

Public Document Pack

Mid Devon District Council

Managing the Environment Policy Development Group

Tuesday, 10 March 2015 at 2.00 pm
Phoenix House, Phoenix Lane, Tiverton EX16 6PP

Next ordinary meeting
Tuesday, 9 June 2015 at 2.00 pm

Those attending are advised that this meeting will be recorded

Membership

Cllr M A Lucas
Cllr D R Coren
Cllr Mrs D L Brandon
Cllr J M Downes
Cllr J D Squire
Cllr Mrs M E Squires
Cllr Mrs N Woollatt

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 **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.
- 3 **Minutes of the Previous Meeting** (*Pages 5 - 12*)
To approve as a correct record the minutes of the last meeting.
- 4 **Motion 515 (Councillor Mrs N Woollatt - 20 January 2015)**
To consider the following Motion referred by the Council to the Policy Development Group.

That this Council:

- 1 Bans the sale or use of sky lanterns when issuing licences for open-air events

- 2 Bans the release of sky lanterns from MDDC property
- 3 Urges Devon County Council to consider a similar ban as at (2.) on its property

5 **Public Conveniences Update** *(Pages 13 - 24)*

The Group to receive a report from the Head of Housing and Property Services updating Members on progress regarding public conveniences.

6 **Contaminated Land Cost Recovery Policy** *(Pages 25 - 54)*

To receive a revised Contaminated Land Cost Recovery Policy.

7 **Play Area Update** *(Pages 55 - 70)*

The Group to receive a report from the Head of Housing and Property Services updating them on consultation with Parish and Town Councils regarding future provision of play areas and the offer for them to take ownership.

8 **Financial Monitoring** *(Pages 71 - 82)*

Report of the Head of Finance detailing financial monitoring in respect of the ten months to 31 January 2015.

9 **Performance and Risk** *(Pages 83 - 86)*

The Group to receive a report of the Head of Communities and Governance providing Members with an update on performance against the corporate plan and local service targets for the 2014/15 financial year as well as providing an update on the key business risks.

10 **Car Parking Working Group Update**

The Chairman of the Car Parking Working Group will provide an update on progress to date.

11 **Waste and Recycling Update**

The Head of Finance will update the Group on the Waste and Recycling Trial that took place in February.

12 **Chairmans Annual Report** *(Pages 87 - 90)*

To receive the Chairman's draft annual report on the work of the Group since May 2014, which will be submitted to Council on 29 April 2015.

13 **Identification of Items for the Next meeting**

Members are asked to note that the following items are already identified in the work programme for the next meeting:

Election of Chair

Election of Vice Chair

Performance and Risk

Financial Monitoring

Air Quality update following the opening of the bypass in Crediton

Waste/Planning guidelines

Kevin Finan
Chief Executive
Monday, 2 March 2015

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

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

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on 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 Julia Stuckley on:

Tel: 01884 234209

Fax:

E-Mail: jstuckey@middevon.gov.uk

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MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the MANAGING THE ENVIRONMENT POLICY DEVELOPMENT GROUP held on 13 January 2015 at 2.00 pm

Present Councillors

D R Coren (Vice Chairman),
Mrs D L Brandon, J D Squire,
Mrs M E Squires and Mrs N Woollatt

Apologies Councillors

M A Lucas and J M Downes

Also Present Councillors

N V Davey, R F Radford, R L Stanley and K D Wilson

Also Present Officers:

Adrian Cook (Open Spaces Manager), Andrew Jarrett (Head of Finance), Nick Sanderson (Head of Housing and Property Services), Julia Stuckey (Member Services Officer) and Stuart Noyce (Waste and Transport Manager)

42 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllrs J M Downes and M A Lucas (Chairman). In the absence of the Chairman the Vice Chairman, Cllr D R Coren, took the Chair.

43 PUBLIC QUESTION TIME

Referring to item 5 on the agenda Mr Grantham said that this Committee has before it a very comprehensive report by consultants which, if recommended in its present form, can have far reaching effects on local communities in relation to future planning decisions. Are Members aware that there is a part 2 to the report which is not attached to your report, has not been published to date and contains a number of area profiles?

Your Officer kindly supplied the Willand area profile when asked for it but are you aware that the key maps are not very clear and contain errors of designation which lead to misleading information in the main report?

Are members satisfied that such an important decision can be made from a report where the authors do not appear to have visited and inspected the locations?

Referring to item 5 on the agenda Mr Ursell asked are Members aware that the report before you indicates that Willand has sufficient supply of allotment space? The Parish Council administer those allotments on behalf of the landowners, a local charity. They are all allocated and there is a waiting list. Which is to be believed those who operate it or the authors of the report who have not visited the site?

A further example is that it is stated that there are two sites for teenage facilities but only one can be seen on the map supplied. The Parish Council recognise this area as a mound of grass and weed covered earth which was constructed for BMX use. Can members define 'teenage facilities' please?

Are members aware that three of the ten play areas are being considered for removal?

Referring to agenda item 5 Mr Warren said that currently there is a survey being conducted into play area provision and Parish and Town councils are being asked to consider taking over control of some or all of the play areas within the Parish and the removal of some. The outcome of this will affect the report before you. Is there any process in place to have some 'joined up' thinking and decision making on this, as it will affect the planning process?

Is it the right time of year to be asking us to monitor the use of play areas with the dark evenings and adverse weather?

If the Parish take over control and spend Parish money on maintaining the play areas will the ownership of the land pass to the Parish in order that they may have security of tenure to retain the site as a play area or public open space for the future?

Willand Parish Council has offered to take over a large open space from MDDC in the centre of the village in order that it may be properly maintained, as MDDC have not done so, as publicised in the local press. The offer was discussed by MDDC and a decision made but we were not advised of the outcome until the matter was pursued by one of our District Councillors. We have been denied sight of the minutes where a decision was made and we have been told that it would be transferred to the Parish if we supported MDDC selling off part of the land for market housing. Do Members consider this stance likely to encourage Parishes or Towns to take over the maintenance of sites? Is this a sensible decision when the report before you shows that Willand has a considerable shortfall of some open public space?

Finally one of the sites recommended for removal at Willand is well used and has had some items of equipment removed from it. The rest has been repaired and painted to the extent that some thought it had new equipment. This is the nearest play area and open space to a recommended new development under the currently discussed local plan. Do the two departments consult on such issues?

The Chairman indicated that the answers to the questions raised would be provided at the appropriate agenda item.

44 MINUTES OF THE PREVIOUS MEETING

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

45 CHAIRMAN'S ANNOUNCEMENTS

The Chairman hoped that Councillor Lucas would have a speedy recovery and sent his best wishes.

46 **OPEN SPACE AND PLAY AREA STRATEGY (00.09.38)**

The Committee had before it a report* from the Head of Housing and Property Services regarding the revised Open Space and Play Area Strategy which had been amended to meet the National Planning Policy Framework.

The Open Spaces Manager explained that the Council, through its Planning Department had to produce an Open Spaces and Play Area Strategy as part of its Local Plan; this strategy covered the period up to 2033, consistent with the Local Plan review (2013-2033).

The Strategy encompassed all open space and play area provision throughout Mid Devon. It needed to be evidence based and be able to stand up to scrutiny when challenged.

Ethos Environmental Planning, a company specialising in this field were awarded the contract to produce the plan in conjunction with Officers from Planning and Environmental Services.

As this PDG made recommendations regarding how the council's play area stock was managed, it was important that members were aware of the revised standards set for the provision of open spaces.

The Officer went on to explain that a further project, to identify play areas that could be passed into the care of Parish Councils was also being looked into and that this would be an agenda item at a future meeting of this Group.

Discussion took place regarding:

- The cost of commissioning the report;
- The accuracy of the data within the report;
- Consultation that had taken place, who with and the number of responses;
- The need for ongoing updating of the database.

In answer to questions asked during public question time the Open Spaces Manager informed the Group that:

- Part two of the report contained area profiles. This included maps and was a large document. It had not been possible to issue this with the agenda, but it would be available shortly on the internet in order that it could be accessed by all. It was advisable to view this on the internet as maps could be enlarged and therefore more clearly seen. Any errors could be identified here and fed back for amendment.
- With regard to the allotments in Willand the Officer did not think that this information had been fed back from the Parish Council.
- The Officer agreed that it was very difficult to define what facilities should be provided for teenagers and discussion took place regarding the difficulties that other Parishes had experienced with teenagers, despite having provided appropriate facilities.

- The Open Spaces Manager confirmed that where this report had identified over provision there would need to be future discussion.
- The Head of Housing and Property Services responded, with regard to the question about selling land in Willand for housing, that the area was being looked at for potential housing but that this was only in the very early stages. The Council was obliged to make best use of its assets and that was why this was being considered. No decision had been made but at some time in the future an Officer recommendation may be put to Members. He confirmed that there had been no intention to withhold information from the Parish Council and that a meeting could be arranged. The removal of this play area would not necessarily affect the overall provision for Willand as further provision may be provided with investment in other areas.
- With regard to whether or not the services consult each other, the Officer explained that this strategy had been consulted on by Planning, Grounds Maintenance and Open Spaces.

Further discussion took place regarding Parish Councils and the need for them to respond fully to requests for feedback and consultation. All Parish Councils had been consulted regarding this strategy but not all had responded and some had given little feedback in their response.

It was **RECOMMENDED** that the Cabinet adopt the Open Spaces and Play Area Policy, subject to part 2 of the document (area profiles) being made available to Parish Councils and Ward Members for ratification.

(Proposed by Cllr Mrs N Woollatt and seconded by Cllr Mrs M E Squires)

Note: Report previously circulated and attached to minutes.

47 **FIXED PENALTY NOTICES (01.15.00)**

The Head of Finance updated the Group on the number and type of Fixed Penalty Notices (FPN's) that had been issued in the last 12 months.

From April 2014 to the end of November 2014 14 Fixed Penalty Notices had been issued, as below:

3 Dog Fouling
1 Smoking in a public place
10 Littering

Of these FPN's 10 had been paid.

This was a similar level of activity to the previous year.

48 **BUDGET UPDATE (01.23.02)**

The Group had before it a report* from the Head of Finance requesting that Members consider options available in order for the Council to move towards a balanced budget for 2015/16.

The Officer explained that the formal confirmation of the Formula Grant settlement had been received prior to Christmas, which had been £83k more than expected; therefore the budget gap was now projected to be £99k.

He went on to explain that costs and income stream from the new waste scheme were difficult to predict. The figure of £50 per household for garden waste collection had been used, for the purposes of budget setting but this was subject to change. The garden waste scheme would be priced 'at cost'. It had been estimated that there would be a 1/3 take up of the scheme. The trial that would be taking place in February would give further indications on the volume of materials likely to be collected.

Development Control fees had been revised due to increased volume.

The Feed in tariff was performing well.

Note:- Report previously circulated and attached to the minutes.

49 **PRIVATE WATER SUPPLIES (01.34.00)**

The Public Health Manager updated the Group on Private Water Supplies within the District

The Officer explained that a private water supply was any supply of water that had not come from the public supply. Mid Devon had a large number of private water supplies due to the rural nature of the area and the type of land.

New legislation introduced in 2010 meant that Local Authorities were obliged to risk assess and test private water supplies that had previously been largely unregulated. This requirement was only on those supplies that provided more than 10 cubic meters per day or commercial supplies (Regulation 9 supplies) and smaller supplies serving more than one property (Regulation 10 supplies).

Regulation 9 supplies had to be risk assessed once every 5 years and sampled annually. For regulation 10 supplies the risk assessment frequency was also 5 yearly however sampling was only required once every 5 years.

Single domestic property supplies did not have to be assessed or tested, but if a test was requested the authority was obliged to do so. This was typically requested when properties with a private supply were sold or a new supply was commissioned.

A charge could be made for risk assessing and testing but the amount was capped by the Government. Some risk assessments could be complex, taking up to two days to complete including site visits and sampling to assess multiple boreholes, storage facilities, pump houses, treatment facilities and supply points across a wide geographical area (e.g. large rural estates or manufacturers). All work had to be done to strict Drinking Water Inspectorate (DWI) requirements.

There were currently almost 100 Regulation 9 supplies and 164 Regulation 10 supplies in Mid Devon.

Water supplies tended to be bore holes or springs in fields so water could be contaminated by animals, land spreading or even human sewage. Ineffective treatment and poor pipework could also cause chemical and biological problems leading to a potentially huge health impact on anyone using and consuming the supply for drinking, cleaning or food production purposes for example.

The Council had powers within the new legislation to require improvements to supplies that failed to meet standards where the owner of the supply was not co-operative.

The DWI had recommended that Local Authorities focus on completing risk assessments/tests on all Regulation 9 supplies by the end of 2014. 87% of those had been completed with the remainder scheduled to be completed by the end of March 2015.

The Officer considered therefore that the Authority was performing well and had achieved an income of £19.5K to date this financial year, more than its £18K target. There was a dedicated Officer who spent most of their time working on this.

50 **WASTE AND RECYCLING SCHEME (01.48.25)**

The Waste and Transport Manager updated Members on the proposed trial for the new waste and recycling scheme, new vehicles, missed collections and the new depot.

The Officer confirmed that the new depot was still performing well, and there would be further improvement with the introduction of the new vehicles. Some minor changes would be needed to accommodate the materials from the new scheme but the changes would not be required for the trial.

Five new vehicles for urban use had been delivered and five new vehicles for rural use were expected within the next few days. Staff would receive training before the vehicles were put into use.

The trial for the new scheme had been put in place. A roadshow event had been arranged for Tuesday 27th January at the Moorhayes centre, Tiverton and leaflets had been prepared. Containers had arrived and would be delivered at the appropriate time along with the explanatory leaflet.

The urban area selected for the trial was within Tiverton and the rural area just on the outskirts of Tiverton. These areas had been selected for their proximity to the town as this would make it easier to monitor and cheaper to operate.

A Member Briefing would be held on Thursday 15th January at 5.30pm in the Exe Room for all Members.

It was possible that the collection of mixed plastics and cardboard with the dry recycling could be implemented prior to October. This would generate income, utilise

the vehicles and provide a service that the public want. Discussion took place regarding the types of cardboard and plastic that would be collected and the various means of collecting them.

The Officer explained that the trial would be beneficial in providing information regarding how much plastic and card could be expected when the scheme was fully implemented and the volume of food waste. However, it was unlikely that the trial would provide any indication on the take up of garden waste collection as no charge would be made during the trial and February would not generate large amounts of garden waste.

The Officer provided statistics regarding missed collections, which showed that performance was within target.

Refuse & Recycling Missed Collections 2014/15												
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Refuse and Composting Number of missed	363	196	631	171	97	84	57	44	39			
Kerbside Recycling Number of missed	284	191	244	127	79	51.0000	35	25	20			
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Refuse and Composting % of missed	0.242	0.131	0.420	0.114	0.065	0.056	0.038	0.029	0.026	0.000	0.000	0.000
Kerbside Recycling % of missed	0.378	0.254	0.325	0.169	0.105	0.068	0.047	0.033	0.027			
Target	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3

51 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING

Items for the next meeting on 10 March 2015:

Chairman's Annual Report
 Waste/Planning re communal bin stores
 Contaminated Land Policy
 Play Area Update
 Public Conveniences Update
 Performance and Risk
 Financial Monitoring
 Car Parking Working Group update

(The meeting ended at 4.30 pm)

CHAIRMAN

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MANAGING THE ENVIRONMENT PDG

10 MARCH 2015

Update on the review of Mid Devon District Council's public convenience provision

Cabinet Member: Cllr Ray Stanley
Responsible Officer: Estates Manager

Reason for this report: To provide an update on the provision of public conveniences across the district following the last report dated 2 September 2014.

Recommendations: To recommend to Cabinet the following:

1. To accept the Crediton Town Council £5k contribution for the 2015/16 financial year and keep both Newcombes Meadow and Market Street toilets open. This contribution to meet 100% costs for the provision of public conveniences in Crediton from 2016/17 onwards.
2. That the transfer of the Newcombes Meadow convenience from MDDC to Crediton Town Council with the appropriate legal conditions to ensure that the property continues to provide public services for the community be agreed.
3. That the transfer of the closed St Laurence Green convenience from MDDC to Crediton Town Council, with the appropriate legal conditions to ensure that the property is not sold for profit or used for commercial purposes, be agreed.
4. To accept the £1k contribution from Cullompton Town Council and to negotiate 50% funding post the May election for the remainder of the 2015/16 financial year to prevent closure on the 1 September 2015.
5. To seek a 100% contribution from Cullompton Town Council, to be in place for 2016/17 to maintain these facilities.
6. To agree the three year transition plan providing for full costs to be met by Bampton Town Council in 2017/18.
7. That the asset transfer from MDDC to Bampton Town Council in the 2017/18 financial year include the appropriate legal conditions to ensure the property continues to provide public services for the Community.
8. To approve the £500 contribution from Sapmford Peverell Parish Council for the 2015/16 financial year and to continue to monitor usage during 2015/16.
9. To agree the three year transition plan providing for full costs to be met by Hemyock Parish council by 2017/18.

10. That the transfer of the Hemyock convenience in the 2017-2018 financial year from MDDC to HPC, with the appropriate legal conditions to ensure that the property is not sold for profit or used for commercial purposes, be agreed.

Relationship to Corporate Plan: No direct impact.

Financial Implications: The Council is looking to reduce its net budget by £1m in 2015/16; this is over 10% of the total net budget of £9.2m. This includes the allowance of the circa £580k cut in government grant and inflationary increases on expenditure across services. The Council would look to reduce operational spend by at least £50k on public conveniences over the next three years to match the further anticipated cuts.

Legal Implications: There is no statutory obligation for a local authority to provide public conveniences.

Risk Assessment: Environmental impact considered as to proximity of alternative public conveniences where the review has recommended closure where practicable.

1.0 Introduction

- 1.1 The approved recommendation outlined in the previous report dated 2 September 2014 has resulted in a direct costs saving for public conveniences of circa £12k in 2014/15 and latest reduction of circa £30k from the 2015/16 budget.

2.0 Estimated total cost of running the service

- 2.1 For information purposes, the total net direct budget for the public convenience financial year 2015/16 is £90,420.

2.2 Direct costs

- Employees/Transport £ 40,210
- Premises/Supplies & Services £ 92,370
- Income £-42,160

Total Direct Cost £ 90,420

3.0 Latest responses from Parish Councils

3.1 Tiverton

- 3.1.1 There are six conveniences properties in Tiverton and Tiverton Town Council (TTC) has responsibility for four of these facilities that are identified as Peoples Park, Market Square, West Exe Recreation and Westexe South. The convenience at Phoenix Lane was closed due to extensive vandalism and Lowman Green has been scheduled for development in 2015.

3.1.2 Peoples Park and Westexe Recreation

In previous financial years TTC has paid circa £5k in partnership funding towards the running costs of two public conveniences that are now operational during British Summer Time only and are funded by TTC.

3.1.3 Market Square

MDDC will contribute £2k per annum in the first two years of operating the Market convenience. The Property Services team continues to provide support on maintenance issues whilst the TTC is establishing its service. The costs for non-structural maintenance work is then cross-charged from MDDC to TTC on a quarterly basis.

3.1.4 Phoenix Lane

As previously approved, the Phoenix Lane convenience closed in July 2014 following extensive vandalism. MDDC intends to share the building with TTC for much needed storage space and MDDC will arrange for the business rates to be revaluated. Minor building works are required to make the most of the space that will be completed by MDDC at a cost of circa £5k.

3.1.5 Lowman Green

A planning application has been submitted for an office and/or a retail unit at Lowman Green. A local estate agent will be marketing the conversion on behalf of MDDC and rental charges have been set at £12,500 per annum, that calculates to be £25 per square foot per annum. An advertisement board has been fitted to the side of the building adjacent to the clock tower. Tender documentation will be prepared and works scheduled to start at the end of May 2015.

3.1.6 Shop Mobility Conveniences

The arrangement between TTC and Shop Mobility has ceased following the conveniences being used for solvent abuse. This arrangement was put in place following the closure of the Phoenix Lane convenience. Signage has been placed at the closed convenience to redirect members of the public to Phoenix House and the Market conveniences and details the opening hours.

3.2 Crediton

- 3.2.1 It was agreed with Crediton Town Council (CrTC) and Crediton Ward Members for officers to write to surrounding Parishes to give them the opportunity to contribute towards the running costs for St Lawrence Green. Table 1 lists those parishes who received a letter and responses received.

Table 1:- Parish contributions for St Lawrence Green

Parish	(£)	Response
Bow		Councillors resolved not to provide financial assistance
Chawleigh		E-mail sent to seek confirmation
Cheriton Bishop		Councillors resolved not to provide financial assistance
Cheriton Fizpaine	£50	Councillors resolved to offer £50 towards the running costs
Coldridge		Councillors resolved not to provide financial assistance
Colebrooke		Councillors resolved not to provide financial assistance
Copplestone		E-mail sent to seek confirmation
Crediton Hamlets		Councillors resolved not to provide financial assistance and asked if CTC was providing Financial assistance
Morchard Bishop		Felt that this is CTC responsibility
Newton St Cyres		Councillors resolved not to provide financial assistance
Nymet Rowland		Councillors resolved not to provide financial assistance
Sandford	£250	Councillors resolved to offer £250 towards the running costs
Shoebrooke		Councillors resolved not to provide financial assistance
Wembworthy		E-mail sent to seek confirmation
Total	£300	

3.2.2 MDDC continued negotiations with CrTC regarding contributions towards the running costs for Newcombes Meadow for the convenience to remain open all year round. It was resolved by CrTC to contribute £5k for the 2015/16 financial year in order to keep both Newcombes Meadow and Market Street toilets open all year, with the condition that both conveniences remain free to use and no coin operated systems are fitted.

3.2.3 CrTC has approached MDDC to consider asset transfer for the Newcombes Meadow and St Lawrence Green properties that will enable CrTC to be 100% financially and operationally responsible for the Newcombes Meadow and Market Street conveniences from 2016/17 onwards. The asset transfers would include covenants to ensure that the properties continue to provide conveniences for the public.

3.2.4 CrTC wishes to use the St Lawrence Green property as a storage facility. Once the St Lawrence Green property is transferred, CrTC will fund the conversion from a convenience to a storage facility. MDDC's capital programme includes £20k for this that will not now be required.

3.2.5 Valuations have been carried out by a chartered surveyor. The Newcombes Meadow property has been valued at £1k-£1.5k with the restriction of providing conveniences. The St Lawrence Green property has been valued at £7.5k with the restriction of storage use only.

3.2.6 As previously approved, MDDC will not be making a partnership contribution in 2015/16 for the Old Town Hall.

Recommendations to Cabinet:

3.2.7 To accept the Crediton Town Council £5k contribution for the 2015/16 financial year and keep both Newcombes Meadow and Market Street toilets open. This contribution to meet 100% costs for the provision of public conveniences in Crediton from 2016/17 onwards.

3.2.8 That the transfer of the Newcombes Meadow convenience from MDDC to Crediton Town Council, with the appropriate legal conditions to ensure that the property continues to provide public services for the community, be agreed.

3.2.9 That the transfer of the closed St Laurence Green convenience from MDDC to Crediton Town Council, with the appropriate legal conditions to ensure that the property is not sold for profit or used for commercial purposes, be agreed.

3.3 Cullompton

3.3.1 From 1 April 2015 Cullompton Town Council (CTC) has offered £1k per annum towards the running costs of the public convenience in Cullompton. Negotiations have continued with CTC who have stated that CTC is committed to retaining the convenience as a facility for the Cullompton community and visitors to the town, however due to the May elections, CTC do not feel that it can make any decisions at present that could have a significant impact on the finances of the new Council. Once the elections are over, and CTC have a new Council, CTC will place this item on its agenda for discussion.

3.3.2 The adjacent public house, 'The Kings Head', has registered interest in using the convenience block for its functions and this will be explored with the Town Council. Terms and conditions of hire would need to be agreed with CTC that will determine who is liable for damage, utility usage and to state what type and level of insurance is required.

Recommendations to Cabinet:

3.3.3 To accept the £1k contribution from Cullompton Town Council and to negotiate 50% funding post the May election for the remainder of the 2015/16 financial year to prevent closure on the 1 September 2015.

3.3.4 To seek a 100% contribution from Cullompton Town Council, to be in place for 2016/17 to maintain these facilities.

3.4 **Bampton**

3.4.1 Bampton Town Council (BTC) has plans to refurbish the public convenience to create individual unisex and disabled cubicles with coin operated locks. BTC will be funding the significant refurbishment works and MDDC will contribute £1k to enable the project. The building will require a pre-demolition/refurbishment survey and our Planning and Building Control service will need to be consulted.

3.4.2 A financial plan has been sent to BTC to outline a three year transition plan that is detailed below. In previous years MDDC has made partnership contributions of £3,696 per annum towards the daily cleaning, in addition to the annual running costs.

Financial year 2015/16

3.4.3 50% reduction on partnership funding with a required contribution of £1,848 from MDDC.

Financial year 2016/17

3.4.4 100% reduction on partnership funding towards cleaning and 50% contribution from BTC towards running costs.

Financial year 2017/18

3.4.5 100% running costs to be met by BTC (£2,846 includes uplift for utilities).

3.4.6 BTC has requested that the asset is transferred from MDDC to BTC in the 2017/18 financial year. A property valuation has been carried out by a chartered surveyor and the property has a value of £1-£1.5k with the appropriate restrictions. The transfer will include legal clauses to ensure that the property continues to provide public services.

Recommendations to Cabinet:

3.4.7 To agree the three year transition plan providing for full costs to be met by Bampton Town Council in 2017/18.

3.4.8 That the asset transfer from MDDC to BamptonTown Council in the 2017/18 financial year include the appropriate legal conditions to ensure the property continues to provide public services for the community.

3.5 **Down St Mary**

3.5.1 The Estates Manager has previously attended Down St Mary Parish Council (DsMPC) meetings and the £830 per annum contribution has been approved.

3.6 **Sampford Peverell**

- 3.6.1 The convenience at Sampford Peverell was included as part of the 2006/07 PC refurbishment plan and a Disabled WC has been constructed within the footprint of the property. Total refurbishment costs were circa £20k.
- 3.6.2 It was previously questioned by Sampford Peverell Parish Council (SPPC) members that the toilet facilities are not generally used by the parishioners of Sampford Peverell, so why would it need to finance this amenity.
- 3.6.3 SPPC discussed the partnership funding at its meeting on 27 January 2015 following MDDC request of increasing the annual contribution from £300 to £500 per annum towards the operational costs of the public convenience. SPPC Members were disappointed that the Grand Western Canal is unable to make a contribution towards the operational costs.
- 3.6.4 SPPC allocation towards the Canal will be diverted to assist with the increased contribution of £50k towards the operational costs for the convenience (approximately equal to 50% of the operational costs) payable for the 2015/16 year.
- 3.6.5 The water usage at these facilities indicates a low level of users, averaging 4 per day. In the light of this low level, the water used will be monitored for 2015/16 and the long term sustainability will be reviewed in 12 months.

Recommendations to Cabinet:

- 3.6.6 To approve the £500 contribution from Sampford Peverell Parish Council for the 2015/16 financial year and to continue to monitor usage during 2015/16.**

3.7 **Hemyock**

- 3.7.1 The Estates Manager has met with Hemyock Parish Council (HPC) to discuss the future of the convenience and, following discussions with the Parish Clerk, a three year financial transition plan has been provided.

Financial year 2015/16

- 3.7.2 HPC has agreed to pay £1.5k towards the £4k per year towards the running costs.

Financial year 2016/17

- 3.7.3 Subject to agreed refurbishment works, HPC has agreed to pay 100% full running costs for this financial year. Refurbishment work will be circa £10k and to be funded by MDDC.

Financial year 2017/18

3.7.4 HPC wishes to take on the freehold of the property that will be transferred from MDDC to HPC, so that MDDC releases itself from ongoing liabilities. The property has been valued by a chartered surveyor at a value of £1-1.5k to be kept as an asset for public services.

Recommendations to Cabinet:

3.7.5 To agree the three year transition plan providing for full costs to be met by Hemyock Parish Council by 2017/18.

3.7.6 That the transfer of the Hemyock convenience in the 2017/18 financial year from MDDC to HPC, with the appropriate legal conditions to ensure that the property is not sold for profit or used for commercial purposes, be agreed.

3.8 Partnership arrangements

3.8.1 MDDC will be making the following partnership contributions for 2015/16 as previously agreed:

	£
Orchard Way Car Park, Lapford	250
The Village Hall, Chawleigh	371
Woodleigh Coach House, Cheriton Bishop	478
Bampton PC Cleaning	1,850
Old Crediton Town Hall	0

3.9 Coin Operated Locks

3.9.1 The cost of installing coin operated locks at a convenience has been investigated.

3.9.2 A typical convenience has three entrance doors; Gents, Ladies and Disabled. Individual coin operated locks are available and can be adapted to fit standard doors and can hold up to 200 coins before it needs emptying, which could be carried out by the cleaning team. The cost of the lock is £360 each with an estimated installation cost of circa £70 for each lock.

3.9.3 Further investigation would be required for installing coin operated locks onto disabled cubical doors and the use of the nationally recognised RADAR key that would override the lock and prevent the user from using a coin.

3.9.4 An alternative installation would be a central coin operated point that also locks the doors automatically and has a visual display. This installation would only be suitable for entrance doors that are located close together such as the Market Street, Crediton conveniences. Systems of this type cost circa £1-1.5k each with an estimated installation cost of £500.

3.9.5 There are no plans to implement coin operated locks at the present time as these do not meet the needs of our facilities.

4.0 Method of measuring footfall

4.1 The cleaning team have been monitoring the water usage at five conveniences as shown in table 2 to provide an indication of footfall.

Table 2:- Method of monitoring footfall

Convenience	Number of days monitored	Water usage (litres)	Average numbers of users
Down St Mary	73	47540	42
Sampford Peverell	86	4508	4
Cullompton	36	9280	16
Newcombes Meadow	73	37540	33
Market Street	73	24540	21

5.0 Financial implications

5.1 A summary of the net cost of toilet provision for 2013-2018 is attached as annex A to show the impact of the changes agreed above.

Contact for more Information: Nick Sanderson, Head of Housing & Property Services or Andrew Busby, Estates Manager, 01884 234948, abusby@middevon.gov.uk

2013/14 - 2017/18 Public Convenience Budget

	13/14	14/15	15/16	16/17	17/18
	PC	PC	PC	PC	PC
Toilets	Budget	Budget	Budget	Budget	Budget
The Green (PC) Cred Closed Sept 14	9,187	8,786	235	-	-
Newcombes Field (PC)	7,536	7,208	875	-	-
Market (PC) - Tiverton	21,848	20,896	2,000	2,000	-
Luke St (PC) - Bampton	6,683	6,391	4,636	1,600	-
Peoples Park (PC) Tiv	1,249	1,194	-	-	-
Lowman Green (PC) Tiv	12,955	12,390	-	-	-
Lower Town (PC) Sampford Peverell	1,464	1,400	3,174	2,770	2,870
Phoenix Lane (PC) Tiv Closed July 14	25,272	24,171	-	-	-
Wellbrook St (PC) Westexe Rec Tiv	114	109	-	-	-
Station Road (PC) Cullompton	8,072	7,721	5,853	3,010	-
Morchard Rd (PC) Down St Mary, Cred	7,510	7,183	5,368	4,700	4,870
Culmbridge Rd (PC) Hemyock	2,763	2,642	2,459	-	-
Westexe South (PC) Tiv	5,998	5,737	-	-	-
Parliament Square (PC) Crediton	6,809	6,512	4,850	-	-
Partnership Parish PC'S	3,628	3,470	760	-	-
Refurb of Westexe Rec and deep clean	-	-	-	-	-
O/time budget recharged Paddling Pools	7,382	7,060	-	-	-
Provision for refurb to enable PC transfers			20,000		
MDDC Staff cleaning/Vehicle costs	-	-	40,210	41,400	42,640
Total Net Direct Budget	128,470	122,870	90,420	55,480	50,380

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MANAGING THE ENVIRONMENT PDG 10 March 2015

Contaminated Land Cost Recovery Policy

Cabinet Member: Cllr Neil Davey
Responsible Officer Public Health and Professional Services Manager

Reason for report: To approve the attached revised Contaminated Land Cost Recovery Policy.

RECOMMENDATION: That Members note the content of the report and recommend to Cabinet the adoption of the updated policy.

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 Managing the Environment and Community Well Being corporate priorities.

Financial Implications and Risk Assessment: 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.

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. 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.

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 April 2014 the Council can no longer apply for external funding from the Defra Contaminated Land Capital Projects Programme to cover up 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 may be withdrawn or changed in the future, which was clearly the case.

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.

Legal Implications: Under Part 2A of the Environmental Protection Act 1990, the Council have 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 and accompanying statutory guidance and the Councils Contaminated Land inspection strategy. 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.

At the time of producing this revised policy, following the recent 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 as duplicated in Appendix II of the revised policy.

1.0 Background

1.1 The report presents a revised version of the current Contaminated Land Cost Recovery Policy approved by the Community Well Being PDG in June 2009 and subsequently adopted by Cabinet and Council. 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:

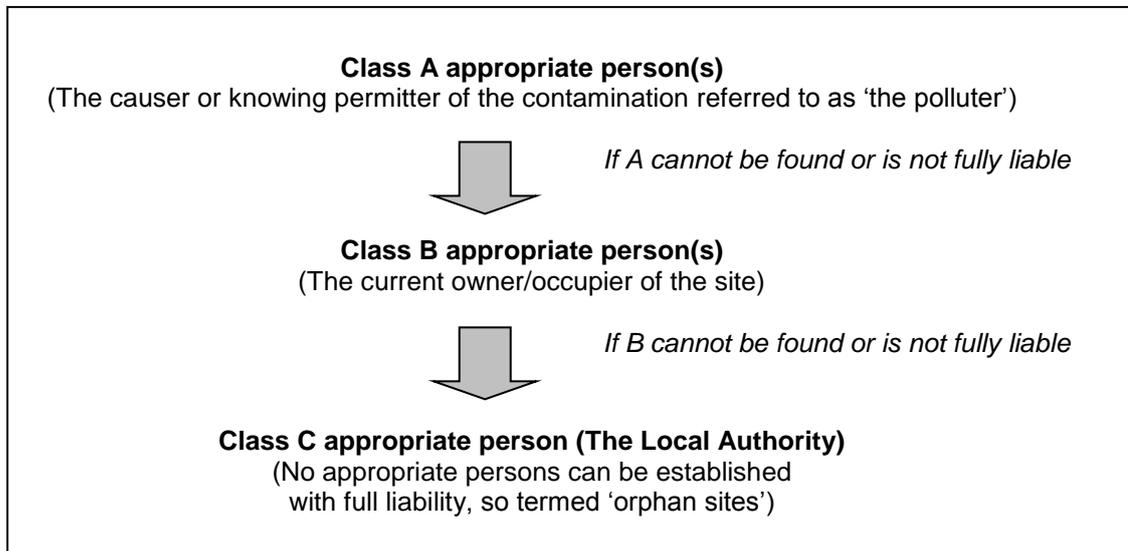
- Changes to over-arching legislative references brought in by amendment regulations in 2012
- Updated Defra Statutory Guidance (April 2012)
- Closure of the Defra Contaminated Land Capital Projects Programme in April 2014
- Removal of availability of Housing Repair Grants (replaced by loans issued in partnership with Wessex Home Improvement Loans)

1.2 Part 2A (Section 78) of the Environmental Protection Act 1990 (as inserted by Section 57 of the Environment Act 1995) 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.

- 1.3 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 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.
- 1.4 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.
- 1.5 The local authority 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.
- 1.6 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.
- 1.7 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
- 1.8 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. 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). 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



- 1.9 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 the local authority.
- 1.10 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.
- 1.11 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 eco-systems 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.
- 1.12 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

- 1.13 Under its current inspection strategy, the Council have identified more than 930 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. These categories inform the priority of which sites are investigated under the Part 2A legislation with those sites in A or B in particular most likely to give rise to significant harm to human health. Currently approximately 8% of all sites have been investigated and remediated where required. To date, the vast majority of these sites have been ‘voluntarily’ remediated through the development control regime rather than via regulatory intervention using Part 2A and this situation is unlikely to change.
- 1.14 In January 2010, under Part 2A the Council formally determined one high-risk former timber treatment site in Yeoford (redeveloped for housing in the 1970-80s). 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 that policy in place then the recovery of costs would have been made significantly more difficult and open to challenge.
- 1.15 Despite development control 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 use (e.g. housing or allotments).
- 1.16 Following the withdrawal of Defra capital funding (see above) the Council is no longer pro-actively targeting 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. 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.

2.0 Policy development and principles

- 2.1 This 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 updated statutory guidance (Defra April 2012). In developing this policy, 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).

- 2.2 Internal consultation on this policy was previously carried out with the respective heads or chief officers of the legal, finance, private sector housing and development control services.
- 2.3 Should the Council have need to implement the policy it must continue to have regard the primary legislation and statutory guidance (as may be updated) in addition to any relevant case law.
- 2.4 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).
- 2.5 The policy contains a mechanism to conduct an assessment of hardship which includes 'means testing' in order to establish an appropriate persons 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 the Data Protection Act 1998. Information received will only be used for the sole purpose of cost recovery decisions and in making judgements regarding the ability to pay in each individual case.
- 2.6 Overall, the policy will act as a guide for the decision making process in respect of the recovery of costs.

3.0 Decision sought

- 3.1 The recommendation of the adoption of the Contaminated Land Cost Recovery Policy provided with this report, to guide future decisions regarding the remediation of contaminated land in the district.

Contact for more information: Simon Newcombe (Public Health and Professional Services Manager) ext. 4615; email: snewcombe@middevon.gov.uk

Background papers:

Defra Environmental Protection Act 1990: Contaminated Land Statutory Guidance April 2012

Environmental Protection Act 1990 (Part 2A – sections 78A-78Y)

Local Authority Guidance on the Application of Part 2A, EPA 1990

Contaminated Land Report (CLR) 11: Model Procedures for the Management of and Contamination

Circulation of the report: Management Team, Cabinet member

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Mid Devon District Council

Contaminated Land Cost Recovery Policy

Policy Number: EP/CL/01/15

Target audience:

Management Team, Cabinet Member for Managing the Environment, Members of the Public affected by historic land contamination

...March, 2015

Version Control Sheet

Title: Contaminated Land Cost Recovery Policy

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: **Public Health and Professional Services Manager**
snewcombe@middevon.gov.uk
Telephone number 01884 244615

Date: ...**March 2015**

Version Number: 2

Status: draft – revision of policy reference EP/CL/01/09 dated 1 May 2009 following review (Version 1)

Review Frequency: **Every 5 years or sooner if required**

Next review date: **March 2020**

Consultation **This document was sent out for consultation to the following:**

Management Team
Cabinet Member
Managing the Environment Policy Development Group

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Head of Service*	20/02/2015	2
Management Team*	24/02/2015	2
Managing the Environment PDG*		
Cabinet*		
Council*		

*- Delete if not applicable

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APPENDICES

- I. Potential Scenarios and Outcomes
- II. Section 8 Defra Statutory Guidance

1. Introduction and scope

- 1.1 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.
- 1.2 Once a site has been legally determined as Contaminated Land, the local authority 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.
- 1.3 The enforcing authority (usually the local authority) 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.
- 1.4 The legislation (Environmental Protection Act 1990 Part 2A 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 person)
 - The **owner** for the time being of the contaminated land (Class B person)
 - The **occupier** for the time being of the contaminated land (Class B person)
- 1.5 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 authority has to decide how much each (Class A) person should pay towards remediation works.
- 1.6 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.
- 1.7 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).
- 1.8 Responsibility for cleaning up Contaminated Land will only fall on the local authority when no liable parties can be found for the site in question; so termed Orphan sites (this is only the case when the local authority is not regarded as a potential Class A or B party). Should this be the case, the local authority can no longer apply to central government for ring-fenced financial assistance in covering its costs following closure of the Defra Contaminated Land Capital Grants Programme in April 2014.

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- 1.9 If a remediation notice is served and not complied with or the Authority chooses not to serve a remediation notice, the Authority 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.
- 1.10 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.
- 1.11 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'.
- 1.12 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 for the Part 2A legislation and accompanying statutory guidance and the Councils Contaminated Land inspection strategy. 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 (see Section 2).
- 1.13 At the time of producing this policy, following the recent withdrawal of Defra grant funding (see 1.8), 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. Part 2A also remains an important driver for land remediation under the Planning regime and on a voluntary basis.
- 1.14 Planning controls already secure the remediation of over 90 per cent of contaminated sites in England. This is reflected within Mid Devon whereby land remediation is successfully secured as necessary through the planning process in consultation with the Council's Environmental Health team. This policy does not affect this.

2. Purpose of this policy

- 2.1 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 to the policy:

- Environmental Protection Act 1990 – Part 2A, sections 78A-78Y
- The Contaminated Land (England) Regulations 2006 (SI 2006 No.1380)
- The Contaminated Land (England) (Amendment) Regulations 2012 (SI 2012 No.263)
- Defra Environmental Protection Act 1990: Contaminated Land Statutory Guidance April 2012
- Environment Agency Contaminated Land Report CLR 11 – Model Procedures for the Management of Land Contamination

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2.2 In producing this policy, the Council has been obliged to take particular account of Section 8 of the Statutory Guidance (referenced above) 'Recovery of costs of remediation'. This Section is duplicated in full in Appendix II.

3. Application

3.1 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 the remediation stages of the Part 2A regime

3.2 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, 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.

4. General Considerations

4.1 This document sets out the Council's policy considerations in relation to the recovery of costs incurred during the remediation of contaminated land.

4.2 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.
- Wherever possible, apply the 'polluter pays' principle, whereby the remediation costs are borne by the 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 who may have to meet the costs of remediation, including national and local taxpayers.

4.3 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.

4.4 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 (EPA 1990 S78P(12)) or when the land is next sold.

5. Estimating Remediation Costs

5.1 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).

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5.2 A basic remediation options appraisal will be under taken by the Council based upon the principles set out in the guidance document *CLR11: Model Procedures for the Management of Land Contamination*. 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.

6. Information for Making Decisions

6.1 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.

6.2 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

6.3 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

7. Threat of Business Closure or Insolvency

7.1 In the case of a small or medium-sized enterprise¹ which is the appropriate person, or which is run by the appropriate person, the Council will consider:

¹A small or medium sized enterprise is considered to be an independent enterprise with fewer than 250 employees, and either an annual turnover not exceeding £40 million, or an annual balance sheet total not exceeding £27 million.

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- 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 Authority will consider waiving or reducing its costs recovery to the extent needed to avoid making the enterprise insolvent.

7.2 The Authority 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.

8. Trusts

8.1 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 Authority 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.

8.2 The Authority 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.

9. Charities

9.1 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 Authority 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.

10. Registered Social Landlords (RSLs)

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

10.2 The appropriate person is body eligible for registration as a social housing landlord under section 2 of the Housing Act 1996 (for example, a housing association);

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- 10.2 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.
- 10.3 The extent of the waiver or reduction will normally be sufficient to avoid any financial difficulties.

11. Specific Considerations Applying to Class A Persons

- 11.1 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 who caused or knowingly permitted the presence of the significant pollutants. This is because the appropriate person is likely to have earned profits from the activity, which created or permitted the presence of those pollutants.

12. Where Other Potentially Appropriate Persons Have Not Been Found.

- 12.1 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.
- 12.2 The Authority 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 Authority's costs recovery would either:
 - (i) Be excluded from liability by virtue of one or more of the exclusion tests set out in the Statutory Guidance (Defra, April 2012), 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 Statutory Guidance (Defra, April 2012).
- 12.3 Where an appropriate person is making a case for the Authority's costs recovery to be waived or reduced by virtue of paragraph 12.2 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.

13. Specific Considerations Applying to Class B Persons

- 13.1 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

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time the cost recovery decision is made, disregarding any possible blight arising from contamination.

- 13.2 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.
- 13.3 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.
- 13.4 For Class B person owners and occupiers, the council will consider waiving or reducing its costs recovery where that person satisfies the Authority 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.
- 13.5 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.
- 13.6 Inherited property will be treated as though the property was purchased.
- 13.7 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.
- 13.8 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 13.1 above will be applied to each dwelling and its curtilage independently.
- 13.9 In judging the extent of a waiver or reduction in costs recovery from an owner-occupier of a dwelling, the council will apply an approach similar to used for applications for home improvement loans. These loans are assessed on a means-tested basis, as presently set out in the Councils current partnership arrangement with Wessex Home Improvement Loans (WHIL).The WHIL 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.
- 13.10 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 13.12 of this policy applies. Section 16 of this Policy addresses the scenarios that may arise in this event.
- 13.11 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 13.12 of

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this policy applies. Section 17 of this Policy addresses the scenarios that may arise in this event.

13.12 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 loan (housing repair assistance) if the contamination present is sufficient for it be categorised as a Class 1 hazard in accordance with current Housing Health and Safety Rating System (HHSRS published by DCLG May 2006). If this is the case then the Council will consider reducing the amount of liability to a maximum extent of the upper limit of a loan payable under the Councils loan scheme available at the time (currently the Council operate a loan scheme in partnership with not-for-profit organisation Wessex Home Improvement Loans, WHIL)

14. Precautions Taken Before Acquiring a Freehold or Leasehold Interest

14.1 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.

14.2 The Authority will consider reducing its cost recovery where a Class B person who is the owner of the land demonstrates to the satisfaction of the Authority 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.

14.3 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.

14.4 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 except radioactive contamination for which the Part 2A was extended to include from 4 August 2006) 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 aware of their potential liabilities and also enquires made to

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the Council would not have been made in same manner as enquires made after the legislation came into force.

15. Environmental Insurance

- 15.1 A range of commercial and homeowner environmental insurance policies have been available in the UK for a number of years. These include Environmental Liability Policies, Property Transfer Policies, First-Party Liability Policies, Homeowner Environmental Insurance Policies and other related insurance products.
- 15.2 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.
- 15.3 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.

16. Policy in the Event of Insufficient Means being Proved (Class B Persons)

16.1 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 be 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 the 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.

17. Policy in the Event of Sufficient Means being Proved (Class B Persons)

17.1 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 together. This is subject to there being sufficient resources available within the Council's capital works or other relevant budget or with the assistance of any available central government funding.

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(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.

18. Responsibility for Final Decisions regarding Cost-recovery

18.1 The responsibility for making final decisions in respect of cost recovery on a case by case basis shall be held by the Public Health & Professional Services Manager in consultation with the Head of Service and the Cabinet Member for Managing the Environment.

19. Policy Review

19.1 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.

19.2 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 5 years as a minimum.

Appendix I – Potential Scenarios and Outcomes

The following presents six scenarios describing how the liability would be determined and apportioned. They are fictional, simplified and for illustrative purposes only.

Scenario 1
<p>A residential site built in the 1970s has been determined 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. 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>
Potential Outcome
<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>

Scenario 2
<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>
Potential Outcome
<p>Investigations have not been able to determine a Class A appropriate (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 local authority. No remediation notice will be served (the local authority cannot serve a notice upon itself - instead a remediation statement will be issued outlining what the necessary works will entail).</p>

Scenario 3

A site has been determined Contaminated Land. No Class A (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 renter 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 local authority must consider whether serving a remediation notice will cause the company hardship. The local authority may therefore not serve the remediation notice; it will assess the company's ability to pay and apportion those reasonable costs to the company.

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 of assessing hardship.

Scenario 6

A site was been determined Contaminated Land in 2005; the site has 3 privately owned residential properties. The contamination is believed to have moved 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 £300,000.

Property 1 was bought in 1950 for £35,000, the property is owned outright.
Property 2 was bought in 2006 for £200,000, the property is owned outright.
Property 3 was bought in 2008 for £300,000 with a 100% 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 found by the local authority.

The owner of property 2 purchased it after it was determined Contaminated Land; they also have a net equity of £300,000 in the property. They are unlikely to be considered for hardship.

The owner of property 3 has no net equity from their property; hardship may be proven and works funded by the local authority.

Section 8: Recovery of the costs of remediation

- 8.1 The statutory guidance in this Section is issued under section 78P(2) of the 1990 Act. It provides guidance on the extent to which the enforcing authority should seek to recover the costs of remediation which it has carried out and which it is entitled to recover.
- 8.2 The main relevant sections of the 1990 Act are:
- Section 78P(1): "Where, by virtue of section 78N(3)(a), (c), (e) or (f)... the enforcing authority does any particular thing by way of remediation, it shall be entitled, subject to sections 78J(7) and 78K(6)..., to recover the reasonable cost incurred in doing it from the appropriate person or, if there are two or more appropriate persons in relation to the thing in question, from those persons in proportions determined pursuant to section 78F(7)..."
 - Section 78P(2): "In deciding whether to recover the cost, and, if so, how much of the cost, which it is entitled to recover under subsection (1) above, the enforcing authority shall have regard – (a) to any hardship which the recovery may cause to the person from whom the cost is recoverable; and (b) to any guidance issued by the Secretary of State for the purposes of this subsection."
- 8.3 This Section also explains when the enforcing authority is prevented from serving a remediation notice under section 78H(5), under which the authority may not serve a remediation notice if the authority has the power to carry out remediation itself, by virtue of section 78N. Under that latter section, the authority asks the hypothetical question of whether it would seek to recover all of the reasonable costs it would incur if it carried out the remediation itself. The authority then has the power to carry out that remediation itself if it concludes that, having regard to hardship and the guidance in this Chapter, it would either not seek to recover its costs, or seek to recover only a part of its costs. The relevant sections of the 1990 Act are:
- Section 78H(5): "The enforcing authority shall not serve a remediation notice on a person if and so long as... (d) the authority is satisfied that the powers conferred on it by section 78 below to do what is appropriate by way of remediation are exercisable..."
 - Section 78N(3) provides that the enforcing authority has the power to carry out remediation: "(e) where the enforcing authority considers that, were it to do some particular thing by way of remediation, it would decide, by virtue of subsection (2) of section 78P... or any guidance issued under that subsection, – (i) not to seek to recover under subsection (1) of that section any of the reasonable cost incurred by it in doing that thing; or (ii) to seek so to recover only a portion of that cost;..."

Section 8(a): Cost recovery decisions

- 8.4 This Section sets out considerations to which the enforcing authority should have regard when making any cost recovery decision. In view of the wide variation in situations which are likely to arise (e.g. due to variations in the history and ownership of land, and liability for its remediation) the guidance in this section sets out principles and approaches, rather than detailed rules. The enforcing authority should have regard to the circumstances of each individual case.

- 8.5 In making any cost recovery decision, the enforcing authority should have regard to the following general principles:
- (a) The authority should aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.
 - (b) The “polluter pays” principle should be applied with a view that, where possible, the costs of remediating pollution should be borne by the polluter. The authority should therefore consider the degree and nature of responsibility of the relevant appropriate person(s) for the creation, or continued existence, of the circumstances which lead to the land in question being identified as contaminated land.
- 8.6 In general the enforcing authority should seek to recover all of its reasonable costs. However, the authority should waive or reduce the recovery of costs to the extent that it considers this appropriate and reasonable, either: (i) to avoid any undue hardship which the recovery may cause to the appropriate person; or (ii) to reflect one or more of the specific considerations set out in the statutory guidance in sub-sections 8(b), 8(c) and 8(d) below. In making such decisions, the authority should bear in mind that recovery is not necessarily an “all or nothing” matter (i.e. where reasonable, appropriate persons can be made to pay part of the authority’s costs even if they cannot reasonably be made to pay all of the costs).
- 8.7 In deciding how much of its costs it should recover, the enforcing authority should consider whether it could recover more of the costs by deferring recovery and securing them by a charge on the land in question under section 78P. Such deferral may lead to payment from the appropriate person either in instalments (see section 78P(12)) or when the land is next sold.

Information for making decisions

- 8.8 In general, the enforcing authority should expect anyone who is seeking a waiver or reduction in the recovery of remediation costs to present any information needed to support such a request.
- 8.9 In making any cost recovery decision, the enforcing authority should consider any relevant information provided by the appropriate person(s). The authority should also seek to obtain such information as is reasonable, having regard to: (i) accessibility of the information; (ii) the cost, for any of the parties involved, of obtaining the information; and (iii) the likely significance of the information for any decision.
- 8.10 The enforcing authority should, in all cases, inform the appropriate person of any cost recovery decisions taken, explaining the reasons for those decisions.

Cost recovery policies

- 8.11 The enforcing authority may choose to adopt and make available a policy statement about the general approach it intends to take in making cost recovery decisions.

Section 8(b): Considerations Applying both to Class A & Class B Persons

8.12 Paragraphs 8.13 – 8.22 below set out considerations to which the enforcing authority should have regard when making any cost recovery decisions, irrespective of whether the appropriate person is a Class A person or a Class B person. They apply in addition to the general issue of the "hardship" which the cost recovery may cause to the appropriate person.

Commercial Enterprises

8.13 Subject to the specific circumstances set out below, the enforcing authority should adopt the same approach to all types of commercial or industrial enterprises which are identified as appropriate persons. This applies whether the appropriate person is a public corporation, a limited company (whether public or private), a partnership (whether limited or not) or an individual operating as a sole trader.

Threat of business closure or insolvency

8.14 In cases where a small or medium-sized enterprise is the appropriate person, or is run by the appropriate person, the enforcing authority should consider: (i) 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 (ii) if so, the cost to the local economy of such a closure.

8.15 Where the cost of that closure to the local economy appears to be greater than the costs of remediation which the enforcing authority would have to bear itself, the authority should consider waiving or reducing its costs recovery to the extent needed to avoid making the enterprise insolvent.

8.16 However, the enforcing authority should not waive or reduce its costs recovery where: (a) it is satisfied that an enterprise has deliberately arranged matters so as to avoid responsibility for the costs of remediation; (b) it appears that the enterprise would be likely to become insolvent whether or not recovery of the full cost takes place; or (c) it appears that the enterprise could be kept in, or returned to, business even if it does become insolvent under its current ownership.

8.17 For these purposes, a "small or medium-sized enterprise" should be taken to mean an independent enterprise which matches the definition of a "micro, small and medium-sized enterprise" as established by the European Commission Recommendation of 6 May 2003, and any updates of that definition as may happen in future. (Under the 2003 definition this would cover any such enterprise with fewer than 250 employees, and either an annual turnover less than or equal to €50 million, or an annual balance sheet total less than or equal to €43 million).

8.18 Local authorities may wish to take account in cost recovery decisions of any relevant policy on assisting enterprise or promoting economic development. In cases where the Environment Agency is the enforcing authority, it should seek to be consistent with the policy of the local authority in whose area the contaminated land is situated (if such a policy exists). The Agency should consult the local authority and take its views into consideration in making its own cost recovery decisions.

Trusts

- 8.19 Where the appropriate persons include persons acting as trustees, the enforcing authority should assume that such trustees will exercise all the 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 remediation. The authority should, 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 those costs.
- 8.20 However, the enforcing authority should not waive or reduce its costs recovery: (a) where it is satisfied that the trust was formed for the purpose of avoiding paying the costs of remediation; or (b) to the extent that trustees have personally benefited, or will personally benefit, from the trust.

Charities

- 8.21 Since charities are intended to operate for the benefit of the community, the enforcing authority should consider the extent to which any recovery of costs from a charity would detrimentally impact that charity's activities. Where this is the case, the authority should 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.

Social housing landlords

- 8.22 The enforcing authority should consider waiving or reducing its costs recovery if: (a) the appropriate person is a body eligible for registration as a social housing landlord under section 2 of the Housing Act 1996 (for example, a housing association); (b) its liability relates to land used for social housing; and (c) full recovery would lead to significant financial difficulties for the appropriate person, such that the provision or upkeep of the social housing would be jeopardised significantly. The extent of the waiver or reduction should be sufficient to avoid any such financial difficulties.

Section 8(c): Specific considerations applying to Class A persons

- 8.23 This sub-section sets out specific considerations to which the enforcing authority should have regard in cost recovery decisions where the appropriate person is a Class A person.
- 8.24 In applying the approach in this sub-section, the enforcing authority should consider whether or not the Class A person is likely to have profited financially from the activity which led to the land being determined to be contaminated land (e.g. as might be the case if the contamination resulted from a business activity). If the person did profit, the authority should generally be less willing to waive or reduce costs recovery than if no such profits were made.

Where other potentially appropriate persons have not been found

8.25 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 contaminant in question, but who cannot now be found for the purposes of treating that person as an appropriate person (as might be the case if a company has been dissolved). In such cases, the enforcing authority should consider waiving or reducing its costs recovery from a Class A person if that person demonstrates that:

- (a) another identified person, who cannot now be found, also caused or knowingly permitted the significant contaminant 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 authority's costs recovery would either: (i) be excluded from liability by virtue of one or more of the exclusion tests set out in the Section 7 of this Guidance; or (ii) the proportion of the cost of remediation which the appropriate person has to bear would have been significantly less, by virtue of the guidance on apportionment set out in Section 7.

8.26 Where an appropriate person is making a case for the enforcing authority's costs recovery to be waived or reduced by virtue of paragraph 8.25 above, that person should provide evidence to the authority that a particular person, who cannot now be found, caused or knowingly permitted the significant contaminant to be in, on or under the land. The authority should not regard it as sufficient for the appropriate person concerned merely to state that such a person must have existed.

Section 8(d): Specific considerations applying to Class B persons

8.27 This sub-section sets out specific considerations relating to cost recovery decisions where the appropriate person is a Class B person.

Costs in Relation to Land Values

8.28 In some cases, the costs of remediation may exceed the likely value of the land in its current use (as defined in Section 3 of this Guidance) after the required remediation has been carried out. In such cases, the enforcing authority should consider waiving or reducing its costs recovery from a Class B person if that person demonstrates that the costs of remediation are likely to exceed the value of the land. 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 the contamination.

8.29 In general, the extent of the waiver or reduction in costs recovery should 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 enforcing authority should 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.

Precautions taken before acquiring a freehold or a leasehold interest

- 8.30 In some cases, the Class B person may have been unaware that the land in question may be contaminated land when they acquired it. Alternatively, the person may have taken a risk that the land was not contaminated, or they may have taken some precautions to reduce the risk of acquiring land which is contaminated.
- 8.31 The enforcing authority should consider reducing its costs recovery where a Class B person who is the owner of the land demonstrates that:
- (a) the person 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 contaminants;
 - (b) when the person acquired the land (or accepted the grant of assignment of the leasehold) they were nonetheless unaware of the presence of the significant contaminant now identified, and could not reasonably have been expected to have been aware of its presence; and
 - (c) the authority considers it would be reasonable, taking into account the interests of national and local taxpayers, that the person should not bear the whole cost of remediation.
- 8.32 The enforcing authority should 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 (for example, private individuals as compared with major commercial undertakings).

Owner-occupiers of dwellings

- 8.33 Where a Class B person owns and occupies a dwelling on the contaminated land in question, the enforcing authority should consider waiving or reducing its costs recovery if the person satisfies the authority that, at the time the person purchased the dwelling, the person did not know, and could not reasonably have been expected to have known, that the land was adversely affected by presence of the contaminant(s) in question. Any such waiver or reduction should 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 the person's income, capital and outgoings. Where the person has inherited the dwelling or received it as a gift, the authority should consider the situation at the time when the person received the property.
- 8.34 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 in paragraph 8.33 above should be applied only to the dwelling and its curtilage.

MANAGING THE ENVIRONMENT PDG 10 MARCH 2015

Review of Mid Devon's play area provision

Cabinet Member Cllr Neal Davey
Responsible Officer Head of Housing and Property Services

Reason for Report: To inform members of the consultation with parish and town councils on the future provision of play areas and offering them the opportunity to take ownership.

RECOMMENDATION(S): that

- 1. Members note the progress made with offering parishes the option to take control of Mid Devon's play areas.**
- 2. Officers consult with parish and town councils on the future of the play areas listed in Annex 5 to this report.**

Relationship to Corporate Plan: Community well-being will be enhanced when residents have the confidence to use well maintained play areas.

Financial Implications: When a play area is closed there is often a cost to decommission the site. Any overall reduction in play area provision will help reduce our revenue budget to meet further government cuts in grant.

Legal Implications: The Council must have an inspection and maintenance regime for its play areas as stated within the Health and safety at Work Act 1974.

Risk Assessment: There is a potential cost of litigation should the Council be found negligent with regards to maintenance of its play areas.

1.0 Introduction

1.1 A report was brought to this group on 2 September 2014 which informed members of the condition of the Council's play areas and gave details for consideration of their future.

1.2 As the result of that report, the PDG requested that parishes should be approached to offer them the opportunity to take ownership of Mid Devon's play areas located within their boundary.

1.3 At the PDG on the 2 September the Council's Open Space and Play Area Strategy was discussed because it was thought likely to influence decisions made regarding the Council's own play area stock. The committee resolved that a copy of the Parish Area Profiles, created within the strategy should be made available. The profiles have been placed onto the Mid Devon web site and each parish has been sent a link by email allowing them to view their profile.

2.0 Consultation with Parishes

- 2.1 To assess the reaction of the relevant parishes to Mid Devon's proposal, a letter was sent on 17 December 2014, (Annex 1). The letter outlined the current financial situation regarding the provision of Mid Devon's play areas and offered them the opportunity to consider taking ownership of some or all of the play areas within their parish.
- 2.2 Attached to the letter was a questionnaire consisting of four questions to gauge their interest in Mid Devon's proposal, and a list of play areas requesting them to indicate the usage of Mid Devon's play areas, (Annex 2). Finally, they were given a chance to add any comments.
- 2.3 The results of the four questions can be seen in Annex 3. There have been 17 replies from the 21 letters sent. Tiverton and Cullompton have given a verbal response to the questions.
- 2.4 It is important to note that there was generally a positive response from CREDITON, CULLOMPTON, TIVERTON and WILLAND which accounts for 79 of Mid Devon's play areas; equal to 75%.
- 2.5 In question 2 parishes were asked if they required Mid Devon staff to inspect their play areas and any they may take responsibility for; we currently carry out inspections for Willand. This offer could be extended to all parishes that are responsible for their own play areas.
- 2.6 The results of question 3 appear to show sufficient support to consider re-launching the "Play Area Warden" initiative.
- 2.7 In an attempt to gain some meaningful data regarding play area usage, each parish was asked to comment on how well each play area is being used. (Annex 4). Some parishes have had difficulty in supplying this information and have agreed to continue to visit sites in an attempt to supply accurate data for future use.
- 2.8 There were some relevant points raised by the parishes that require to be discussed in further depth:
- Land transfer
 - Insurance
 - Are the play areas committed in perpetuity to be play areas?
 - What is the residual value of the play area and equipment?
 - What is the residual life of the play area?
 - What is the expected cost to run the play area?
 - What is the cost of inspecting a play area?
 - What is the cost of grounds maintenance for play areas?

3.0 Sites identified for further detailed consultation

3.1 Following the completion of the Council's Open Space and Play Area Strategy it is now possible to draw up a comprehensive list of sites to be considered based upon quantity, access and quality. These are shown at Annex 5 to this report.

3.2 Quantity Standards

- The standard for Mid Devon play areas in the main parishes is 0.06 ha/1000 population, this is slightly lower than the average standard of 0.10 ha/1000 population. The play space standard for rural parishes is 0.05 ha/1000 population.
- The quantity standard for Mid Devon teen facilities is 0.02ha/1000 population

3.3 Access Standards

- Main parishes access for play areas is 300m between sites, 6 to 7 minutes straight line walk time
- Rural parishes access for play areas is 600m between sites 12 to 13 minutes straight line walk time
- Main parishes access to teen facilities is 600m between sites 12 to 13 minutes straight walk time

3.4 Quality Standards

Play England are keen to see a range of play spaces in all urban environments and Mid Devon aims to provide.

- Door step places close to home
- Local play areas
- Neighbourhood spaces for play
- Destination Parks

3.5 The selection of sites to close is not always straight forward, in annex 5 the larger parishes are listed showing the number of sites per parish, existing play area provision m², required play area provision m² and the difference as a + or – figure m². A plus figure indicates over provision.

3.6 Sites for each parish that could cease to be provided by Mid Devon District Council in the same way are listed with its area in m² with notes. The final columns show the latest condition survey for each site under the following headings equipment, surface and fencing. Items scoring 4 are in good condition, items scoring 1 are poor.

3.7 The cost of any decommissioning is a financial cost that must be considered. Following recent quotations received it appears that the average cost is likely to be £4,200 per site.

- 3.8 It will not be necessary to have further detailed consultations with the parish and town councils involved in those play areas identified in annex 5. This will involve addressing their concerns listed in 2.8 above and any other points specific to the identified sites.
- 3.9 Once these consultations have been concluded, officers will be in a position to present a comprehensive report on future play area provision that is affordable and sustainable for the future.

Contact for more Information: Adrian Cook (01884 234339
acook@middevon.gov.uk)

Circulation of the Report: Management Team, Cabinet member

**Environmental Services**

Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
www.middevon.gov.uk

Your Ref:
Our Ref:

Contact: Adrian Cook
Telephone: 01884 234339
Email: acook@middevon.gov.uk
Fax / DX: 01884 234256 / 49011 (Tiverton)

Date:

Dear

Play Area provision within Mid Devon

Having agreed next year's budget the District Council is now looking at budget shortfalls that are likely to affect services in 2016 – 2017. Currently the provision and the maintenance of play areas is underfunded which has led to a policy of managed decline; resulting in equipment at the end of its useful life being removed and not being replaced; Mid Devon currently has three sites without equipment.

The purpose of this letter is to keep you informed of the situation regarding play area provision and to offer your parish the opportunity to consider taking control of some or all of the play areas in your parish. There is a risk that more play areas will become un-equipped resulting in local children missing out on out-doors play. At present Parishes unlike District Councils have the option to increase their precept to fund amenities such as play areas.

The advantages to the parishes that take control and fund their local play areas are:

- Continued provision of play areas within the parish
- The parish is able to tailor the play area to the local needs of the residents.
- The local community can take ownership of this valuable asset.

As you will be aware the responsibilities of providing a play area goes beyond funding, other issues such as risk assessment, regular inspections and maintenance must be considered along with insurance. Mid Devon already has a robust inspection regime based on risk assessments that have stood up to scrutiny in the past. Should your parish consider taking over one or more of the council's play areas you may consider it prudent to outsource the Annual and Operational inspections to Mid Devon.

A recent survey of our stock has shown that there are areas within Mid Devon, according to the most recent Open Spaces Strategy, of over provision. For your information I have enclosed a provisional list of sites that could be considered for closure.

Requests for alternative formats will be considered on an individual basis.
Please telephone 01884 255255 or email Customerfirst@middevon.gov.uk

I have been asked to report back to the Environmental Policy Development Group on my consultation with the parishes in March 2015. I hope that your council shall be able to discuss this proposal at your next meeting and to feedback your thoughts to me early in the New Year by completing the attached questionnaire.

Yours Sincerely,

Adrian Cook
Open Spaces Manager

Enclosures
Copies to:

Play Area Questionnaire

Parish

For Parishes with MDDC Play Areas

	Yes	No
Our Parish is interested in Mid Devon’s proposal and request further information.	<input type="checkbox"/>	<input type="checkbox"/>
Our Parish would consider employing Mid Devon Staff to inspect our play areas.	<input type="checkbox"/>	<input type="checkbox"/>
We would like more information on how residents can become Play Area Wardens.	<input type="checkbox"/>	<input type="checkbox"/>
Our Parish would like to receive help and advice on our play areas.	<input type="checkbox"/>	<input type="checkbox"/>

It would also be appreciated if you could give an indication on how well Mid Devon Play Area’s are used within your Parish.

Site	Play area is well used, children are often on site	Play Area is moderately used , children are occasionally on site	Play area is under used, children rarely on site	Unable to supply information	Any other comments

	<u>Question 1</u>	<u>Question 2</u>	<u>Question 3</u>	<u>Question 4</u>
Parish	Our Parish is interested in Mid Devon's proposal and request further information	Our Parish would consider employing Mid Devon staff to inspect our play areas	We would like more information on how residents can become Play Area Wardens	Our Parish would like to receive help and advice on our play areas
Bampton	Yes	Yes	Yes	Yes
Bow	No	No	No	No
Bradninch	No	No	No	No
Cheriton Bishop	No	No	No	No
Colebrooke	No	No	No	No
Crediton	Yes	No	Yes	Yes
Crediton Hamlets	No	No	No	No
Cullompton	Yes			
Hemyock	Yes			
Holecombe Rogus	No	No	Yes	Yes
Morchard Bishop	Yes			
Puddington	No	No	No	No
Sandford	No	Yes	No	No
Tiverton	Yes	Yes	Yes	Yes
Uffculme	No	Yes	No	Yes
Wembworthy	No			
Willand	Yes	Yes	Yes	No
Replies received from parishes 14 from 22 = 64%				
Question 1 reponse 5 Yes 9 No				
Question 2 response 5 Yes 7 No				
Question 3 response 5 yes 7 no				
Question 4 response 5 yes 7 no				

Play Area Questionnaire results from Parishes

Usage

		Play area is well used children are often on site	Play area is moderately used children are occasionally on site	Play area is under used children rarely on site	Play area is under used	Unable to supply information	Any other comments
Bampton	Shillingford		X				Safety walking to the play area is a concern to many people.
Bow	Godfrey Gardens			X			
Bow	St.Martins Close	X					
Bow	Village Hall	X					
Bow	Iter Park	X					
Bradninch	Townlands	X					
Bradninch	Barnes Close	X					
Burlescombe	Station Road						
Westleigh	Westleigh						
Cheriton Bishop	Glebelands	X					
Colebrook	Coleford		X				
Crediton	Greenway						Never used
Crediton	Beech Park					X	
Crediton	Newcombes Meadow	X					
Crediton	Barnfield	X					
Crediton	Tuckers Meadow					X	
Crediton	Lords Meadow	X					
Crediton	Walnut Drive					X	
Crediton	Spinningpath Gardens					X	
Crediton	Queen Elizabeth Drive (1)					X	
Crediton	Beacon Park					X	
Crediton	Lords Meadow "In Line Skating"	X					
Crediton	Fulda Crescent						Empty
Crediton	Queen Elizabeth Drive (2)						
Crediton	Cromwells Meadow					X	
Crediton	Monks close					X	

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Play Area Questionnaire results from Parishes

Usage

Crediton	Kirton Drive				x		
Copplestone	Sunnymead						
Copplestone	Fernworthy Park						
Cullompton	Knightswood						
Cullompton	Rivermead						
Cullompton	Ash drive						
Cullompton	Conifer Close						
Cullompton	Linden Road						
Cullompton	Headweir Road						
Cullompton	Ploudal Road						
Cullompton	Stoneyford						
Cullompton	Tufty Park						
Cullompton	Bockland Close						
Cullompton	Meadow Lane " In Line Skating"						
Cullompton	Clover Drive						
Cullompton	Spindlebury						
Cullompton	Siskin Chase						
Cullompton	Starlings Roost						
Cullompton	Water Meadow						
Cullompton	Haymans Close						
Cullompton	Haymans Green						
Cullompton	Chaffinch Drive						
Cullompton	Dove Close						
Cullompton	Crossparks						
Cullompton	Bullfinch Close						
Cullompton	Linear Park						
Cullompton	Saxon Way						
Cullompton	Windsor Close						
Cullompton	Hanover Gardens						

Play Area Questionnaire results from Parishes

Usage

Hemyock	Hollingarh Way	X					
Hemyock	Logan Way	X					
Hemyock	Millhayes	X					
Holcombe Rogus	Holcombe Rogus	X					Always used daily
Lapford	Church Close						
Morchard Bishop	Greenaway			X			
Puddington	Puddington	X					
Sampford Peverell	Cornlands						
New Buildings	New Buildings		X				
Sandford	Town Barton	X					
Ellerhayes	Ellerhayes						
Tiverton	Trickey Close						
Tiverton	Palmerston Park						
Tiverton	Amory Park						
Tiverton	Colesmead						
Tiverton	Cotteylands						
Tiverton	Queensway						
Tiverton	Peoples Park						
Tiverton	Westexe Recreation						
Tiverton	Wilcombe						
Tiverton	Lowman Priory						
Tiverton	Marguerite						
Tiverton	Hawthorn Road						
Tiverton	Halsbury Road						
Tiverton	Ashley Rise						
Tiverton	Cudmore Park						
Tiverton	Starkey Close						
Tiverton	Orchard Leigh						
Tiverton	Banksia Close						

Play Area Questionnaire results from Parishes

Usage

Tiverton	Amory Park "In Line Skating"						
Tiverton	Everett Place (1)						
Tiverton	Everett Place (2)						
Tiverton	Bolham Road Skatepark						
Tiverton	Waylands						
Tiverton	Spencer Drive						
Tiverton	Popham Close						
Tiverton	Marley Close						
Tiverton	Amory Park BMX						
Uffculme	Pippins Field	x					Very well used, minimum equipment, needs to be kept open.
Uffculme	Pathfields			x			Suffers from vandalism, guided by MDDC re issue of closure
Uffculme	Culm Valley Way	x					Needs to be kept open
Wembworthy	Wembworthy	x					
Willand	South View	x					Recently refurbished, now appeals to a wider age group.
Willand	The Orchards	x					Has a high use as a meeting point, new bench has helped, equipment for younger children required, keep out dogs.
Willand	Harpitt Close			x			Poor selection of equipment which does not encourage use, no alternative sites within this area.
Willand	Gables Lea	x					Well used, occasional queues for equipment, only 1 piece of MDDC equipment.
Willand	Chestnut Drive	x					Poor location because of trees but could be made workable, recent refurbishment has removed used by toddlers
Willand	Victoria Close	x					Very well used as part of a greater area of open space, would benefit from more equipment especially if close play areas were to close.
Willand	Worcester Crescent			x			Poor selection of equipment only for very young. Used by young mothers as a meeting place. If closed equipment could be moved to Orchard Way.
Willand	Mallow Court			x			Only equiped for very young, used at weekends by families with toddlers.
Willand	Buttercup Road	x					Well used and very busy at times, site adjacent to larger area allowing ball games and inventive play, families regularly use site.

Play Area Questionnaire results from Parishes

Usage

Willand	Gables Lea (Parish Equipment).	X					
Yeoford	Yeo View	X					Kids on it every day, a very popular facility.

Mid Devon sites identified for further detailed consideration

Annex 5

Parish	No of sites	Existing Provision M2	Required Provision M2	Plus/Minus provision M2	Sites	Area of Site	Notes	Equipment survey score	Surface survey score	Fencing survey score
Bow	4	2200	700	1500						
					St Martins Close	72m2	Only 1 piece of equipment on site	2	2	1
					Godfrey Gardens	140m2	Fence poor	4	2	3
Copplestone	3	1500	800	700	Fernworthy Park	854m2		4	2	3
Crediton	14	8500	4600	3900						
					Beech Park	185m2		4	2	2
					Spinning Path Gardens	1001m2	No equipment on site	0	2	2
					Fulda Crescent	410m2	Never equiped	0	4	2
					Greenway	750m2	No equipment on site	0	1	2
					Q E Drive 2	375m2	Never equiped	0	0	0
Cullompton	28	14100	5100	9000						
					Head Weir Road	1220m2	Poor equipment, damage to Oak			
					Ash Drive	91m2		4	4	0
					Conifer Close	130m2		4	4	0
					Tufty Park	985m2	Wooden equipment deteriorating	2.3	2.2	3
					Clover Drive	80m2	Select 3 sites from 6	2	4	2
					Spindlebury	147m2		4	3.3	2
					Siskin Chase	111m2		4	4	3
					Starlings Roost	192m2		4	4	2
					Chaffinch Drive	117m2		4	4	2
					Dove Close	117m2		4	3	3
Morchard Bishop	2	1900	600	1300						
					Greenway	415m2		3	3	2
Tiverton	26	17900	12800	5100						
					Coles Mead	228m2		3.5	3	3
					Hawthorn Road	177m2		4	3	3
					Halsbury Road	193m2		1	4	3
					Priory Road	1095				
					Tricky Close	225m2		3	3.5	3

Mid Devon sites identified for further detailed consideration

Annex 5

Uffculme	5	3700	1800	1900					
					Pathfields	1900m2	2	2	1
Willand	10	3000	2000.00	1000					
					Worcester Close	404m2	4	3.7	3
					Mallow Court	151m2	4	4	3
					Chestnut Drive	321m2	4	4	2

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MANAGING THE ENVIRONMENT 10 MARCH 2014

FINANCIAL UPDATE FOR THE TEN MONTHS TO 31 JANUARY 2015

Cabinet Member Cllr Peter Hare-Scott
Responsible Officer Head of Finance

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

RECOMMENDATION(S): 1: The PDG notes the financial monitoring information for the income and expenditure for the ten months to 31 January 2015.

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 over or underspends at year end and allows the Council to direct its resources to key corporate priorities.

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 2015. It embraces both revenue, in respect of the General Fund and Housing Revenue Account, 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, with 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). This report only includes budget variances in excess of £10k as the purpose of the report is to concentrate on material issues that may require further investigation/action. Budget variances are expressed net of budgeted transfers to or from earmarked reserves, which were previously approved by Cabinet. A more detailed analysis will be provided with the final outturn report for the year.

2.0 Executive Summary of 2014/15

2.1 The table below shows the opening position of key operational balances of the Council, the forecasted in year movements and final predicted position at 31 March 2015:

Usable Reserves	31/03/2014	Forecasted in year movement	31/03/2015
	£k	£k	£k
Revenue			
General Fund	(2,460)	203	(2,257)
Housing Revenue Account	(2,004)	(344)	(2,348)
Capital			
Major Repairs Reserve	-	(559)	(559)
Capital Receipts Reserve	(835)	600	(235)
Capital Contingency Reserve	(963)	599	(364)

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 £2,460k as at 31/03/14.

3.2 The forecast General fund *deficit* for the current year is £233k as shown at Appendix A. The most significant movements this month comprise:

	£
Deterioration of recycling income	30k
Leisure centres income down	24k
Housing Benefit subsidy	(20)k
Reduction of sundry waste overspend	(17)k
Rebate of fees received from Audit Commission	(15)k
Leisure pension costs	26k

3.3 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 Capital Programme

4.1 The status of this year's capital programme is shown at Appendix G.

4.2 Committed and Actual expenditure is currently £8,801k against a budgeted Capital Programme of £11,526k.

4.3 Forecast underspends currently amount to £856k, which are mainly composed of the following (please see notes on appendix G):

- Works in relation to major repairs of our council houses £559k
- Spend in relation to renewable energy projects £120k
- Spend on affordable housing projects £177k
- Work associated with new recycling premises, charged to revenue £50k

Please note sums in relation to the first three items will remain in earmarked reserves to fund future spending requirements in these areas.

4.4 Forecast slippage into 2015/16 amounts to £1,338k; this mainly comprises the following projects:

- Vehicles associated with new waste & recycling scheme due to commence in October 2015 £225k
- The project to deliver the Tiverton Pannier Market Roof £110k
- Birchen Lane redevelopment project £173k
- Economic Development schemes £160k
- Projects related to ICT/ Digital Transformation delivery £460k

5.0 Capital Contingency Reserve

5.1 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 2014	(963)
Funding required to support 2014/15 Capital Programme	599
Forecast Balance at 31 March 2015	(364)
	=====

6.0 Capital Receipts Reserve (Used to fund future capital programmes)

6.1 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 2014	(835)
Net Receipts to date (includes 8 RTB's)	(169)
Current Balance	(1,004)
Forecast further capital receipts in year	(22)
Forecast Capital Receipts to be applied in year	791
Forecast Unapplied capital receipts c/fwd. 31 March 2015	(235)
	=====

7.0 Treasury Management

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

Interest Received:

	Budget	Forecast	Variance
	£k	£k	£k
Interest from HRA funding	(110)	(60)	50
Investment Income Received	(65)	(65)	0
	-----	-----	-----
Net Interest	(175)	(125)	50
	=====	=====	=====

8.0 Conclusion

8.1 Members are asked to note the revenue and capital forecasts for the financial year. It is quite clear that a number of our service areas are experiencing difficulty in achieving their budgeted income and costs in the current year. Indeed as this report now covers the first ten months of the financial year it is almost certain that we will have overspent by March 2015. This is of concern for the future in the context of budget setting and the ability to support the capital programme.

8.2 Some services are clearly struggling to manage within their current budgets, as depicted by this latest monitoring report. This demonstrates that service budgets are now extremely "lean" and the last three to four years of salami slicing x% from all service budgets will not be possible from 2016/17 onwards.

Members will be aware that further funding cuts next year and beyond are almost certain and therefore the service provision status quo cannot remain. Consideration of various scenarios to enable a balanced budget, of *prioritised services*, will need to be made in advance of a new corporate plan being produced by the new membership after the May 2015 elections.

Contact for more information:

Andrew Jarrett, 01884 23(4242),
ajarrett@middevon.gov.uk

Circulation of the Report:

Cllr Peter Hare-Scott, Management Team

**GENERAL FUND FINANCIAL MONITORING INFORMATION
FOR THE PERIOD 01 APRIL TO 31 JANUARY 2015**

Com	General Fund Summary	Note	2014/15 Annual Budget £	Full Year Forecast (Net of Trf to Earmarked Reserves (EMR) (0 = On budget) £	Variance %
	Cllr C J Eginton				
CM	Corporate Management	A	1,050,500	19,000	1.8%
LD	Legal & Democratic Services: Member/Election Ser	B	545,760	11,000	2.0%
	Cllr N V Davey				
CP	Car Parks	C	(434,000)	2,400	0.6%
ES	Cemeteries & Public Health	D	(37,510)	11,000	-29.3%
GM	Grounds Maintenance	E	542,680	(28,000)	-5.2%
ES	Open Spaces	F	156,900	14,000	8.9%
WS	Waste Services	H	2,400,260	246,500	10.3%
	Cllr C R Slade				
CD	Community Development	I	419,900	(23,500)	-5.6%
ES	Environmental Services incl. Licensing	D	691,300	46,100	6.7%
RS	Recreation And Sport	J	141,910	116,000	81.7%
	Cllr P H D Hare-Scott				
FP	Finance And Performance	K	631,520	(22,000)	-3.5%
RB	Revenues And Benefits	L	311,550	(138,000)	-44.3%
	Cllr R L Stanley				
HG	General Fund Housing	M	309,900	(106,900)	-34.5%
ES	ES: Private Sector Housing Grants	D	110,460	0	0.0%
PS	Property Services	G	755,430	(32,000)	-4.2%
	Cllr R J Chesterton				
PR	Planning And Regeneration	N	415,620	62,000	14.9%
CD	Community Development: Markets	I	(21,910)	22,000	100.4%
	Cllr B M Hull				
CS	Customer Services	O	797,360	(2,500)	-0.3%
HR	Human Resources	P	421,690	39,800	9.4%
IT	I.T. Services	Q	913,660	(31,800)	-3.5%
LD	Legal & Democratic Services: Legal Services	B	187,150	13,000	6.9%
	All Sections		10,310,130	218,100	2.1%
IE260	Interest Payable		8,110		0%
IE290	Interest Receivable		(175,000)	50,000	29%
	Contribution to Capital Programme		125,000		
	Net recharge to HRA		(1,205,890)		
	Capital financing		122,520		
	Other major Income and Expenditure movements:				
	EMR for Waste Services - recycling depot move			(65,000)	
	Net 2014/15 General Fund Budgeted Expenditure		9,184,870		
	Forecast in year (Surplus) / Deficit			203,100	
	General Fund Reserve 01/04/14			(2,460,711)	
	Forecast General Fund Balance 31/03/15			(2,257,611)	

GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD 01 APRIL TO 31 JANUARY 2015

Note	Description of Major Movements	Comments	Full Year Forecast Variation (Net of Trf to EMR)	PDG
A	Corporate Management			
	Audit Commission rebate following partial winding up of the organisation.		(15,000)	Cabinet
	Costs in relation to pension backfunding calculations provided by DCC's pension fund actuary.		34,000	Cabinet
			19,000	
B	Legal & Democratic Services			
	Increased salary costs - increased S106 work & maternity cover		21,000	Cabinet
	Recruitment costs		10,000	Cabinet
	Consultancy & staffing for individual election registration (IER)		11,000	Cabinet
	Increased income		(18,000)	Cabinet
			24,000	
C	Car Parks			
	Forecast of £14.3k below income target on P&D has been amended to reflect current position at month 10		14,300	MTE
	Forecast of £14.3k below income target on night charges has been amended to reflect current position at month 10		14,300	MTE
	Increased income from Residential & Business Permits		(5,000)	MTE
	Income from Off-Street fines are above budget		(6,000)	MTE
	Underspend against utilities on MSCP		(14,000)	MTE
	Other sundry movements		(1,200)	MTE
			2,400	
D	Environmental Services combined			
	Bereavement Services salary overspend due to restructure changes		11,000	MTE
	Environmental Enforcement salary savings due to vacant post & staff changes		(10,000)	CWB
	Environmental Health salary savings vacant posts		(15,000)	CWB
	Environmental Health restructure costs		72,000	CWB
	Other sundry movements		(900)	CWB
			57,100	
E	Grounds Maintenance			
	Salary underspend has grown due to continued staff turnover.		(25,000)	MTE
	Other sundry movements		(3,000)	MTE
			(28,000)	
F	Open Spaces			
	Urgent repair to Queen Elizabeth Park wall in Crediton		14,000	MTE
			14,000	
G	Property Services			
	Public Convenience savings due to Tiverton Town Council taking over 4 Tiverton PC's		(12,000)	MTE
	Vacant posts in Property Services		(27,000)	MTE
	Market Walk Professional fees paid		7,000	MTE
			(32,000)	
H	Waste Services			
	Predicted total cost of move to the new recycling depot - (£65k included in a 14/15 ear marked reserve)		75,000	MTE
	Loan repayment for the new recycling baler		19,000	MTE
	One off training and installation costs for the new recycling baler		20,000	MTE
	Cost of temporary members of staff in Refuse and Recycling		50,000	MTE
	Over-time and agency spend up in Refuse mostly due to additional rounds and catch-up		40,000	MTE
	Over-time and agency spend in Recycling due to sickness/holiday cover and move to new depot		35,000	MTE
	Hire and fuel costs for generators at Silverton Mill		13,000	MTE
	Rent at both Silverton Mill and the new depot		9,000	MTE
	Additional income for recycling materials		(10,000)	MTE
	Lease budget for refuse vehicles not required as vehicles purchased		(30,000)	MTE
	Hire cost for additional Refuse vehicle		39,000	MTE
	Trade waste income and recharges forecast to be higher then budgeted		(39,000)	MTE
	Predicted increase in trade waste disposal charges		43,000	MTE
	Salary savings in Waste Management		(20,500)	MTE
	Other sundry movements		3,000	MTE
			246,500	

I	Community Development		
	Salary savings, vacant post and uncovered maternity leave	(24,800)	CWB
	Market income not achieving target budget - proactive work is being carried out to try and rectify this	30,000	CWB
	Other sundry movements	(6,700)	CWB
		(1,500)	
J	Recreation And Sport		
	LMLC salaries	10,000	CWB
	EVLC salaries (net of management post saving)	(5,000)	CWB
	CVSC salaries	15,000	CWB
	Pension overspend (all sites)	26,000	CWB
	Utilities all sites	(12,000)	CWB
	Income all sites	26,000	CWB
	Maintenance	25,000	CWB
	CVSC works (reception & gym area)	25,000	CWB
	Other sundry movements	6,000	CWB
		116,000	
K	Finance And Performance		
	Salaries - uncovered maternity	(22,000)	Cabinet
		(22,000)	
L	Revenues And Benefits		
	Housing Benefit Subsidy	(93,000)	CWB
	NNDR Charity Rate Relief not required under new NNDR scheme	(45,000)	CWB
		(138,000)	
M	General Fund Housing		
	Underspend on salaries due to an unfilled post for a period pending management restructure	(29,000)	DAAH
	DARS/B&B Costs - underspend	(15,000)	DAAH
	DCC funding for Youth Homelessness Post	(20,000)	DAAH
	Grant funding - Red House for vulnerable young adults	14,600	DAAH
		(57,500)	DAAH
	Reduction in bad debt provision based on a detailed review of previous years debts and income being received	(106,900)	
N	Planning And Regeneration		
	Building Regulations fees under target / salary saving	30,000	CWB
	Development Control fees	(140,000)	CWB
	Development Control salaries	25,000	CWB
	Local Plan costs	60,000	CWB
	Planning restructure costs	102,000	CWB
	Land charges income improving	(25,000)	CWB
	Fwd Planning staffing costs (net of CIL shortfall)	10,000	CWB
		62,000	
O	Customer Services		
	Salaries	6,500	CWB
	Purchase of payment kiosk for reception area	12,500	CWB
	Postage	(12,000)	CWB
	Other sundry movements	(9,500)	CWB
		(2,500)	
P	Human Resources		
	Income target for selling services not going to be achieved	17,000	Cabinet
	Increased salary costs due to JE	7,000	Cabinet
	Replacement of time recording system (Wintime)	15,800	Cabinet
		39,800	
Q	I.T. Services		
	Vacant post currently being filled by an apprentice, resulting in salary savings	(6,800)	Cabinet
	Saving on call costs and advertising	(6,000)	Cabinet
	Head of BIS recharge to NDDC	(19,000)	Cabinet
		(31,800)	
	FORECAST (SURPLUS)/DEFICIT AS AT 31/03/15	218,100	

Cabinet	29,000
CWB	82,100
DAAH	(106,900)
MTE	213,900
	218,100

GENERAL FUND FINANCIAL MONITORING INFORMATION FOR THE PERIOD 01 APRIL TO 31 JANUARY 2015

	2014/15	2014/15	2014/15	2014/15
	Annual Budget	Profiled Budget	Actual	Variance
	£	£	£	£
Total Employee Costs				
General Fund				
Community Development	255,140	212,617	179,713	(32,904)
Corporate Management	814,520	678,767	709,748	30,981
Customer Services	670,660	558,883	553,481	(5,402)
Environmental Services	923,530	769,608	799,283	29,675
Finance And Performance	587,280	489,400	469,069	(20,331)
General Fund Housing	186,890	155,742	127,947	(27,795)
Grounds Maintenance	417,410	347,842	324,154	(23,688)
Human Resources	292,870	244,058	264,258	20,200
I.T. Services	529,450	441,208	412,462	(28,746)
Legal & Democratic Services	370,940	309,117	330,119	21,002
Planning And Regeneration	1,420,670	1,183,892	1,165,205	(18,687)
Property Services	316,090	263,408	235,826	(27,582)
Recreation And Sport	1,476,980	1,230,817	1,275,380	44,563
Revenues And Benefits	682,780	568,983	575,203	6,220
Waste Services	1,703,400	1,419,500	1,447,115	27,615
	10,648,610	8,873,842	8,868,963	(4,879)
Housing Revenue Account				
BHO09 Repairs And Maintenance	947,660	789,717	761,783	(27,934)
BHO10 Supervision & Management	1,315,080	1,095,900	1,039,551	(56,349)
BHO11 Special Services	230,340	191,950	172,131	(19,819)
	2,493,080	2,077,567	1,973,464	(104,103)
Total	£ 13,141,690	£ 10,951,409	£ 10,842,428	£(108,981)

	2014/15	2014/15	2014/15	2014/15
	Annual Budget	Profiled Budget	Actual	Variance
	£	£	£	£
Agency Staff				
General Fund				
Car Parks	0	0	0	0
Community Development	0	0	0	0
Corporate Management	0	0	0	0
Customer Services	0	0	5,518	5,518
Environmental Services	0	0	0	0
Finance And Performance	0	0	0	0
General Fund Housing	0	0	0	0
Grounds Maintenance	5,000	4,167	5,052	885
Human Resources	0	0	0	0
I.T. Services	0	0	0	0
Legal & Democratic Services	0	0	17,422	17,422
Planning And Regeneration	0	0	0	0
Property Services	0	0	678	678
Recreation And Sport	0	0	0	0
Revenues And Benefits	0	0	1,357	1,357
Waste Services	30,000	25,000	54,148	29,148
	35,000	29,167	84,176	55,009
Housing Revenue Account				
BHO09 Repairs And Maintenance	2,000	1,667	0	(1,667)
BHO10 Supervision & Management	0	0	4,881	4,881
BHO11 Special Services	0	0	0	0
	2,000	1,667	4,881	3,214
Total	£37,000	£30,834	£89,057	£58,223

MID DEVON DISTRICT COUNCIL
MONITORING OF 2014/15 CAPITAL PROGRAMME

Appendix G

Code	Scheme	Adjusted approved Capital Programme 2014/15	Actual Expenditure	Committed Expenditure	Total	Variance to Adj Capital Programme	Forecast (Underspend)/ Overspend	Forecast Slippage to 15/16	Notes
		£	£	£	£	£	£	£	
	Leisure								
	Lords Meadow Leisure Centre								
CA618	Lords Meadow All Weather Pitch	38,000	10,315	2,136	12,450	(25,550)	(25,500)		Project complete retention due Mar '15 £2.1k
	Exe Valley Leisure Centre								
CA622	Additional Car parking provision	18,000	39,317	2,506	41,823	23,823	23,800		Project Complete retention due Apr '15 £2.5k
	General Car parks								
CA709	MSCP improvements	50,000	(6,144)	7,098	954	(49,046)		49,000	Retention due Feb '15 £7.1k. Spend on this project will be reprioritised in 15/16
	Other MDDC Buildings								
CA403	Town Hall Redevelopment Project	47,000	0	1,200	1,200	(45,800)		46,000	This sum is earmarked for Potential access works
CA811	Associated works to new recycling premises '16 shop'	50,000	0	0	0	(50,000)	(50,000)		The costs associated with this move are revenue in nature & are therefore coded there direct, however they will be met by an earmarked reserve.
	Play Areas								
CA616	Tiverton skate park replacement - end of life	27,000	20,590	4,814	25,404	(1,597)			Retention due Apr '15 £4.8k
CA608	Play area refurbishment - Newcombes Meadow, Crediton	114,000	114,007	0	114,007	7			
	Other								
CA431	Public Convenience- Lowman Green, Tiverton remodel for kiosk subject to payback period	60,000	5,671	0	5,671	(54,329)		54,000	This project will now be completed during 15/16
CA432	Public Convenience- The Green, Crediton remodel for drying room following loss of Lords Meadow Depot	20,000	0	0	0	(20,000)	(20,000)		Recommendation to go to March Cabinet for asset transfer to Crediton Town Council
CA420	Land drainage flood defence schemes	50,000	27,714	711	28,425	(21,575)			Note flooding works in relation to Arnolds Crescent under £20k diminishes therefore charged to revenue
	ICT								
CA426	HR/Payroll system	3,000	14,947	8,028	22,975	19,975	20,000		
CA423	Continued replacement of WAN/LAN	60,000	0	0	0	(60,000)		60,000	Anticipate buying new switched June 2015
CA425	Server Farm expansion/upgrades	70,000	2,408	0	2,408	(67,592)		68,000	Replacement Citrix approx Apr '15
CA433	Unified comms /Telephony/Customer 1st	70,000	0	0	0	(70,000)	(13,000)	57,000	Note Kiosk project £13k & therefore coded to Revenue, the total cost for this project will therefore be revised to £57k.
CA436	Web Transformation	55,000	18,507	4,559	23,067	(31,933)		32,000	Project likely to be completed by Q3 15/16
CA437	Digital Transformation	89,000	(4,200)	4,200	0	(89,000)		89,000	Project likely to be completed by Q3 15/16. £40k related to Uniform
CA438	Digital Transformation - Customer Portal	45,000	0	0	0	(45,000)		45,000	Project likely to be completed by Q4 15/16
CA439	Mobile Working inc members	40,000	0	0	0	(40,000)		40,000	Project likely to be completed by Q1 15/16
CA440	Finance Cash receipting upgrade	30,000	1,253	0	1,253	(28,747)		29,000	This project will be completed during 15/16
CA442	Arc Server Spatial	40,000	0	0	0	(40,000)		40,000	Project likely to be completed by Q3 15/16. Reviewing technology
	Economic Development								
CA504	Schemes as yet to be identified	170,000	0	0	0	(170,000)		160,000	Circa £10k will be used to fund associated revenue spend in 14/15
CA505	Pannier Market (conversion of pig pens into units and walkway cover)	110,000	0	0	0	(110,000)		110,000	The project to deliver the Market Roof is likely to occur in 15/16 with a project cost of circa £250k with £140k funding from external sources
	Replacement Vehicles								
	Refuse Collection								
CA814	Dennis Eagle Terberg RCV 22-26t (or equivalent)	160,000	0	0	0	(160,000)		160,000	This vehicle will be purchased in 15/16
	Recycling								
CA815	5 No. Dennis Eagle Terberg Recycling Kerb loader 18t (or equivalent)	789,000	780,190	11,800	791,990	2,990			10 vehicles to be purchased in Jan'15. £325k was in MTFP for 15/16 but this spend has been brought forward as a requirement to deliver the service but also to get the best possible price on acquisition. This will be funded from a combination of New Homes Bonus & existing vehicle reserves.
CA816	1 No. very narrow access Cabstar recycling kerb loader 4.5t	65,000	0	0	0	(65,000)		65,000	This vehicle will be purchased in 15/16
CA818	Kerb side Recycling Baler	163,000	162,664	0	162,664	(336)			Total cost £183k, £20k installation & training to Revenue
CA506	32 and 34 Fore Street	689,000	688,659	0	688,659	(341)			
		3,122,000	1,875,898	47,050	1,922,949	(1,199,051)	(64,700)	1,104,000	

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**MID DEVON DISTRICT COUNCIL
MONITORING OF 2014/15 CAPITAL PROGRAMME**

Appendix G

Code	Scheme	Adjusted approved Capital Programme 2014/15	Actual Expenditure	Committed Expenditure	Total	Variance to Adj Capital Programme	Forecast (Underspend)/ Overspend	Forecast Slippage to 15/16	Notes
	Private Sector Housing								
	Slippage from 2013/14 to be prioritised	0			0	0	110,000		Spend in 14/15 is forecast to be £110k greater than budget, this sum will be funded by the Private Sector Housing Earmarked Reserve. The remainder of this reserve £1,142k - £110k = £1,032k will be released over the life of the updated MTFP (15/16 to 18/19) which will also be presented at 05/02/15 Cabinet. There is also a Budget in CA100 below to deal with the backlog of Council House DFG's. Any spend over & above this £285k budget will be coded to CA100.
CG200	Disabled Facilities Grants - Mandatory - Council Houses *	285,000	285,000		285,000	0			
CG201	Disabled Facilities Grants - Mandatory - Private Sector *	450,000	395,298	155,689	550,987	100,987			
CG202	Houses in Multiple Occupation Grants			4,072	4,072	4,072			
CG203	Home Repair Assisted Grants			606	606	606			
CG205	House Renovation Grants			752	752	752			
CG208	Loans Scheme (Wessex Re-Investment Trust)	0			0	0			
CG209	DFG's Discretionary - C Houses				0	0			
CG210	Common Parts Grants				0	0			
CG211	Empty Homes	100,000			0	(100,000)			
CG215	Work in Default / Discretionary Grants	0			0	0			
	Please note where possible commitments are raised on the Finance Ledger. Currently the total commitment for Private Sector Housing Grants held outside the ledger is £161k.								
	* Commitments include all approved grants. The timing of when these are drawn down is dependent on the client (up to 1 year), therefore at year end although sums may be committed, some may be carried forward to 2015/16 as slippage.								
		835,000	680,298	161,120	841,417	6,417	110,000	0	
	Assistance to RSLs (Affordable Housing)								
CA210	Affordable Housing	317,000	16,302	0	16,302	(300,698)	(177,000)		This underspend will remain in the affordable housing earmarked reserve to be used for future related projects
		317,000	16,302	-	16,302	(300,698)	(177,000)	0	
	Housing Revenue Account								
CA100	Major Repair Allowance (MRA), Major Works 30 Yr Plan & Decent Homes Backlog Funding	4,393,000	2,928,390	650,528	3,578,918	(814,082)	(559,000)		In the main this relates to £230k which will be credited to the Housing Maintenance Fund to be reprioritised in future years to meet costs identified by the stock condition survey. Also a budget of £350k for Council House DFG's will be underspent by £235k due to the fact there is provision on CG200 above. (see note above)
CA102	Sewerage Treatment Facilities	61,000	(342)	525	183	(60,817)		61,000	
CA111	Renewable Energy Fund Spend	270,000	113,660	0	113,660	(156,340)	(120,000)		
CA112	Birchen Lane - re development of unit for housing conversion	180,000	6,162	955	7,117	(172,883)		173,000	
CA113	Council House Building - St Andrews Street	1,500,000	730,013	842,831	1,572,844	72,844			
CA114	Council House Building - Fir Close Willand	691,000	480,698	155,295	635,994	(55,006)			
CA115	Housing Server replacement & Progress upgrade	20,000	0	0	0	(20,000)	(20,000)		
CA116	Westex South Shops - Walkway and flat roofs on shops	25,000	0	0	0	(25,000)	(25,000)		
CA118	11 Authers Heights	112,000	112,000	0	112,000	0			
		7,252,000	4,370,582	1,650,135	6,020,717	(1,231,283)	(724,000)	234,000	
	CAPITAL PROGRAMME GRAND TOTAL	11,526,000	6,943,080	1,858,305	8,801,385	(2,724,615)	(855,700)	1,338,000	

MANAGING THE ENVIRONMENT PDG 10 MARCH 2015:

PERFORMANCE AND RISK REPORT FOR THE FIRST THREE QUARTERS OF 2014-15

Cabinet Member Cllr Neal Davey
Responsible Officer Head of Communities & Governance

Reason for Report: To provide Members with an update on performance against the corporate plan and local service targets for 2014/15 as well as providing an update on the key business risks.

RECOMMENDATION(S): That the PDG reviews the Performance Indicators and Risks that are outlined in this report and feeds back any 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.

1.0 Introduction

- 1.1 Appendix 1 provides Members with details of performance against the Corporate Plan and local service targets for the 2014-15 financial year.
- 1.2 Appendix 2 shows the section of the Corporate Risk Register which relates to the Managing the Environment Portfolio. See 3.0 below.
- 1.3 Both appendices are produced from SPAR, the corporate Service Performance and Risk Management system.

2.0 Performance

- 2.1 Performance is below target this quarter. The missed collections logged are now restored to normal low levels.
- 2.2 Where benchmarking information is available for the previous year it is included.

3.0 Risk

- 3.1 The Waste and Transport Manager is in the process of reviewing all the risk assessments for his entire area of responsibility. Operational risk assessments will be job specific and flow through to safe systems of work. These are not yet completed.

4.0 Conclusion and Recommendation

- 4.1 That the PDG reviews the performance indicators and risks for 2014-15 that are outlined in this report and feeds back any areas of concern to the Cabinet.

Contact for more Information: Amy Tregellas, Head of Communities & Governance ext 4246

Circulation of the Report: Management Team and Cabinet Member

MTE PDG Performance Report - Appendix 1

Quarterly report for 2014-2015

No headings

For Environment - Cllr Neal Davey Portfolio

For MDDC - Services

Filtered by Performance Status: Exclude PI Status: Data not due, Not calculable

Key to Performance Status:

Performance Indicators:	No Data	Well below target	Below target	On target	Above target	Well above target
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MTE PDG Performance Report - Appendix 1

Performance Indicators									
Status	Quartile	Title	Prev Year End	Annual Target	Current Target	Q1 Act	Q2 Act	Q3 Act	Q4 Act
Well below target	2014-2015 No Data Available	<u>Increase Dry Recycling Rate to 20% by 2015</u>	14.89%	20.00%	20.00% (3/4)	13.46%	14.13%	14.71%	
Management Notes:									
Below target	2012-2013 Best Performing District Councils	<u>Residual household waste per head</u>	482.3	455.0	341.3 (3/4)	115.8	223.7	348.8	
Management Notes: (Quarter 1 - 3) Currently waiting for figures to be verified by Waste Data Flow at DCC. (AW)									
Below target	2012-2013 Above Median District Councils	<u>% of Household Waste Reuse, Recycled and Composted</u>	46.7%	50.0%	50.0% (3/4)	50.5%	51.6%	49.2%	
Management Notes: (Quarter 3) Currently waiting for figures to be verified by Waste Data Flow at DCC. (AW)									
No Target	2014-2015 No Data Available	<u>Number of Missed Collections logged per Quarter (refuse and organic waste)</u>	661			1,190	1,542	1,682	
Management Notes:									
No Target	2014-2015 No Data Available	<u>Number of Missed Collections logged per Quarter (Recycling)</u>	652			719	976	1,056	
Management Notes:									

MTE PDG Risk Management Report - Appendix 2

Report for 2014-2015
 For Environment - Cllr Neal Davey Portfolio
 Filtered by Flag: Include: * CRR 5+ / 15+
 For MDDC - Services

Not Including Risk Child Projects records or Mitigating Action records

Key to Performance Status:

Risks: No Data (0+) High (15+) Medium (5+) Low (1+)

MTE PDG Risk Management Report - Appendix 2

Risk: Waste Collection - Health and Safety Inadequate training with regards to Manual Handling and workplace hazards (eg contact with broken glass) could result in Health and Safety risks

Effects (Impact/Severity):

Causes (Likelihood): - Increasing demand and service costs due to increasing population, consumer society and an increasing amount of waste

Service: Street Scene Services

Current Status:
Medium (10)

Current Risk Severity: 5 - Very High

Current Risk Likelihood: 2 - Low

Head of Service: None

Review Note:

Printed by: Catherine Yandle

SPAR.net

Print Date: Friday, February 20, 2015 12:55

Annual Chairman's Report Managing the Environment Policy Development Group April 2014 – March 2015

As Chairman of the above Group I wish to submit my report to Council for the year 2014-15.

During the past 12 months the Group have been engaged on a number of important matters, which in due course will have a significant impact on the services that MDDC supplies to the electorate.

Waste and Recycling Service

Continuing on from 2013/2014 the Groups main topic of policy development involved the Waste and Recycling Service, in that during 2014 major steps were taken to improve the whole service.

In order to achieve the high standards required, and the savings envisaged, certain major areas had to be evaluated and decisions taken by the Group to recommend to Cabinet and Full Council that such policies were needed to meet expected improvement of services.

To that end, steps were taken to improve the refuse and recycling fleet as the current vehicles in operation were taking an even larger cut of budget to maintain and service due to the age of the fleet, therefore during the early part of 2014 tenders (based on MDDC operational requirements) were sent out to some 6 suppliers for the supply of 10 new recycling vehicles.

The successful tender was received in July 2014 at a cost of £84K for 12 tonne vehicles (5 of) and £79K for 11 tonne vehicles (5 of); this was cheaper than covered in the 2014/15 capital Budget Programme. Following in depth discussion/debate the group recommended to the September Cabinet that the tender be accepted, it was accepted and fully endorsed by Full Council later that month. Vehicles were delivered from January through to March 2015 and since that time have been in operational use. To date, results are matching the full requirements that MDDC needed and will in the near future show the savings that the Group were tasked to find. On a final note the crews have found the fleet to be a vast improvement.

In the same vein the Group were also tasked with improving the collection on refuse and recycling over the whole district and from reports received from Officers, analysis and taking into account views expressed by Members and the general public it was recommended to and approved by both Cabinet and Council that by October 2015 a new scheme would be fully operational. This would include the collection of all types of plastic (excluding film), and coverage of the scheme would increase from 80% to 100%. Included in the new scheme was the collection of cardboard and a possible charge for garden waste collection, that decision would be made prior to October when the scheme goes live.

A trial of the new scheme was undertaken in February 2015 (part urban/part rural) and whilst awaiting a full report back to the PDG as to the reaction of the participants

it does appear that the community involved has adapted to the change. At this point I need to express the thanks of the PDG to the excellent work, expertise and input shown by all Officers involved in the exercise and it is noticeable that their understanding of the scheme has been paramount to its success.

At the same time that the new scheme was evolving it was recognised that Silverton Mill would not be able to cope. Fortunately MDDC's lease on these premises was due for renewal and whilst discussions/reports were undertaken an operational decision was made that new premises were urgently needed. To that end premises under a 5 year lease were found in Tiverton and have been occupied since mid-2014 by the recycling team. One word of caution must be made, MDDC only have a 5 year lease, and therefore future steps must including the finding of suitable long term premises.

As a PDG this last 12 months has been challenging, in that major decisions and recommendations have been made so that MDDC is geared to meet future challenges in waste and recycling strategy.

One final note on this particular subject, as Chairman of the PDG I am also tasked as a member of the Waste Project Group that over the last months has been shadowing the effects of the scheme. Such discussions/debates have been reported (through myself) to the PDG.

Despite the amount of time that waste/recycling has taken with-in the PDG other areas during the year have included:

Play Areas

A survey of current play areas within MDDC's remit was undertaken during this past year, with the aim of ascertaining the use of the same by the public, and whether or not certain play areas (103 in the District) supersede each other by having similar equipment on site. From those surveys and responses from Town/Parish Councils discussions are currently taking place with those parties who showed an interest in taking up some of the costs associated with running the same. One of our main reasons for the survey was that many of the play areas have been operational for many years and the S106 agreements with developers have ended, meaning that MDDC are now financially involved with the upkeep and the maintenance. This now leads to the next matter under discussion by the PDG, namely:

Public Conveniences

Recommendation was made to the Cabinet that Officers continue discussions with Town and Parish Councils for assistance towards the upkeep and maintenance of such in the district. This is an ongoing matter, but to date it is pleasing to note that Town and some Parish Councils have agreed to assist in the upkeep and maintenance, now whilst certain buildings have been closed in 2014 it is hoped that measures agreed to date will assist in the long term of maintaining of such facilities.

Other matters discussed/debated by the PDG during 2014/15 included supermarket packaging, multi storey car park (a new working group was set up in 2014 to

ascertain future policy), air quality (Crediton/Cullompton), flood risk (future flood plans with DCC/Environment Agency), wild flower meadows (during 2014 season trials were undertaken proved beneficial to those areas concerned and in 2015 other areas will be taken into a wider scheme).

Besides the above, budget and performance and risk management also played an important part of the PDG. All in all 2014/15 was another varied and busy year for the PDG, therefore, in closing my sincere thanks go to all the Members who have given their valuable support and keen insight into the matters covered and discussed. Some debates have been keenly undertaken, but always for the benefit of the Council and the wider community we serve.

It would be totally remiss of me not to mention the assistance and support that I had from the former Head of Service, namely Mr P Williams, whose manner towards me, and I trust of the other PDG Members, was to give us that information and insight that was required on matters pertaining to his department.

My sincere thanks also go to all those Officers who in the many years I have been the Chairman of this PDG have never failed with their experience and knowledge. I will always maintain that we, as Members, are very fortunate to have such a team looking after this PDG and whilst not to acknowledge one Officer from another, I must acknowledge the wonderful help given to me by Ms Julia Stuckey, many thanks for your trouble in keeping me on the right path!!

Here ends my report.

M A Lucas
Chairman
March 2015

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