 2 of £4.874m and projects approved since Q2 amounting to £3.645m). These additional projects are as follows:

(£0.266m)	Adjustment to 3 Rivers Loan – Orchard House
£3.714m	3 Rivers Loan – Knowle Lane
£0.197m	RTB Buyback

**£3.645m Total**

- 5.3 The revenue monitoring report reflects the fact that the 3 Rivers project, Rear of Town Hall development (Riverside) is likely to overspend by c£757k (£519k excluding contingency provision). We have therefore impaired this loan by an equal amount. As this is a capital loan it is reversed in the revenue account but it will have an impact in 2020/21 when it will trigger Minimum Revenue Provision (MRP) payments over 3 years of £252k per annum. This is an increase of £127k per annum from the September forecast.
- 5.4 We also have a "working capital loan" with 3 Rivers which is currently at risk (£504k). This was due to be repaid over 5 years but as there is doubt over the ability of the company to repay this in this timescale, it is prudent to impair it over the remaining life of the loan, 4 years at £126k per annum. This is a real cost to the revenue account. Both the £757k and the £126k are shown against Corporate Management.
- 5.5 As stated in 5.1, some of these projects will overlap financial years. Managers have therefore given their best estimate of what is 'deliverable' for 19/20; this amounts to £15.701m (£11.782m in Quarter 2). Therefore, committed and actual expenditure will be monitored against this revised 'deliverable' budget for the remainder of the year.
- 5.6 The deliverable budget has been established following meetings with managers to determine a realistic forecast of spend based on known information at this point in the year. This will continue to be revisited for material changes.
- 5.7 Committed and Actual expenditure is currently £13.374m against a 'deliverable' Capital Programme of £15.701m leaving a variance of £2.327m uncommitted at this point in time.

- 5.8 Additional work has been undertaken to establish forecast slippage and potential underspends against the approved Capital Programme and are also detailed on Appendix G.
- 5.9 Forecast slippage amounts to £7.078m, which mainly relates to: £0.638m in relation to the 3 Rivers Project at the rear of the Town Hall which is forecast to be completed in 21/22, £0.236m for the 3 Rivers Project at Orchard House that will be completed in 20/21, £0.600m in relation to Land Acquisition for operational needs, £2.1m related to the GP Practice NHS Hub and £1.450m in relation to Council House building at Round Hill, Tiverton. For further detail, please refer to Appendix G.
- 5.10 A comprehensive review of projects has also been undertaken to either remove them from the 19/20 Programme where no longer required or re-profile into the 20/21 to 23/24 MTFP that will also be presented at 13<sup>th</sup> February 2020 Cabinet. The forecast net underspend amounts to £13.521m, this mainly relates to: £3.953m for the District Wide Redevelopment Project, £2.0m for Waddeton Park, (this is now included in future years in the Capital MTFP presented at the October Cabinet), £2.1m to enable Social Housing projects and two Council House Building Projects at £2.0m each which have been further quantified in the forward MTFP. In addition to these £1.2m for the Tiverton Redevelopment Project which has now been aborted & forecast 'sunk' costs of £87k will be coded to Revenue. Again, for further detail please refer to Appendix G.

## 6.0 Revenue Contribution to Capital EMR

- 6.1 The Capital Earmarked Reserve has been set aside from Revenue to fund Capital Projects; the movement on this reserve is projected below:

	£k
Capital Earmarked Reserve at 1 April 2019	(415)
Funding required to support 2019/20 Capital Programme	235
<b>Forecast uncommitted Balance at 31 March 2020</b>	<b>(180)</b>

## 7.0 Capital Receipts Reserve (Used to fund future capital programmes)

- 7.1 Unapplied useable capital receipts are used to part fund the capital programme, the movement on this account for the year to date is given below:

	£k
Unapplied Useable Capital Receipts at 1 April 2019	(3,620)
Net Receipts to Q3 (includes 23 "Right to Buy" Council House sales)	(1,617)
<b>Current Balance</b>	<b>(5,237)</b>

(This includes £1.710m of ring fenced 1:4:1 receipts and £3.527m of general Capital Receipts)

Forecast further capital receipts in year	(100)
Forecast capital receipts required to support 2019/20 Capital Programme	670
Forecast Unapplied Capital Receipts 31 March 2020	(4,667)

7.2 The ring fenced “1:4:1 receipts” need to be spent within 3 years of receipt; otherwise they need to be returned to MHCLG with interest. These can be used to fund up to 30% of new social housing developments or repurchased right to buy properties.

7.3 The forecast reserve balance for the Revenue Contribution to Capital Reserve and the Capital Receipts Reserve includes the associated funding of the 19/20 Capital Programme, as these monies are committed. In reality, much of this will slip to 20/21. It is also important to note that these balances need to be almost fully utilised in order to balance the Capital Medium Term Financial Strategy.

## 8.0 Treasury Management

8.1 The interest position so far this financial year can be summarised as follows:

### Interest Receivable:

	Budget £k	Forecast outturn £k	Forecast variance £k
Investment Income Received	(443)	(543)	(100)
Interest from HRA funding	(49)	(49)	0
<b>Total Interest Receivable</b>	<b>(492)</b>	<b>(592)</b>	<b>(100)</b>

8.2 There is an interest payable saving (£60k) due to the fact we have not taken out external borrowing (PWLB), as expenditure has been lower than anticipated and we have funded initially from internal resources.

## 9.0 Conclusion

9.1 Members are asked to note the revenue and capital forecasts for the financial year. Managers are working hard to offset overspends, some of which are unavoidable, with budget savings to deliver an outturn close to the budget. Members will be aware that management action has improved the position from Quarter 1 which was showing a projected overspend of £427k.

9.2 The work undertaken to produce this monitoring information to 31 Dec 2020 will be used to inform the 2020/21 Budget setting process where required.

**Contact for more  
information:**

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**Circulation of the Report:**

Cllr Alex White, Leadership Team

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## GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD FROM 01 APRIL TO 31 DECEMBER 2019

General Fund Summary	Note	2019/2020	Full Year	Actuals	Full Year	Variance (0 = On budget)	Variance %
		Annual Budget	Forecast	£	Variance		
		£		£	£		
<b>Clr Bob Deed</b>							
Corporate Management	A	1,696,520	2,589,520	1,200,436	893,000		52.6%
<b>Clr Luke Taylor</b>							
Grounds Maintenance	E	596,740	588,740	399,731	(8,000)		-1.3%
Cemeteries & Bereavement Services	D	(86,540)	(61,540)	(24,368)	25,000		-28.9%
Waste Services	H	1,743,650	1,596,477	961,678	(147,173)		-8.4%
<b>Clr Dennis Knowles</b>							
Community Development	I	108,875	103,055	103,595	(5,820)		-5.3%
Environmental Services incl. Licensing	D	770,010	878,753	611,662	108,743		14.1%
IT Services	Q	972,610	974,024	763,150	1,414		0.1%
Land charges	N	(20,530)	(30,530)	(26,620)	(10,000)		48.7%
Open Spaces	F	91,800	123,356	111,076	31,556		34.4%
Recreation And Sport	J	740,302	786,988	543,619	46,686		6.3%
<b>Clr Alex White</b>							
Finance And Performance	K	707,320	707,320	527,947	0		0.0%
Revenues And Benefits	L	430,400	495,477	797,874	65,077		15.1%
Car Parks	C	(535,210)	(502,210)	(366,732)	33,000		6.2%
<b>Clr Simon Clist</b>							
Private Sector Housing	D	(6,070)	12,820	24,042	18,890		-311.2%
General Fund Housing	M	212,630	85,650	(132,206)	126,980		-59.7%
Property Services	G	884,060	944,660	653,159	60,600		6.9%
<b>Clr Graeme Barnell</b>							
Community Development: Markets	I	50,180	65,180	27,186	15,000		29.9%
Planning And Regeneration	N	1,347,195	1,730,008	1,053,414	382,813		28.4%
<b>Clr Mrs Nikki Woolatt</b>							
Customer Services	O	778,871	730,771	564,391	(48,100)		-6.2%
Human Resources	P	465,090	489,090	352,456	24,000		5.2%
Legal & Democratic Services	B	1,136,206	1,027,636	970,528	(108,570)		-9.6%
Public Health	D	(4,890)	(4,890)	(5,248)	0		0.0%
<b>All General Fund Services</b>		<b>12,079,219</b>	<b>13,330,355</b>	<b>9,110,769</b>	<b>1,251,136</b>		<b>10.4%</b>
Net recharge to HRA		(1,534,110)	(1,534,110)	6,000	0		
Statutory Adjustments (Capital charges)		333,280	(473,720)	0	(807,000)		
<b>Net Cost of Services</b>		<b>10,878,389</b>	<b>11,322,525</b>	<b>9,116,769</b>	<b>244,136</b>		<b>4.1%</b>
Finance Lease Interest Payable		44,420	44,420	0	0		
Interest from Funding provided for HRA		(49,000)	(49,000)	0	0		
Interest Receivable Payable on Other Activities		167,580	107,580	51,358	(60,000)		
Interest Receivable on Investments		(442,540)	(542,540)	(299,776)	(100,000)		
Transfers into Earmarked Reserves	APP B	2,267,363	2,606,605	2,316,625	339,242		
Transfers from Earmarked Reserves	APP B	(2,099,631)	(2,545,212)	(2,480,496)	445,581		
Contribution from New Homes Bonus Reserve	APP B	(587,850)	(601,110)	(587,850)	(13,260)		
<b>Total Budgeted Expenditure</b>		<b>10,178,731</b>	<b>10,343,268</b>	<b>8,116,630</b>	<b>164,537</b>		<b>1.6%</b>
Revenue Support Grant		0	0	0	0		
Rural Services Delivery Grant		(466,695)	(466,695)	(466,695)	0		
New Homes Bonus Grant		(1,243,503)	(1,243,503)	(932,627)	0		
Retained Business Rates		(3,247,005)	(3,081,675)	(2,089,584)	165,330		
Business Rates Deficit		778,906	778,906	0	0		
Business Rates Benefit from Devon Pool		(100,000)	(177,590)	0	(77,590)		
CTS Funding Parishes		0	0	0	0		
Collection Fund Surplus		(71,330)	(71,330)	(71,331)	0		
Council Tax		(5,829,104)	(5,829,104)	(5,829,104)	0		
<b>Total Budgeted Funding</b>		<b>(10,178,731)</b>	<b>(10,090,991)</b>	<b>(9,389,341)</b>	<b>87,740</b>		<b>-1%</b>
<b>Forecast in year (Surplus) / Deficit</b>		<b>0</b>	<b>252,277</b>	<b>(1,272,712)</b>	<b>252,277</b>		
General Fund Reserve 31/12/2019					(2,483,294)		
<b>Forecast General Fund Balance 31/03/2020</b>					<b>(2,231,017)</b>		

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## GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD FROM 01 APRIL TO 31 DECEMBER 2019

Note	Description of Major Movements	Full year variance (net of transfer to EMR)	PDG
<b>A</b>	<b>Corporate Management</b>		
	Forecast overspend on bank charges	10,000	Cabinet
	3 Rivers - Working capital impairment - IFRS 9 the risk of non-repayment of the loan	126,000	Cabinet
	3 Rivers - Riverside impairment - Relates to the potential overspend on the project leading to non-repayment of loan	757,000	Cabinet
		<b>893,000</b>	
<b>B</b>	<b>Legal &amp; Democratic Services</b>		
	Legal Services-estimated under recovery of S106 income	10,000	Cabinet
	Legal Services-fees and charges income higher than budget	(13,000)	Cabinet
	Legal Services-software budget not required in 19/20	(15,400)	Cabinet
	Legal services consultancy budget not all required in 19/20	(35,000)	Cabinet
	Member Services-estimated savings against the salary budget due to carrying a vacancy for a number of months	(7,000)	Cabinet
	Electoral Registration-increase in IER funding above budget	(16,800)	Cabinet
	District Elections- After utilising earmarked reserves estimate of £25k shortfall in covering election spend	25,000	Cabinet
	Electoral Registration-saving against the salary budget due to vacancy	(5,000)	Cabinet
	Parish Elections- Recharging more of the costs to parishes than previously forecast	(7,500)	Cabinet
	Democratic Rep-savings on internet access payments and Members registration	(3,870)	Cabinet
	Electoral Registration- Budget for boundary review no longer required	(30,000)	Cabinet
	Electoral Registration- Underspend on Computer Software	(5,000)	Cabinet
	Electoral Registration- Sale of Electoral Register not budgeted for	(5,000)	Cabinet
		<b>(108,570)</b>	
<b>C</b>	<b>Car Parks</b>		
	P&D Income shortfall forecast in MSCP of £24k due to ongoing Premier Inn works, forecasting increased income in some of our P&D car parks of £5k.	19,000	Economy
	MSCP - Increased Security patrols to protect users and property from anti-social behaviour, has resulted in a budget overspend.	6,000	Economy
	Increased Electricity usage due to 24 hour opening of the MSCP and increased usage from contractors.	8,000	Economy
		<b>33,000</b>	
<b>D</b>	<b>Public Health combined</b>		
	Net of S106 Air Quality expenditure & income, covered by transfers from EMRs	91,843	Environment
	One off unavoidable Employment costs in Public Health	4,900	Community
	Licensing - Salary overspend due to JE regrades. We will be able to adjust fees going forward and hope to recover some of this overspend this year.	7,000	Community
	External Legal costs associated with major Housing prosecution, some costs awarded by the Courts but remain outstanding.	18,890	Homes
	Cemetery Income below profile for 3rd Qtr, will review month by month.	20,000	Environment
	Reduced income on Regulatory Services	5,000	Environment
	Licensing income - unpredictability on licence numbers under the new Animal Licensing regulations.	5,000	Environment
		<b>152,633</b>	
<b>E</b>	<b>Grounds Maintenance</b>		
	Salary savings - vacant Team Leader post not recruited to whilst service structure is being reviewed	(25,000)	Environment
	New vehicle contract - funded from vehicle earmarked reserve in year	17,000	Environment
		<b>(8,000)</b>	
<b>F</b>	<b>Open Spaces</b>		
	S106 Expenditure funded by transfer from an EMR	31,556	Environment
		<b>31,556</b>	
<b>G</b>	<b>Property Services</b>		
	New vehicle contract - funded from earmarked reserve in year (Not an overspend on the contract)	8,000	Environment
	Public Conveniences Utility charges are lower than budgeted due to reduction in the number of PC's and more accurate billing from	(12,000)	Environment
	Historic Business Rates reduction applied to Phoenix House due to office mergers have resulted in a rates underspend.	(43,000)	Environment
	Un-budgeted costs for the upgrade of communication equipment in the Exe Room, off-set against underspend on Rates	14,000	Environment
	Security costs higher than budget for Phoenix House	6,600	Environment
	Salary savings within Property Services due to vacant posts (partially off-set by Agency costs)	(70,000)	Environment
	Agency overspend covering vacant posts within Property Services	25,000	Environment
	Loss of income from Fore Street Flats and rates from vacant shop unit	23,890	Economy
	Loss of rental income and increased costs from rates and service charges due to vacant units within Market Walk	38,500	Economy
	Rate revaluation on Carlu Close has seen an unbudgeted increase in costs that has been backdated to 2017	56,350	Environment
	Maintenance overspend due to Capital project for air conditioning units being under £20k (funded from NHB)	13,260	Environment
		<b>60,600</b>	
<b>H</b>	<b>Waste Services</b>		
	Vacant posts part offset by agency	(38,000)	Environment
	Additional overtime in Recycling due to operational issues	16,000	Environment
	Waste - Shared Saving Scheme increase from budget. 2018-19 additional £79k and estimating an additional £50k for 2019-20	(129,000)	Environment
	S106 income, transferred to an EMR	827	Environment
	Trade Waste - Increase in customer base and reduced discounts - leading to increased income	(89,000)	Environment
	Trade Waste - Purchase of additional bins	20,000	Environment
	Trade Waste - Disposal costs up due to an increase in customer base	17,000	Environment
	Garden waste, permit sales down against budget. Numbers may pick up before year end.	8,000	Environment
	Recycling containers	5,000	Environment
	Recycling materials, paper tonnage and price is down	16,000	Environment
	Recycling materials, mixed plastics tonnage and price is up against budget	(83,000)	Environment
	Recycling materials, price for cardboard and glass is down	42,000	Environment
	New vehicle contract - funded from the vehicle earmarked reserve in year (Not an overspend on the contract)	67,000	Environment
		<b>(147,173)</b>	
<b>I</b>	<b>Community Development</b>		
	Community Development grant funding	(5,820)	Community
	Salaries - job evaluation and additional cover over the busy Christmas period	15,000	Economy

		<b>9,180</b>	
<b>J</b>	<b>Recreation And Sport</b>		
	Salaries - vacant posts.	(61,250)	Community
	Dryside - loss of income due to local competition offering similar facilities at lower cost, termination of contract with a 3rd party and recruitment issues re qualified staff.	36,000	Community
	Over achieving membership targets for fitness.	(40,000)	Community
	Vouchers cashed in against fitness and wetside income.	8,000	Community
	Wetside - reduction in casual swim as per the national trend within the industry	20,000	Community
	Feasibility Study	18,936	Community
	Utilities overspend due to Energy provider invoicing now is more accurate	84,000	Community
	Underspend on Car Mileage, Stationery, Advertising & Vending Supplies	(19,000)	Community
		<b>46,686</b>	
<b>K</b>	<b>Finance And Performance</b>		
		<b>0</b>	
<b>L</b>	<b>Revenues And Benefits</b>		
	Housing Benefit Subsidy & Overpayment recovery	120,000	Cabinet
	Estimated income from Single Occupancy Discount penalties (not budgeted)	(17,000)	Cabinet
	Additional Forecast C/Tax Annexe Grant	(7,738)	Cabinet
	Revenues and Benefits forecast salary savings; in the main due to vacant posts in HB in part offset by additional overtime & temporary increases for supervisors acting up	(11,100)	Cabinet
	Software costs associated with Citizens Access	33,950	Cabinet
	Software costs associated with new CTR scheme	11,000	Cabinet
	Various New Burdens grants from DWP in respect of Housing Benefits initiatives delivered within existing resource	(49,160)	Cabinet
	Adjustment to CTB entitlement (re pre 01/04/13 CTB old scheme) not required to be repaid to DCLG & additional CTB admin grant than budgeted	(5,650)	Cabinet
	Additional New Burdens NNDR Grant for the administration of Retail Rate Relief delivered within existing resource	(9,225)	Cabinet
		<b>65,077</b>	
<b>M</b>	<b>General Fund Housing</b>		
	Community Alarms: estimated surplus due to underspend on service overheads	(10,000)	Homes
	GF Housing: grant funding received will be earmarked towards future service sustainability	(126,980)	Homes
	GF Housing: Discretionary Rent Allowance lower than forecast	10,000	Homes
		<b>(126,980)</b>	
<b>N</b>	<b>Planning And Regeneration</b>		
	Net of S106 Public Open Space expenditure & income, covered by transfers from EMRs	177,963	Community
	Garden Village project consultancy spend funded by transfer from EMR	23,000	Community
	Garden Village Capacity Funding for 2019-20	(150,000)	Community
	Salary savings due to not recruiting for the secondment of the graphics technician, a delay in recruitment of the monitoring information officer and maternity savings	(21,000)	Community
	Statutory Plan - saving on budgeted GESP contribution	(5,000)	Cabinet
	Statutory Plan - Local Plan costs funded by transfer from EMR	32,000	Cabinet
	Development Management - planning income. Consistently over the last 12 mths there has been a downturn in fees, this has been driven by external circumstances affecting the submission of larger fee earning applications. Officers are working with developers to try and bring forth applications via the pre application process. Most recently the forecast shortfall has in part been offset through a major fee bearing application	175,000	Community
	Development Management - supplies & services. Main contributor being required advertising.	22,000	Community
	Cullompton Town Centre Masterplan, funded by transfer from EMR	56,000	Economy
	Business Development Grant funding	(3,500)	Economy
	Income from Section 97 work	(10,650)	Community
	Land charges Devon County Council searches - Listed separately	(10,000)	Cabinet
	Tiverton Town Centre Regeneration - aborted capital project costs, also see underspend on Capital Programme	87,000	Economy
		<b>372,813</b>	
<b>O</b>	<b>Customer Services</b>		
	External Contractors budget not required this year	(4,000)	Community
	Overtime budget not required	(8,100)	Community
	Vacancy Savings	(36,000)	Community
		<b>(48,100)</b>	
<b>P</b>	<b>Human Resources</b>		
	Realignment of basic establishment prior to review of service needs	24,000	Cabinet
		<b>24,000</b>	
<b>Q</b>	<b>I.T. Services</b>		
	Digital services cloud software licence - expenditure covered by salary savings in the CS codes	7,500	Cabinet
	Software Training	8,614	Cabinet
	Idox support fees more than budgeted. Migration work to new hardware required as operating system reaching end of life	11,800	Cabinet
	Central Government have delayed moving towards utilising the public internet for submission of statutory returns - meaning the Council has to pay for a private sector network connection to submit its returns	9,600	Cabinet
	Vacant posts	(8,300)	Cabinet
	Client access licence. This is a perpetual licence. Indicative prices used for budget setting included a licence for per user and device, only a user licence is required to deliver applications.	(27,800)	Cabinet
		<b>1,414</b>	
	<b>FORECAST (SURPLUS)/DEFICIT AS AT 31/03/2020</b>	<b>1,251,136</b>	

Cabinet	891,921
Community	220,979
Homes	(108,090)
Environment	(3,563)
Economy	249,890
	<b>1,251,136</b>

**GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD FROM 01 APRIL TO 31 DECEMBER 2019**

Fees and Charges	2019/20	2019/20	2019/20	2019/20	Full Year	Variance %
	Annual Budget	Profiled Budget	Actual	Variance	Forecast	
	£	£	£	£	Variation £	
Building Control Fees	(240,000)	(180,000)	(210,422)	(30,422)	0	0%
Planning Fees	(946,500)	(709,875)	(636,133)	73,742	175,000	-18%
Land Search Fees	(120,000)	(90,000)	(89,367)	633	0	0%
Car Parking Fees - See Below	(733,290)	(571,482)	(563,769)	7,713	19,000	-3%
Leisure Fees & Charges	(2,881,030)	(2,133,914)	(2,052,374)	81,539	31,500	-1%
Trade Waste Income	(699,000)	(696,903)	(784,473)	(87,570)	(89,000)	13%
Garden Waste	(482,100)	(412,180)	(408,514)	3,666	8,000	-2%
Licensing	(145,190)	(116,402)	(113,144)	3,258	5,000	-3%
Market Income	(83,350)	(64,707)	(64,720)	(13)	0	0%
	<b>(6,330,460)</b>	<b>(4,975,463)</b>	<b>(4,922,917)</b>	<b>52,547</b>	<b>149,500</b>	<b>-2.4%</b>

Car Parking Fees		2019/20	2019/20	2019/20	2019/20	Bud Income	
						Spaces	pa per space
Beck Square, Tiverton	(79,500)	(62,233)	(61,050)	1,183	40	(1,988)	
William Street, Tiverton	(26,280)	(20,078)	(19,167)	911	45	(584)	
Westex South, Tiverton	(49,000)	(37,367)	(38,142)	(775)	51	(961)	
Wellbrook Street, Tiverton	(14,000)	(10,275)	(11,396)	(1,121)	27	(519)	
Market Street, Crediton	(37,500)	(30,026)	(27,152)	2,874	39	(962)	
High Street, Crediton	(75,000)	(57,555)	(62,826)	(5,271)	190	(395)	
Station Road, Cullompton	(33,500)	(26,689)	(30,394)	(3,705)	112	(299)	
Multistorey, Tiverton	(126,980)	(97,952)	(80,263)	17,689	631	(201)	
Market Car Park, Tiverton	(210,000)	(160,218)	(160,879)	(661)	122	(1,721)	
Phoenix House, Tiverton	(5,500)	(4,327)	(3,979)	348	15	(367)	
P&D Shorts & Overs	0	0	543	543	0	0	
<b>Total Pay and Display</b>	<b>(657,260)</b>	<b>(506,720)</b>	<b>(494,704)</b>	<b>12,016</b>	<b>1,272</b>	<b>(7,995)</b>	
Day Permits	(16,000)	(12,827)	(13,553)	(726)			
Allocated Space Permits	(41,500)	(36,022)	(36,022)	0			
Overnight Permits	(200)	(130)	(773)	(643)			
Day & Night Permits	(10,700)	(8,660)	(7,087)	1,573			
Other Income	(7,630)	(7,123)	(11,630)	(4,508)			
<b>Total Permits</b>	<b>(76,030)</b>	<b>(64,762)</b>	<b>(69,065)</b>	<b>(4,303)</b>			
<b>Total Car Parking</b>	<b>(733,290)</b>	<b>(571,482)</b>	<b>(563,769)</b>	<b>7,713</b>			
<b>Standard Charge Notices (Off Street)</b>	<b>(48,000)</b>	<b>(36,000)</b>	<b>(32,472)</b>	<b>3,529</b>	0	0%	

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**GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD FROM 01 APRIL TO 31 DECEMBER 2019**

<b>Employee Costs</b>	<b>2019/20 Annual Budget £</b>	<b>2019/20 Profiled Budget £</b>	<b>2019/20 Actual £</b>	<b>2019/20 Variance £</b>
<b>General Fund</b>				
Community Development	49,220	36,915	43,999	7,084
Corporate Management	1,457,520	1,093,140	1,082,237	(10,903)
Customer Services	688,440	516,330	469,965	(46,365)
Environmental Services	864,660	648,495	665,761	17,266
Finance And Performance	548,850	411,638	394,685	(16,953)
General Fund Housing	272,190	204,143	189,321	(14,822)
Grounds Maintenance	490,260	367,695	319,048	(48,647)
Human Resources	374,760	281,070	289,983	8,913
I.T. Services	548,920	411,690	405,452	(6,238)
Legal & Democratic Services	482,960	362,220	363,899	1,679
Planning And Regeneration	1,799,200	1,349,400	1,254,489	(94,911)
Property Services	628,270	471,203	449,812	(21,391)
Recreation And Sport	2,017,338	1,513,004	1,449,200	(63,804)
Revenues And Benefits	727,810	545,858	528,737	(17,121)
Waste Services	2,509,789	1,882,342	1,671,759	(210,583)
<b>Total General Fund</b>	<b>13,460,187</b>	<b>10,095,143</b>	<b>9,578,346</b>	<b>(516,797)</b>
<b>Housing Revenue Account</b>				
BHO09 Repairs And Maintenance	852,900	639,675	577,930	(61,745)
BHO10 Supervision & Management	1,508,730	1,131,548	1,049,085	(82,463)
BHO11 Special Services	0	0	0	0
<b>Total Housing Revenue Account</b>	<b>2,361,630</b>	<b>1,771,223</b>	<b>1,627,015</b>	<b>(144,208)</b>
<b>Total Employee Costs</b>	<b>15,821,817</b>	<b>11,866,366</b>	<b>11,205,361</b>	<b>(661,005)</b>

<b>Agency Staff (within Employee costs)</b>	<b>2019/20 Annual Budget £</b>	<b>2019/20 Profiled Budget £</b>	<b>2019/20 Actual £</b>	<b>2019/20 Variance £</b>
<b>General Fund</b>				
Car Parks	0	0	0	0
Community Development	0	0	0	0
Corporate Management	0	0	0	0
Customer Services	0	0	0	0
Environmental Services	0	0	0	0
Finance And Performance	0	0	0	0
General Fund Housing	0	0	0	0
Grounds Maintenance	25,000	18,750	44,796	26,046
Human Resources	0	0	12,462	12,462
I.T. Services	0	0	0	0
Legal & Democratic Services	0	0	0	0
Planning And Regeneration	0	0	23,110	23,110
Property Services	0	0	20,142	20,142
Recreation And Sport	0	0	0	0
Revenues And Benefits	0	0	3,788	3,788
Waste Services	121,641	91,231	244,537	153,306
<b>Total General Fund</b>	<b>146,641</b>	<b>109,981</b>	<b>348,834</b>	<b>238,853</b>
<b>Housing Revenue Account</b>				
BHO09 Repairs And Maintenance	0	0	0	0
BHO10 Supervision & Management	0	0	0	0
BHO11 Special Services	0	0	0	0
<b>Total Housing Revenue Account</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Agency Costs</b>	<b>146,641</b>	<b>109,981</b>	<b>348,834</b>	<b>238,853</b>

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HOUSING REVENUE ACCOUNT FINANCIAL MONITORING INFORMATION FOR THE PERIOD FROM 01 APRIL TO  
31 DECEMBER 2019

<b>Planned Works extract</b>				
Planned Works - Capital		2,285,000	(125,000)	-5.5%
Planned Works - Revenue		1,325,500	(50,000)	-3.8%
Housing Revenue Account (HRA)	Notes	2019/2020 Annual Budget £	Forecast £	Variance %
<b>Income</b>				
SHO01 Dwelling Rents Income	A	(11,977,170)	(70,000)	0.6%
SHO04 Non Dwelling Rents Income	B	(564,870)	0	0.0%
SHO06 Tenant Charges For Services	C	0	0	0.0%
SHO07 Leaseholders' Service Charges	D	(21,640)	0	0.0%
SHO08 Contributions Towards Expenditure	E	(27,720)	(50,000)	180.4%
SHO09 Alarm Income - Non Tenants	F	0	0	0.0%
SHO10 H.R.A. Investment Income	G	(83,000)	(3,230)	3.9%
SHO11 Miscellaneous Income	H	(7,350)	0	0.0%
<b>Services</b>				
SHO13A Repairs & Maintenance	I	3,174,000	(100,000)	-3.2%
SHO17A Housing & Tenancy Services	J	1,732,360	(320,000)	-18.5%
<b>Accounting entries 'below the line'</b>				
SHO29 Bad Debt Provision Movement	L	53,000	0	0.0%
SHO30 Share Of Corporate And Democratic	M	199,100	0	0.0%
SHO32 H.R.A. Interest Payable	N	1,178,580		0.0%
SHO34 H.R.A. Transfers between earmarked reserves	O	1,713,350	(60,000)	-3.5%
SHO36 H.R.A. Revenue Contribution to Capital	P	0	0	0.0%
SHO37 Capital Receipts Reserve Adjustment	Q	(26,000)	0	0.0%
SHO38 Major Repairs Allowance	R	2,285,000	(125,000)	-5.5%
SHO45 Renewable Energy Transactions	S	(139,000)	60,000	-43.2%
		<b>(2,511,360)</b>	<b>(668,230)</b>	<b>-26.6%</b>

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**HOUSING REVENUE ACCOUNT FINANCIAL MONITORING INFORMATION FOR THE PERIOD  
FROM 01 APRIL TO 31 DECEMBER 2019**

Note	Description of Major Movements	Corrective Action	Forecast
			Variance £
<b>A</b>	Affordable rental income estimated to make a surplus of £70k at year end, this is principally due to the number of properties we collect rent on being more than originally budgeted	N/A	(70,000)
<b>E</b>	Rechargeable works undertaken by Building Services greater than anticipated	N/A	(50,000)
<b>G</b>	Interest received on cash balances higher than anticipated	N/A	(3,230)
<b>I</b>	Planned Revenue works estimated to underspend by £50k across various areas. Salary underspend is principally due to vacant posts, a number of staff on maternity leave and new staff starting on reduced spinal points (estimated circa £150k). Forecast reduced activity on DFG works of circa £100k	N/A	(100,000)
<b>J</b>	There is an underspend (£90k) due to a number of retirements and posts not being filled immediately. In addition, provision for two posts was made in the budget to ensure that there was capacity to mitigate the impact of welfare reform and legislative changes to tenure. These posts remain unfilled and a watching brief is being kept on performance and workloads. Additionally a budget for new projects is forecast to be underspent by £230k, this budget will then be refreshed in 20/21	N/A	(320,000)
<b>O</b>	(see S below) this in effect reduces our year end transfers to reserves	N/A	(60,000)
<b>R</b>	MRA is expected to underspend by an estimated £125k on an external contract for modernisation works	N/A	(125,000)
<b>S</b>	Budget for Renewables will be less than anticipated due to the number of solar panel contract terminations on RTBs	N/A	60,000
		<b>TOTAL</b>	<b>(668,230)</b>

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Code	Scheme	Approved Capital Programme 2019/20	Total Slippage B/fwd & Adj to Approved Capital Programme 19/20	Budgeted Capital Programme 2019/20	Total Deliverable Programme 19/20	Actual Expenditure 2019/20	Committed Expenditure 2019/20	Total Actual & Committed Expenditure 2019/20	Variance to Deliverable Capital Programme	Forecast (Underspend)/ Overspend	Forecast Slippage to 20/21	Notes
		£	£	£	£	£	£	£	£	£	£	
<b>General Fund Projects</b>												
<b>Exe Valley Leisure Centre</b>												
CA633	Lords Meadow - Replace main pool filters	0	80,000	80,000	55,000	0	6,652	6,652	(48,348)	(8,000)		Project complete.
CA639	Spinning Room - New window - improve light	20,000	0	20,000	20,000	0	0	0	(20,000)	(20,000)		Project Complete Q2 19/20. Under £20k Capital diminishes therefore recharged to Revenue & funded through a contribution from NHB
CA640	Leisure Spinning Bike Replacement - all sites	60,000	0	60,000	60,000	60,000	0	60,000	0			Project Complete Q2 19/20
<b>Culm Valley Leisure Centre</b>												
CA641	Fitness Gym Kit Replacement	185,000	0	185,000	185,000	7,951	177,307	185,257	257	257		Project complete
<b>MDDC Depot Sites</b>												
CA829	Carlu Close - Air Conditioning units	25,000	0	25,000	20,000	0	0	0	(20,000)	(25,000)		Project Complete but Under £20k Capital diminishes therefore recharged to Revenue & funded through a contribution from NHB
CA830	Carlu Close - Interceptor upgrade	30,000	0	30,000	30,000	371	1,430	1,801	(28,199)		22,000	Subject to EA - Anticipated project completion by Q2 20/21
CA831	Carlu Close - Solar PV options	20,000	0	20,000	20,000	308	600	908	(19,092)			Forecast project completion Q4 19/20
<b>Play Areas</b>												
CA472	Open Space Infrastructure (incl Play Areas)	0	50,000	50,000	50,000	1,360	0	1,360	(48,640)		48,640	Forecast project completion Q2 20/21
CA632	Play area refurbishment District wide - Amory Park Tiverton	0	50,000	50,000	50,000	0	0	0	(50,000)		50,000	Forecast project completion Q3 20/21
CA628	Play area refurbishment - West Exe Recreation Ground Tiverton	0	50,000	50,000	50,000	0	0	0	(50,000)		50,000	Forecast project completion Q1 20/21
<b>Other Projects</b>												
CA473	Land drainage flood defence schemes - St Marys Hemyock	0	25,000	25,000	25,000	0	0	0	(25,000)		25,000	Forecast project completion Q3 20/21
CA420	Land drainage flood defence schemes - Ashleigh Park Bampton	0	87,000	87,000	87,000	0	0	0	(87,000)		87,000	Forecast project completion Q3 20/21
CA574	Fore Street Flats refurbishment	0	47,000	47,000	47,000	150	268	418	(46,583)		45,000	Forecast project completion Q3 20/21
CA709	MSCP improvements (refer to Matrix condition report)	0	136,000	136,000	136,000	2,982	0	2,982	(133,018)			Project forecast to be complete by 31/03/20
CA718	MSCP-Top Deck surfacing	70,000	50,000	120,000	70,000	0	0	0	(70,000)		120,000	Forecast project completion Q2 20/21
CA476	Tiverton Cemetery - Infrastructure extension	80,000	0	80,000	80,000	0	0	0	(80,000)		40,000	Forecast project completion Q2 20/21
CA477	Land drainage flood defence schemes	25,000	0	25,000	25,000	0	0	0	(25,000)		25,000	Forecast project completion Q3 20/21 - This will be required to fund project CA473 St Mary's Hemyock Project
CA202	Flexible Temporary Accommodation	75,000	0	75,000	75,000	0	0	0	(75,000)			
CA576	Tiverton Town Centre improvements	0	40,000	40,000	20,000	0	0	0	(20,000)		40,000	Forecast project completion Q1 20/21
CA579	Tiverton Town Centre - Street scene improvements	100,000	0	100,000	100,000	0	0	0	(100,000)		100,000	Forecast project completion Q1 20/21
CA832	Land acquisition for operational needs	600,000	0	600,000	0	0	0	0	0		600,000	This will be slipped into 2020/21
CA482	Contribution to South West Mutuals Bank	0	50,000	50,000	0	49,995	0	49,995	49,995			Per Cabinet report 07/03/19 to be funded by NNDR EMR
<b>General Fund Development Schemes</b>												
CA575	District Wide Redevelopment project - Asset acquisition	0	3,953,000	3,953,000	45,000	0	0	0	(45,000)	(3,953,000)		Detailed schemes identified as part of forthcoming MTFP
CA462	Rear of Town Hall Development site (Riverside) - 3 Rivers Loan	0	3,679,000	3,679,000	3,040,990	1,662,990	1,378,000	3,040,990	0		638,010	This Project will cross financial years and be completed in 21/22
CA483	3 Rivers Loan - Threwstones, Tiverton	0	468,000	468,000	468,000	445,000	23,000	468,000	0			This project will complete in 19/20
CA484	3 Rivers Loan - Orchard House, Halberton	0	958,000	958,000	722,000	385,000	337,000	722,000	0		236,000	This Project will cross financial years and be completed in 20/21
CA486	3 Rivers Loan - Knowle Lane, Cullompton	0	3,714,000	3,714,000	3,714,112	3,454,500	259,612	3,714,112	0			Project will continue & complete in 21/22
CA580	Tiverton redevelopment project	1,200,000	0	1,200,000	1,200,000	0	0	0	(1,200,000)	(1,200,000)		Project aborted therefore costs re charged to Revenue
CA581	Waddeton Park	2,000,000	0	2,000,000	0	0	0	0	0	(2,000,000)		This project is now detailed in its entirety in the MTFP that was presented to Cabinet on 17/10/19
CA719	Cullompton Town Centre Relief Road	0	650,000	650,000	0	191,812	58,188	250,000	250,000			
CA720	Tiverton EUE A361 Junction Phase 2	0	50,000	50,000	0	0	0	0	0			
CA485	GP Practice NHS Hub Building Crediton	0	2,100,000	2,100,000	0	0	0	0	0		2,100,000	It is now anticipated that this project will slip into 20/21
<b>Economic Development Schemes</b>												
CA582	* Hydro Mills Electricity Project * All Economic Development schemes are subject to acceptable Business Case	680,000	0	680,000	0	0	0	0	0		680,000	It is now anticipated that this project will slip into 20/21
<b>ICT Projects</b>												
CA421	Desktop states replacement/refresh	0	6,000	6,000	6,000	6,594	0	6,594	594	594		Project complete
CA456	CRM replacement	0	175,000	175,000	175,000	0	0	0	(175,000)		175,000	It is anticipated that this project will slip into 20/21
CA474	Data centre hardware refresh servers/storage	0	120,000	120,000	100,000	99,354	0	99,354	(646)	(20,646)		Project complete
CA433	Unified Communications/telephony	0	107,000	107,000	32,000	32,554	0	32,554	554	554		Project complete
CA464	Parking System Replacement (enforcement)	0	40,000	40,000	0	0	0	0	0	(40,000)		Project no longer required as coded to Revenue
CA465	Replacement Queue System	0	30,000	30,000	0	0	0	0	0	(30,000)		Project no longer required
CA423	Continued replacement of WAN/LAN	0	60,000	60,000	60,000	0	0	0	(60,000)	(60,000)		Project no longer required
CA425	Server farm expansion/upgrades	0	84,000	84,000	84,000	0	0	0	(84,000)			Project to be delivered by Q4 19/20
CA437	Digital Transformation	0	33,000	33,000	0	4	0	4	4		29,000	Project to be delivered during 2020/21
CA478	UPS Power supplies refresh	25,000	0	25,000	20,000	19,925	0	19,925	(75)	(5,075)		Project complete
CA479	Continuous replacement/Upgrade of WAN/LAN (networking hardware switches)	100,000	0	100,000	0	0	0	0	0	(100,000)		Project no longer required. Core switches project will be flagged in MTFP that will be presented at 17/10/19 Cabinet
CA480	Lalpac Licensing System replacement (SN)	80,000	0	80,000	0	0	0	0	0		80,000	It is anticipated that this project will slip into 20/21
CA481	Replacement Access Database - Property Services	100,000	0	100,000	0	0	0	0	0	(100,000)		This Project is timetabled for delivery in 21/22 & will be flagged as part of the forthcoming MTFP

<b>Replacement Vehicles</b>											
CA717	Van Tipper (Grounds Maintenance)	0	25,000	25,000	25,000	25,330	0	25,330	330	330	Project complete
CA715	Van Tipper (Grounds Maintenance)	0	25,000	25,000	25,000	25,330	0	25,330	330	330	Project complete
CA712	Iveco Tipper (or equivalent) 3.5T Tipper	0	28,000	28,000	28,000	27,830	0	27,830	(170)	(170)	Project complete
CA822	7.5T Tipper	0	45,000	45,000	45,000	44,773	0	44,773	(227)	(227)	Project complete
CA825	3.5T Tipper	0	28,000	28,000	28,000	27,830	0	27,830	(170)	(170)	Project complete
CA827	3.5T Tipper	0	28,000	28,000	28,000	27,830	0	27,830	(170)	(170)	Project complete
		<b>5,475,000</b>	<b>17,071,000</b>	<b>22,546,000</b>	<b>11,051,102</b>	<b>6,599,775</b>	<b>2,242,057</b>	<b>8,841,832</b>	<b>(2,209,270)</b>	<b>(7,560,393)</b>	<b>5,190,650</b>
<b>Private Sector Housing Grants</b>											
CG217	Empty homes and enforcement	108,000	0	108,000	30,000	0	0	0	(30,000)	(108,000)	} Any underspends will remain in relevant EMR for future prioritisation }
CG201	Disabled Facilities Grants-P/Sector	562,000	0	562,000	530,000	281,076	306,991	588,067	58,067	(139,000)	
CG208	Wessex					25,000		25,000	25,000	25,000	
		<b>670,000</b>	<b>0</b>	<b>670,000</b>	<b>560,000</b>	<b>306,076</b>	<b>306,991</b>	<b>613,067</b>	<b>53,067</b>	<b>(247,000)</b>	<b>0</b>
<b>Affordable Housing Projects</b>											
CA200	Grants to Housing Associations to provide units (funded by commuted sums)	117,000	0	117,000	17,000	13,151	0	13,151	(3,849)	(100,000)	This forecast underspend will remain in EMR
		<b>117,000</b>	<b>0</b>	<b>117,000</b>	<b>17,000</b>	<b>13,151</b>	<b>0</b>	<b>13,151</b>	<b>(3,849)</b>	<b>(100,000)</b>	<b>0</b>
<b>Total General Fund Projects</b>		<b>6,262,000</b>	<b>17,071,000</b>	<b>23,333,000</b>	<b>11,628,102</b>	<b>6,919,001</b>	<b>2,549,048</b>	<b>9,468,049</b>	<b>(2,160,053)</b>	<b>(7,907,393)</b>	<b>5,190,650</b>
<b>HRA Projects - Existing Housing Stock</b>											
CA100	Major repairs to Housing Stock	2,285,000	0	2,285,000	2,285,000	1,308,152	684,611	1,992,762	(292,238)		125,000
CA111	Renewable Energy Fund	250,000	0	250,000	150,000	0	0	0	(150,000)	(100,000)	Recruited an additional FTE to deliver but will be in an underspend for 19/20
CG200	Home Adaptations - Disabled Facilities	300,000	0	300,000	300,000	213,527	0	213,527	(86,473)		
<b>Housing Development Schemes</b>											
CA119	Palmerston Park - Additional budget required	0	634,000	634,000	634,000	1,161,896	58,888	1,220,784	586,784	586,784	Additional spend on this project will be in part offset by additional Homes England Grant of £441k
CA135	Land acquisition for affordable housing	0	2,100,000	2,100,000	0	0	0	0	0	(2,100,000)	Detailed schemes identified as part of forthcoming MTFP
CA124	Queensway (Beech Road) Tiverton (3 units)	0	287,000	287,000	0	0	0	0	0		287,000
CA126	Sewerage Treatment Works - Washfield	0	25,000	25,000	25,000	0	0	0	(25,000)		25,000
CA139	Replace end of life HRA Assets	2,000,000	0	2,000,000	0	0	0	0	0	(2,000,000)	Forecast project completion Q1 20/21
CA140	Council Housing building schemes to be identified	2,000,000	0	2,000,000	0	0	0	0	0	(2,000,000)	Detailed schemes identified as part of forthcoming MTFP
CA141	Round Hill Tiverton- Site	1,500,000	0	1,500,000	200,000	0	0	0	(200,000)		1,450,000
CA142	RTB Buyback - 6 Cherry Gardens	0	153,000	153,000	153,000	152,438	0	152,438	(562)	(562)	It is anticipated that the majority of the spend on this project will slip into 20/21
CA143	RTB Buyback- 39 Cameron Close	0	129,000	129,000	129,000	128,940	0	128,940	(60)	(60)	
CA144	RTB Buyback- 130 Butts Parks	0	197,000	197,000	197,000	197,098	0	197,098	98	98	
<b>Total HRA Projects</b>		<b>8,335,000</b>	<b>3,525,000</b>	<b>11,860,000</b>	<b>4,073,000</b>	<b>3,162,051</b>	<b>743,499</b>	<b>3,905,550</b>	<b>(167,450)</b>	<b>(5,613,740)</b>	<b>1,887,000</b>
<b>CAPITAL PROGRAMME GRAND TOTAL</b>		<b>14,597,000</b>	<b>20,596,000</b>	<b>35,193,000</b>	<b>15,701,102</b>	<b>10,081,052</b>	<b>3,292,547</b>	<b>13,373,599</b>	<b>(2,327,503)</b>	<b>(13,521,133)</b>	<b>7,077,650</b>

## COMMUNITY PDG 24 MARCH 2020:

### PERFORMANCE AND RISK REPORT

**Cabinet Member** Cllr Dennis Knowles  
**Responsible Officer** Director of Corporate Affairs & Business Transformation,  
Jill May

**Reason for Report:** To provide Members with an update on performance against the Corporate Plan and local service targets for 2019-20 as well as providing an update on the key business risks.

**RECOMMENDATION:** That the PDG reviews the Performance Indicators and Risks that are outlined in this report and feeds back areas of concern to the Cabinet.

**Relationship to Corporate Plan:** Corporate Plan priorities and targets are effectively maintained through the use of appropriate performance indicators and regular monitoring.

**Financial Implications:** None identified

**Legal Implications:** None

**Risk Assessment:** If performance is not monitored we may fail to meet our corporate and local service plan targets or to take appropriate corrective action where necessary. If key business risks are not identified and monitored they cannot be mitigated effectively.

**Equality Impact Assessment:** No equality issues identified for this report.

**Impact on Climate Change:** No impacts identified for this report.

#### 1.0 Introduction

- 1.1 Appendix 1 provides Members with details of performance against the Corporate Plan and local service targets for the 2019-20 financial year. **The PDG is invited to suggest measures they would like to see included in the future for consideration.**
- 1.2 Appendix 2 shows the section of the Corporate Risk Register which relates to the Community Portfolio. See 3.0 below.
- 1.3 Appendix 3 shows the profile of all risks for the Community Portfolio.
- 1.4 The Community PDG agreed that the performance indicators for Leisure would be provided in Part II to allow Members to review performance without risk to the Leisure business. This information is included as Appendix 4
- 1.5 All appendices are produced from the corporate Service Performance And Risk Management system (SPAR).

## **2.0 Performance**

- 2.1 **Other:** Public Health Officers from Mid Devon District Council attended Exeter Magistrates on Thursday, 27 February 2020 to hear the sentencing of The White Hart At Cullompton Ltd.
- 2.2 The Council's Land Charges team have won the Digital Data Award at the Land Data Local Land Charges Awards 2020. The Digital Data Award recognises the importance of high quality data and focuses on the five characteristics of high quality information; accuracy, completeness, consistency, uniqueness and timeliness.

## **3.0 Risk**

- 3.1 Risk reports to committees include strategic risks with a current score of 10 or more in accordance. (See Appendix 2)
- 3.2 Operational risk assessments are job specific and flow through to safe systems of work. These risks go to the Health and Safety Committee biannually with escalation to committees where serious concerns are raised.
- 3.3 The Corporate risk register is regularly reviewed by Group Managers' Team (GMT) and Leadership Team (LT) and updated as required.

## **4.0 Conclusion and Recommendation**

- 4.1 That the PDG reviews the performance indicators and risks for 2019-20 that are outlined in this report and feedback any areas of concern to the Cabinet.

**Contact for more Information:** Catherine Yandle, Group Manager Performance, Governance and Data Security ext 4975

**Circulation of the Report:** Leadership Team and Cabinet Member

### Corporate Plan PI Report Community

Monthly report for 2019-2020  
 Arranged by Aims  
 Filtered by Aim: Priorities Community  
 Filtered by Flag: Exclude: Corporate Plan Aims 2016 to 2020  
 For MDDC - Services

**Key to Performance Status:**

Performance Indicators: No Data Well below target Below target On target Above target Well above target

\* indicates that an entity is linked to the Aim by its parent Service

Corporate Plan PI Report Community																	
Priorities: Community																	
Aims: Other																	
Performance Indicators																	
Title	Prev Year (Period)	Prev Year End	Annual Target	Apr Act	May Act	Jun Act	Jul Act	Aug Act	Sep Act	Oct Act	Nov Act	Dec Act	Jan Act	Feb Act	Mar Act	Group Manager	Officer Notes
<u>Compliance with food safety law</u>	88% (11/12)		90%	93%	93%	92%	93%	93%	92%	92%	92%	91%	92%	92%		Simon Newcombe	

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## Community PDG Risk Management Report - Appendix 2

**Report for 2019-2020**  
**For Community - Cllr Dennis Knowles Portfolio**  
**Filtered by Flag: Include: \* Corporate Risk Register**  
**For MDDC - Services**  
**Not Including Risk Child Projects records, Including Mitigating Action records**

### Key to Performance Status:

Mitigating Action:	<b>Milestone Missed</b>	<b>Behind schedule</b>	<b>In progress</b>	<b>Completed and evaluated</b>	<b>No Data available</b>
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Risks: No Data (0+) High (15+) Medium (6+) Low (1+)

## Community PDG Risk Management Report - Appendix 2

**Risk: Coronavirus Pandemic** There is now a significant risk to MDDC's ability to conduct business as usual

**Service: Public Health**

### Mitigating Action records

Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
In progress	Business Continuity Planning (BCP)	BCPs have been reviewed. A desktop BCP exercise is taking place on 13 March. Regular updates are being obtained from Public Health England and the Local Resilience Forum	Catherine Yandle	06/03/2020	13/03/2020	Positive(2)

**Current Status: High (25)**      **Current Risk Severity: 5 - Very High**      **Current Risk Likelihood: 5 - Very High**

**Service Manager: Simon Newcombe**

## Community PDG Risk Management Report - Appendix 2

**Risk: Cyber Security** Inadequate Cyber Security could lead to breaches of confidential information, damaged or corrupted data and ultimately Denial of Service. If the Council fails to have an effective ICT security strategy in place.

Risk of monetary penalties and fines, and legal action by affected parties

**Service: I C T**

### Mitigating Action records

Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
Completed and evaluated	Email and Protective DNS	ICT have applied the all levels of the government secure email policy, which ensures secure email exchange with government agencies operating at OFFICIAL. PSN DNS has been configured at the Internet gateway, which ensures the validity of websites and blocks known sites.	Alan Keates	06/06/2019	07/02/2020	Fully effective(1)
Completed and evaluated	Information Security Policy in place, with update training	Information Security Policy reviewed. LMS (online policy system) included in induction.	Catherine Yandle	22/10/2015	07/02/2020	Fully effective(1)
In progress	Regular user awareness training	Staff and Member updates help to reduce the risk	Alan Keates	03/01/2019	07/02/2020	Positive(2)
Completed and evaluated	Technical controls in place	Required to maintain Public Sector Network certification	Alan Keates	03/01/2019	07/02/2020	Fully effective(1)

## Community PDG Risk Management Report - Appendix 2

**Current Status: High  
(20)**

**Current Risk Severity: 5 - Very  
High**

**Current Risk Likelihood: 4 -  
High**

**Service Manager: Alan Keates**

**Risk: Health and Safety** Inadequate Health and Safety Policies or Risk Assessments and decision-making could lead to Mid Devon failing to mitigate serious health and safety issues

**Service: Human Resources**

### Mitigating Action records

Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
Completed and evaluated	Risk Assessments	Review risk assessments and procedures to ensure that we have robust arrangements in place.  In progress ready for September reports.	Michael Lowe	28/05/2013	20/11/2019	Fully effective(1)
In progress	Risk assessments	Group Managers contacted with request to update the outstanding risk reviews	Michael Lowe	20/09/2019	20/11/2019	Positive(2)

**Current Status: Medium  
(10)**

**Current Risk Severity: 5 - Very  
High**

**Current Risk Likelihood: 2 -  
Low**

**Service Manager: Michael Lowe**

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# Risk Matrix Community Appendix 3

## Report For Community - Cllr Dennis Knowles Portfolio Current settings

<b>Risk Likelihood</b>	<b>5 - Very High</b>	<b>No Risks</b>	<b>No Risks</b>	<b>No Risks</b>	<b>No Risks</b>	<b>1 Risk</b>
	<b>4 - High</b>	<b>No Risks</b>	<b>No Risks</b>	<b>No Risks</b>	<b>No Risks</b>	<b>1 Risk</b>
	<b>3 - Medium</b>	<b>No Risks</b>	<b>1 Risk</b>	<b>3 Risks</b>	<b>No Risks</b>	<b>No Risks</b>
	<b>2 - Low</b>	<b>No Risks</b>	<b>4 Risks</b>	<b>13 Risks</b>	<b>4 Risks</b>	<b>6 Risks</b>
	<b>1 - Very Low</b>	<b>1 Risk</b>	<b>No Risks</b>	<b>No Risks</b>	<b>4 Risks</b>	<b>1 Risk</b>
	<b>1 - Very Low</b>	<b>2 - Low</b>	<b>3 - Medium</b>	<b>4 - High</b>	<b>5 - Very High</b>	
	<b>Risk Severity</b>					

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

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## Community PDG Annual Chairman's Report 2019/20

The year kicked off with our first meeting in June, during which we discussed whether Parish and Town Councils should be able to recommend that a street be named after an individual whilst they were still alive. It was agreed that this should be allowed. It was subsequently approved by Council and our recommended wording was placed in the Street Naming and Numbering procedure.



The Council continues to support local charitable organisations, and the Group heard a presentation from the Churches Housing Action Team (CHAT) on the work they are doing in the District. The Group also reviewed the level of grant funding for external agencies under the Community Strategic Grants Programme for the period 2020 to 2023. We agreed to set up a Working Group to review the level of funding to individual strategic grant recipients in light of the reduced level of council funding.



The Group continues to hear regular updates from the Leisure Manager, outlining the health and wellbeing activities in the three leisure facilities at Exe Valley, Culm Valley and Lords Meadow. We have been pleased with the partnership work and wellbeing initiatives in facilities, as well as the refurbishment work that has taken place. During the year the Group also reviewed the Leisure Pricing Policy and delegated the decision for Leisure fees and charges to the Cabinet Member for Community Well Being.

An important part of the yearly activity is to review routine reports and receive regular financial updates, including performance and risk and the revenue and capital outturn figures. This year the Group focussed on the underspend on the Capital Programme and in particular which projects had slipped and when they would be progressed. We also discussed the draft budget for 2020/21, notably endorsing a recommendation from the Homes PDG that the weed team be retained.

As ever, the Group received a number of regular standing items, including: the annual review of Regulation of Investigatory Powers Act (RIPA); the annual review of the Corporate Health and Safety Policy; and the Single Equalities Policy and Equality Objective 2019-2021. We also have a standing item on community engagement, as part of which we considered the internal auditor's recommendation that a Customer Engagement Champion is introduced by the Council. Members felt that the idea was good but felt that the Leader, the Cabinet Member for Community Wellbeing and the Chairman of the Audit Committee would be best placed to make that decision.

A key policy discussion of note this year was on CCTV, and in particular the viability of installing mobile CCTV cameras for enforcement purposes. We heard from the Director of Operations that the Council would need to ensure it had a Policy on the deployment of cameras that was compliant with data protection legislation and the

latest guidance. The Group therefore agreed that a 'Use of CCTV' policy should be developed, detailing the governance around the use of mobile cameras and compliance with the latest guidance. This will be brought to the Group to review in June 2020.

During an update from the Cabinet Member for Community Well Being, the Group discussed representation at the Police and Crime Panel in Plymouth. In response to requests from Members, he confirmed that he would raise the issues of rural crime, county lines and the large area that Mid Devon Police had to cover at the next meeting of the Panel.

Given that poor air quality is one of the largest environmental risks to public health, an important discussion took place on the adopted Air Quality Action Plan for Crediton and the Cullompton. The Group discussed progress on the plan, as well as the air quality issues outside of schools, and heard how the Council is working with Devon County Council on the local transport plan and looking at any gaps in the strategic approach.

The Group also discussed the Council Tax Reduction Scheme and the revised Exceptional Hardship Policy. The hardship policy is an interim measure to transition people onto the new council tax levels and that net income was calculated for the whole household. We discussed how the new policy will be used to help customers bridge the loss of reduction in year one of the new scheme. Members requested details of the other criteria, apart from income, where people could get a reduction. The Group therefore recommended to the Cabinet that both were adopted.

This has been my first year as Chair of the Community PDG, having come to it following five years as Cabinet Member for Community Well Being up to 2019. This year the Group has made progress in promoting the health, safety and wellbeing of people within the District, and as we go into the next municipal year we will continue to focus on these important issues. Alongside the issues we have discussed this year, the Group plans to also look at community engagement in the next year, notably how we can better engage members of the public in decision making. I would like to thank the Members and Officers for their contributions, as well as our Clerk, Carole Oliphant, for keeping us on track.

Cllr Colin Slade