

Council

A MEETING of the **MID DEVON DISTRICT COUNCIL** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 17 July 2024 at 6.00 pm

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

[The next meeting is scheduled to be held in Tiverton on Wednesday, 4 September 2024 at 6.00 pm]

Please Note: this meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be Hybrid and an audio recording made and published on the website after the meeting.

[CLICK HERE TO JOIN THE MEETING](#)

Meeting ID: 358 320 748 764

Passcode: Qhdykq

STEPHEN WALFORD

Chief Executive

9 July 2024

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**
To receive any apologies for absence.
- 2 **Public Question Time**
To receive any questions and or statements relating to any items of the Council powers/ duties or which otherwise affects the District and items on the agenda from members of the public.
- 3 **Declarations of Interest under the Code of Conduct**
To record any interests on agenda matters.
- 4 **Previous Minutes held on the 22 May 2024 (Pages 9 - 16)**
To consider whether to approve the minutes as a correct record of the meeting held on 22nd May 2024.
- 5 **Chairs Announcements**
To receive any announcements which the Chair of the Council may wish to make.
- 6 **Short Address from Devon Young Carers**
To receive a short address from Devon Young Carers.
- 7 **Petitions**
To receive any petitions from members of the public.
- 8 **Notices of Motions**
To receive any notices of motions.
- 9 **Cabinet- Reports of the Minutes of meeting held between April 2024- June 2024 (Pages 17 - 400)**
To receive and consider the reports, minutes and recommendations of the recent meetings as follows:

1. Cabinet

- 4th June 2024

(Recommendation to Full Council)

Cabinet **RECOMMEND TO FULL COUNCIL** the approval of the revised Complaints and Feedback Policy

Cabinet **RECOMMEND TO FULL COUNCIL** to approve the actual 2023/24 prudential and treasury indicators in this report.

- 9th July 2024- Minutes to follow
(Recommendation to Full Council)

Cabinet **RECOMMEND TO FULL COUNCIL** the review of the draft Corporate Plan 2024-28, Appendix 1, and recommend any alterations before it is presented to Council on 17 July 2024;

[Draft Corporate Plan](#)

[Appendix 1 Corporate Plan](#)

[Appendix 2- amendments proposed by the PDG's](#)

2. Scrutiny Committee

- 15th April 2024
(Recommendation Motion 564 Inclusion and Diversity to Full Council)

2. **Recommendation:** The findings strengthen the case for further experiential training for Chairs and Vice Chairs.

3. **Recommendation:** A change in rules to allow voting by online participants in a meeting improved access for some Councillors. This may be particularly relevant to improve the potential for parents or carers to attend, as well as those with mobility problems and those at the greatest distances, particularly in the evening. It would also reduce costs and carbon emissions. The Working Group noted that the Local Government Association had campaigned for this change. The Scrutiny Committee recommend that the Council advocate for this change and lobby the government to introduce it.

4. **Recommendation:** The Scrutiny Committee believed that the work of this Working Group had concluded and recommended that the subject of Inclusion and Diversity with regard to removing obstacles to becoming a Councillor be added to the Policy Framework or the Scrutiny Work Plan to be considered annually.

5. **Recommendation:** The Scrutiny Committee recommend that those considering standing for elections be warned about the unpredictable time demands for working with residents' issues and Town & Parish Councils. This may be something for the Political Groups to consider.

The Scrutiny Committee **RECOMMENDED** paragraphs 2, 3, 4 & 5 above to Full Council

- 17th June 2024

3. Audit Committee

- 30th April 2024
- 25th June 2024

4. Community, People and Equality Policy Development Group

- 25th June 2024

5. Economy and Asset Policy Development Group

- 20th June 2024

6. Homes Policy Development Group

- 11th June 2024

7. Planning Environment and Sustainability Policy Development Group

- 18th June 2024

8. Service Delivery and Continuous Improvement Policy Development Group

- 24th June

9. Planning Committee

- 10th April 2024
- 8th May 2024
- 12th June 2024

10. Licensing Committee

- 28th June 2024

11. Regulatory Committee

- 28th June 2024

(Recommendation to Full Council)

Regulatory Committee approved the draft proposed policy attached as Annex A and **RECOMMENDED** its adoption to Full Council in July 2024,

with a proposed implementation date from 1st September 2024.

12. Standards Committee

- 19th June 2024

10 **Permanent Pavement Licensing Provisions** (*Pages 401 - 406*)
To consider the report from the Head of Housing and Health on the Permanent Pavement Licensing Provisions.

11 **Appointments to Outside Bodies**
To consider the appointment to outside bodies for Council for the Protection of Rural England (CPRE) and seek one representative to the position available and seek one representative to Devon Countryside Access Forum.

12 **Seating Allocation** (*Pages 407 - 408*)
To consider the seat allocation report

It is recommended:

- a) That the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule;
- b) That Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- c) That Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- d) That the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have been allocated by the Council.
- e) That the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting.

13 **Questions in accordance with Procedure Rule 11**
To deal with any questions raised pursuant to Procedure Rule 11 not already dealt with during the relevant Committee reports.

14 **Special Urgency Decisions**

To note any decisions taken under Rule 16 (of the Constitution) Special Urgency –

15 **Questions to Cabinet Members**

To receive answers from the Cabinet Members to questions on their portfolios from other Members.

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16 **Members Business**

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

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

Guidance notes for meetings of Mid Devon District Council

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If the Council experience technology difficulties at a committee meeting the Chairman may make the decision to continue the meeting 'in-person' only to conclude the business on the agenda.

1. Inspection of Papers

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at Committee@middevon.gov.uk

They can also be accessed via the council's website [Click Here](#)

Printed agendas can also be viewed in reception at the Council offices at Phoenix House, Phoenix Lane, Tiverton, EX16 6PP.

2. Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership.

The Code of Conduct can be [viewed here](#):

3. Minutes of the Meeting

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting. Minutes of meetings are not verbatim.

4. Public Question Time

Residents, electors or business rate payers of the District wishing to raise a question and/or statement under public question time are asked to provide their written questions to the Democratic Services team by 5pm three clear working days before the meeting to ensure that a response can be provided at the meeting. You will be invited to ask your question and or statement at the meeting and will receive the answer prior to, or as part of, the debate on that item. Alternatively, if you are content to receive an answer after the item has been debated, you can register to speak by emailing your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. You will be invited to speak at the meeting and will receive a written response within 10 clear working days following the meeting.

Notification in this way will ensure the meeting runs as smoothly as possible

5. Meeting Etiquette for participants

- Only speak when invited to do so by the Chair.
- If you're referring to a specific page, mention the page number.

For those joining the meeting virtually:

- Mute your microphone when you are not talking.
- Switch off your camera if you are not speaking.
- Speak clearly (if you are not using camera then please state your name)
- Switch off your camera and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called "turn on live captions" which provides subtitles on the screen.

6. Exclusion of Press & Public

When considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act. If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed. They will be invited to return as soon as the meeting returns to open session.

7. Recording of meetings

All media, including radio and TV journalists, and members of the public may attend Council, Cabinet, PDG and Committee meetings (apart from items Media and Social Media Policy - 2023 page 22 where the public is excluded) you can view our Media and Social Media Policy [here](#). They may record, film or use social media before, during or after the meeting, so long as this does not distract from or interfere unduly with the smooth running of the meeting. Anyone proposing to film during the meeting is requested to make this known to the Chairman in advance. The Council also makes audio recordings of meetings which are published on our website [Browse Meetings, 2024 - MIDDEVON.GOV.UK](#).

8. Fire Drill Procedure

If you hear the fire alarm you should leave the building by the marked fire exits, follow the direction signs and assemble at the master point outside the entrance. Do not use the lifts or the main staircase. You must wait there until directed otherwise by a senior officer. If anybody present is likely to need assistance in exiting the building in the event of an emergency, please ensure you have let a member of Democratic Services know before the meeting begins and arrangements will be made should an emergency occur.

9. WIFI

An open, publicly available Wi-Fi network is normally available for meetings held in the Phoenix Chambers at Phoenix House.

MINUTES of a **MEETING** of the **COUNCIL** held on 22 May 2024 at 6.00 pm

Present

Councillors

F W Letch (Chairman)
G Duchesne (Vice Chairman), C Adcock,
M D Binks, N Bradshaw, D Broom,
E Buczkowski, J Buczkowski, J Cairney,
S Chenore, S J Clist, L J Cruwys,
G Cochran, C Connor, F J Colthorpe,
A Cuddy, G Czapiewski, J M Downes,
B Fish, M Fletcher, R Gilmour, B Holdman,
M Jenkins, S Keable, L G J Kennedy,
L Knight, N Letch, J Lock, J Poynton,
R Roberts, S Robinson, L Taylor, H Tuffin,
N Woollatt, A White, J Wright and D Wulff

Apologies

Councillor(s)

C Harrower and G Westcott

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer)), Richard Marsh (Director of Place & Economy), Laura Woon (Democratic Services Manager), Angie Howell (Democratic Services Officer), Sarah Lees (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

Councillors

Online

M Farrell and A Glover

167 CHAIRMAN OF THE COUNCIL

Cllr L Taylor nominated Cllr F Letch for the election as Chairman of the District Council for the year 2024/2025: This nomination was seconded by Cllr John Downes.

Upon a vote being taken it was then:

RESOLVED that Cllr F Letch be elected Chairman of Mid Devon District Council for the Municipal year 2024/2025.

In accordance with Section 83 of the Local Government Act 1972, Cllr F Letch then made a Declaration of Acceptance of Office.

168 CHAIRMAN'S ADDRESS

The Chairman addressed the Council and thanked the Members for electing him as Chairman.

169 APOLOGIES

Apologies were received from Councillors: Cllr C Harrower, G Westcott.

170 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT

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

None were declared under this item.

171 MINUTES

The minutes of the meeting held on the 24th April 2024 were **AGREED** as a correct record and signed by the Chairman.

172 VICE CHAIRMAN OF COUNCIL

Cllr G DuChesne nominated Cllr G Czapiewski for election as Vice Chairman of Mid Devon District Council for the year 2024/2025. This nomination was seconded by Cllr S Clist.

Upon a vote being taken it was then:

RESOLVED that Cllr G Czapiewski be elected Vice Chairman of Mid Devon District Council for the municipal year 2024/2025.

In accordance with Section 83 of the Local Government Act 1972, Cllr G Czapiewski then made a Declaration of Acceptance of Office and thanked the Council for appointing him as Vice Chairman.

173 CHAIRMAN OF THE SCRUTINY COMMITTEE

Cllr B Holdman nominated Cllr L Kennedy for election as Chairman of Scrutiny. The nomination was seconded by Cllr E Buczkowski.

Cllr N Woollatt nominated Cllr R Roberts for election as Chairman of Scrutiny. The nomination was seconded by Cllr M Binks.

Upon a vote being taken, it was:

RESOLVED that Cllr L Kennedy be elected as Chairman of the Scrutiny Committee for the municipal Year 2024/2025.

Those voting **AGAINST**: Councillor: M Binks, P Colthorpe, M Jenkins, R Roberts, H Tuffin and N Woollatt.

Those **ABSTAINING** from voting: Councillor: D Broom, A Cuddy and L Kennedy.

174 **APPOINTMENT OF COMMITTEES, SUB COMMITTEES, WORKING GROUPS AND OTHER INTERNAL BODIES**

The Council had before it a table * setting out the revised allocation of seats on Committees and other Council bodies.

Arising thereon:

Appointment of Committees and Allocation of Seats on Committees and other Council Bodies

The Chairman **MOVED**:

(a) That the Council approved the allocation of seats on Committees and other Council Bodies as shown on the schedule;

(b) That Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;

(c) That Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;

(d) That the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats had been allocated by the Council.

(e) That the appointments to seats remaining to be filled by ungrouped Members should be made at this meeting.

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

Those **AGAINST** from voting on the **MOTION**: Councillor N Woollatt.

Those **ABSTAINING** from voting on the **MOTION**: Councillor: M Binks, D Broom and M Jenkins.

Note: *table previously circulated.

175 APPOINTMENT TO OUTSIDE BODIES

The following appointments to Outside Bodies were **AGREED** with the removal of Devon Historic Buildings Trust.

Outside Body	Current representative/s	Representative/s for 2024/2025	Appointment Length
Blackdown Hills National Landscape	Cllr N Bradshaw	Cllr N Bradshaw	Annual
Broadpath Landfill & Hillhead Liaison Committee	Cllr A Glover	Cllr A Glover	Annual
Building Control Joint Committee	Deputy Leader and Cabinet Member for Housing & Property Services Cabinet Member for Planning and Economic Regeneration	Deputy Leader and Cabinet Member for Housing & Property Services Cabinet Member for Planning and Economic Regeneration	Annual
Business Forum Mid Devon	Cabinet Member for Planning and Economic Regeneration	Cabinet Member for Planning and Economic Regeneration	Annual
Culm Garden Village Delivery Board	The Leader Cabinet Member for Planning and Economic Regeneration	The Leader Cabinet Member for Planning and Economic Regeneration	Annual
Cullompton Town Team (2 Members)	Cllr L Knight Cllr S Robinson	Cllr L Knight Cllr S Robinson	Annual
Devon Districts Forum	The Leader	The Leader	Annual

Devon Historic Buildings Trust	Cllr G DuChesne		Annual
Devon Rail Forum	Cllr J Downes	Cllr J Downes	Annual
Devon & Somerset Metro Board	Cabinet Member for Planning and Economic Regeneration	Cabinet Member for Planning and Economic Regeneration	Annual
Gypsy and Traveller Forum	Cabinet Member for Planning and Economic Regeneration Cabinet Member for Housing & Property Services Cllr A Glover	Cabinet Member for Planning and Economic Regeneration Cabinet Member for Housing & Property Services Cllr A Glover	Annual
INVOLVE – Voluntary Action in Mid Devon	Cllr S Robinson	Cllr S Robinson	Annual
OkeRail Forum	Cllr J Downes	Cllr J Downes	Annual
South West Councils	The Leader	The Leader	Annual
South West Councils Employers Panel	Cabinet Member for the Working Environment and Support Services	Cabinet Member for the Working Environment and Support Services	Annual
Team Devon	The Leader	The Leader	Annual

The Chairman **MOVED** that the Council agree the existing scheme of delegations as set out in Part 3 of the Constitution.

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

Those voting **AGAINST** the **MOTION**: Councillor: M Binks, R Roberts and N Woollatt.

177 PROGRAMME OF MEETINGS

The Chairman **MOVED** that the following programme of ordinary meetings of the Council for the year 2024/25 be approved:

- 17th July 2024
- 4th September 2024
- 30th October 2024
- 18th December 2024
- 19th February 2025
- 23rd April 2025

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

178 THE LEADER OF THE COUNCIL UPDATE

- The effort and delivery across all areas of the Council from Members of all parties and Officers with the annual reports to show the facts and figures shortly at the Cabinet meeting.
- The Liberal Democrat commitment to the financial responsibility of the Council, since last May had closed the failing 3 Rivers project and increased the social housing stock with the purchase of the St Georges Court Site and created much needed homes for local residents at affordable rents.
- The new administration had reduced the level of subsidy to the 3 leisure centres and made them more efficient;
- The annual budget for leisure had been reduced by over £400,000.
- The 2024/25 budget was set without any use of reserves, was fully balanced and was unanimously supported across the political spectrum.
- The collection rates of 97.5% for Council Tax, 99.4% for business rates and 98.9% for corporate debt recovery, these were some of the best in the country.
- The State of the District Debate was the first of its kind at this Council. There had been engagement and honest conversation with over 70 attendees from across the Town and Parish Councils.
- The creation of a new Cabinet portfolio dedicated to Community and Parish Engagement. This would create a direct link between Parishes, Cabinet and Officers. Cllr Gwen DuChesne had agreed to take on this role and anyone who knew Gwen would fully appreciate how her compassion, empathy and drive to empower people to succeed would be essential in this role.

- This Council was the first in Devon to introduce a Council Tax exemption for Care Leavers and agreed to support them further with access to our leisure facilities.
- The reduction of the senior management by removing 2 senior posts and for the senior staff to work more effectively.
- The commitment to Climate Change, to understand and plan to mitigate the effects that the communities felt and to reduce the ongoing contribution to Climate Change.
- The roll-out of 3 weekly waste collections had seen the recycling rate increase by 5% and the Council had been placed in the top 10% nationally and second best in Devon.
- As a key part of the Liberal Democrat administration's commitment to openness and transparency, the Council provide regular detailed financial information to Council meetings. A new performance/risk monitoring dashboard for a number of the Council meetings had been created to ensure all Councillors and the public understood how the performance had been throughout the year.
- The Cabinet team were already in discussions with senior officers about the shape/scope of the 2025/26 budget and how this could align to the delivery of the new Corporate Plan; a plan that will be put before all the Policy Development Groups shortly for Members' consideration.
- Thanked all of the Members and officers who had helped to deliver all the impressive achievements over the past 12 months and looked forward to continuing to work closely in order to navigate Members through the next set of challenges and opportunities that the Council faced.

(The meeting ended at 18.52pm)

CHAIRMAN

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MINUTES of a **MEETING** of the **CABINET** held on 4 June 2024 at 5.15 pm

Present

Councillors

L Taylor (Leader)
N Bradshaw, J Buczkowski, S J Clist, G
DuChesne, J Lock, S Keable, J Wright and
D Wulff

**Councillors
Online**

G Czapiewski, A Glover and C Harrower

**Also Present
Councillor(s)**

D Broom, E Buczkowski, L Cruwys, B Holdman, L Kennedy

**Also Present
Officer(s):**

Stephen Walford (Chief Executive), Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer), Richard Marsh (Director of Place & Economy), Paul Deal (Head of Finance, Property and Climate Resilience), Simon Newcombe (Head of Service for Housing and Health), Dean Emery (Head of Service Revenues, Benefits, Corporate Recovery, Corporate Fraud, Welfare & Leisure), Matthew Page (Head of People, Performance & Waste), Lisa Lewis (Head of Digital Transformation & Customer Engagement), James Hamblin (Operations Manager People Services), Dr Stephen Carr (Corporate Performance and Improvement Manager)(online), Adrian Welsh (Group Manager for Growth, Economy & Delivery Community Development), Andy Mackie (Operation Manager for Leisure), Haley Walker (Leisure Business Manager), Thomas Muston (Conservation Officer) and Laura Woon (Democratic Services Manager)

1. **APOLOGIES (43:29)**

There were no apologies for absence.

2. **PUBLIC QUESTION TIME (44:36)**

Nick Quinn

My questions concern a financial transaction which was part of the close-down of 3 Rivers which is reported in the Asset Revaluations table shown in Appendix 4 of the 2023/24 Revenue and Capital Outturn Report. That is on page 309 of the papers presented to Cabinet today.

Question 1:

Why did the Council pay £3.662 million for the land at Knowle Lane, Cullompton that is shown as having a value of only £1.665 million?

Response from the Cabinet Member for Finance:

By the Council purchasing this land, as opposed to selling it now, there was time for the wider strategic infrastructure delays to be resolved, for the land to be reincorporated into the local plan and for planning permission to be re-obtained. All of which would increase the value of the land, thereby minimising any potential loss.

The national land valuation given by the District Valuer was not a value that the Council believes the land was worth. Selling it in the current market, without the aforementioned resolutions, would have crystallised a loss that potentially may never arise.

Question 2:

Who authorised this transaction?

Response from the Cabinet Member for Finance:

Cabinet / Full Council in August / September – through the unanimous decision to soft close the company over a sensible short term period in order to minimise any potential financial exposure and maximise returns from company assets.

At the time of the purchase, this was ratified through an additional delegated decision by Cllr J Buczkowski and the S151 Officer.

Question 3:

How does this transaction demonstrate the proper financial probity in handling public money at Mid Devon District Council?

Response from the Cabinet Member for Finance:

For the reasons outlined in answer to Q1, this decision had protected public funding from crystallising a loss that may never arise.

Mrs Kearns-Hannah

The 2023/24 Revenue and Capital Outturn Report reveals that the Shapland Place Tiverton ZED POD modular construction development has an overspend of £717,000.

Question 1:

What is the total cost of the Shapland Place Development including not just the modular build cost but the grounds work, utilities installation, planning and legal and S106 cost etc.

Response from the Cabinet Member for Finance:

The cost incurred to date for Shapland Place was £2,217k, some £717k above the original budget.

This had been fully funded through the following:

- £692k Homes England Grant Funding, some £354k above original budget.
- £376k Capital Receipts – on budget.
- £103k Affordable Rents surplus reserve – on budget.
- £886k Housing Maintenance Fund reserve - £274k above original budget.
- £160k One Public Estate Grant Funding – not originally included within the budget.

Therefore, £514k of the over spend had been funded through additional external grant funding. The remaining £203k had been funded from reserves. No borrowing had been incurred to fund this project, despite £71k being originally budgeted. Therefore, this project had a net £132k variance.

The project was due to complete shortly.

Question 2:

The same report reveals that the St Andrews Cullompton ZED POD modular construction development has an overspend of £400,000.

What is the total cost of this development including not just the modular build cost but the ground works, utilities installation, planning and legal and S106 cost etc?

Response from the Cabinet Member for Finance:

The total cost incurred for St Andrews was £1,400k, some £400k above the original budget.

This had been fully funded through the following:

- £560k Right to Buy Receipts, some £298k above the original budget.
- £236k Capital Receipts – on budget.
- £117k Affordable Rents surplus reserve – on budget.
- £346k Housing Maintenance Fund reserve - £3k above budget.
- £120k One Public Estate Grant Funding – not originally included within the budget.
- £21k New Homes Bonus reserve – on budget.

Therefore, the £400k had been more than funded from additional external funding sources, meaning that planned borrowing had not been required.

The project was complete and the units were occupied.

Question 3:

The same report says Paragraph 1.4 “in addition to the above budgetary challenge, the Council also incurred exceptional one-off cost totalling £1, 483,000 in order to deliver the soft closure of 3Rivers Developments Ltd”.

What precisely were these “one- off cost”?

Response from the Cabinet Member for Finance:

This detail was clearly provided in Appendix 4 to this report.

Question 4:

The total value of the 3Rivers Development recharges is shown as £398,447 Can you please provide an itemised list showing what these recharge cost fully relate to?

Response from the Cabinet Member for Finance:

The £398k recharge over the life of the company could be split as follows:

- £316,471.31. Staff Salary Recharges, prior to direct employment
- £20,196.39. Direct recharges for items, such as design and consultancy, land registry charge, grass cutting, housing viability assessment and equipment.
- £3,201.57. Telephony recharges.
- £58,577.66. Support Service Recharges, such as Legal, Finance, ICT and office accommodation.

Question 5:

Have MDDC Officers been required to time write, this in respect of any work they undertook in relation to supporting the 3Rivers Development business?

If not why not?

Response from the Cabinet Member for Finance:

By “time write”, I interpret this as record their time? No, as the company’s operations and administrative support was fully independent from April 2021.

Question 6:

Where are all the various 3Rivers Audits and investigation cost recorded in MDDC accounts?

Response from the Cabinet Member for Finance:

Direct audit costs for the company were within the company’s accounts, not Mid Devon District Councils. Any investigation or additional audit fees incurred as part of the audit of Mid Devon District Council’s group accounts and Value for Money Assessment was included within the Corporate Management line in Appendix 1a and detailed in 1b.

Question 7:

What was the total cost of the various 3Rivers audits and investigations?

Response from the Cabinet Member for Finance:

The latest independent review carried out by Francis Clark cost £12,049.40. Grant Thornton charged an additional £22,000 as part of their 2022/23 Audit.

Question 8:

How will MDDC account for the loss of investment interest on the 3Rivers assets they are now holding, and which could go unsold for many months even years, interest payments it seems which stopped in September 2023?

Response from the Cabinet Member for Finance:

No interest income from 3Rivers was included within the budget, so no adverse variation would be created, therefore no accounting is required.

Question 9:

When all additional cost are factored in what is the true commercial loss to the MDDC taxpayer for the MDDC’s 3Rivers so called and failed Vanity Project?

Response from the Cabinet Member for Finance:

This detail was clearly stated within the report as £3.384m, with supporting detail provided in Appendix 4 to this report. This was significantly lower than the reports of £20m+ included within the local press and social media fuelled by uninformed assumptions rather than facts and figures.

Question 10:

Will this loss figure ever be published in the public domain?

Response from the Cabinet Member for Finance:

See response to Q9 – not sure how much more transparent we could make this.

Question 11:

In fact do MDDC have a mechanism or even a will, to fully understand the real value of this total loss?

Response from the Cabinet Member for Finance:

Yes, but perhaps there are some that did not.

Barry Warren

May I refer members to Agenda item 14 on page 265 of the papers. Recommendation 1 seeks approval for a transfer of £635k from the New Homes Bonus reserve. Paragraph 1.3 on page 266 sets out some history but a little more detail shows the fuller picture. Council in March 2023 had to set a budget and the original proposal from officers showed an income of about £900k in interest from 3 Rivers but most knew that this money would have to be borrowed before it could be paid. It was not acceptable to members. Members were told that to take this from reserves would take the agreed reserves to under £2m.

It now appears that in paragraph 1.5 £635k can be taken from reserves without a problem. In paragraph 1.6 it states: "Appendix 1a. The table below assumes this is offset by a transfer from the New Homes Bonus **Earmarked** Reserve."

Question 1:

Does this mean that using these ***Earmarked Reserves*** does not affect the £2m reserve figure?

Question 2:

In paragraph 1.5 it states: "This is a major corporate achievement and reflects the hard work and efforts of managers and services during the year." This is good work but why was the ***Earmarked Reserves*** option not offered to Council in March 2023?

I refer to Agenda Item 7 starting on page 65. Section 10 of the Complaints and Feedback Policy page 77 has a section which states: The term complaint in this guidance also covers requests made under access to information law such as the Freedom of Information Act 2000.

Question 3:

Why does this Council policy regard requests for information as Complaints?

Question 4:

If the Council consider such requests: *are time consuming and repetitive and can take up excessive officer and Member time that could be used on other council/landlord priorities*; why are those seeking information not dealt with in a straight forward, open and honest manner rather than being denied information and then having to seek reviews?

Question 5:

Would it not be better to provide the information rather than have enquirers complaining to the Information Commissioner and have that office direct the Council to release the information?

Question 6:

Where can a member of the public actually see the numbers of Freedom of Information requests made and the results?

Paul Elstone**Question 1:**

This Administration has stated that it will manage Council Taxpayers funds and budgets prudently and will not repeat the failings of the 3Rivers debacle.

I contend this Administration is grossly failing in these aims by pursuing Modular Housing to provide social homes. Specifically, the Revenue and Capital Outturn report Agenda Item 14 states that there is an overspend of £717,000 for the Shapland Place modular development.

In answer to a question, I asked at Cabinet Meeting of March 2023 I was told that the initial budget was £1.4 million that the ZED PODS quote for Shapland Place was £1.488 million. Therefore, with the overspend the total cost is now around £2.2 million.

As the gross internal floor area for the eight (8) Shapland Place dwellings is 438 square meters the £2.2million cost equates to an extortionate cost of £5,022 per square meter. Calculations show similar excessive cost for the St Andrews, Cullompton development.

I would refer you to the Haddon Heights Viability Assessment and a document which Council Officers did all they could to prevent me from seeing. It states the following. The Building Cost Information Service (BCIS) data on building cost and rebased for Mid Devon is £1,396 per square meter. Using the upper quartile rate it is £1,626 per square meter. Incidentally the current sales price of £675,000 for a luxury Haddon Heights property of 228 square meters or £2,960 per square meter - That is sale price not build cost.

Therefore, the Shapland Place modular home development has cost the MDDC taxpayers between two and three times as much as available data shows it reasonably should.

Will the Council Leader fully explain how he considers this is prudent spending or lessons have been learned? This when the data shows that MDDC could build over twice as many and much needed social homes and for the same capital spend?

Question 2:

In terms of the 3Rivers Final Impairments, agenda Item 14 many of the numbers provided deserve close scrutiny. As one example interest payments on St Georges Court. For year 2023/2024 shows an interest payment of £428,148 on an outstanding loan balance of £12.86 million.

It is understood that MDDC only purchased St Georges Court in March 2024. Therefore 12 months interest payments are due from 3 Rivers. At a very low loan interest rate of 5% or 0.5% base rate plus 4.5% agreed uplift, the loan interest payment due should be over £643,000 or £215,000 more. There are many other similar irregularities it seems.

Why do the interest payable numbers not reconcile, this amongst many other things?

Question 3:

Will the results of an external audit conducted on the 3Rivers numbers be made available to the public?

Goff Welchman**Question 1:**

I understand that there are moves afoot to reduce the size of the Grand Western Canal Conservation Area.

I therefore ask Cabinet to please note that, at a time when Tiverton's green areas are being eroded every year, all conservation areas should be fully protected for future generations. Furthermore, many residents will view this as a devious plot to undermine objections to the wretched Tidcombe Hall Planning Application.

I hope you will unanimously vote to maintain full protection of this area, rejecting any attempt to diminish it.

Response from Cabinet Member for Planning and Economic Regeneration:

Thank you for the question. You were quite correct that there were proposed changes to the extent of the Canal Conservation Area which were proposed as a result of the recent Conservation Area Appraisal. Conservation Areas were designated for both their special architectural and historic interest. Local planning authorities must review their conservation areas from time to time, as directed by legislation.

It was best practice to update conservation area appraisals and their boundaries to reflect changing methodologies and any changes to the area since adoption. Importantly, these changes aimed to ensure that the Council had robust strategy towards the Conservation Area and to ensure the protection of the important and precious canal environment.

There was no relationship between these proposals and the externally-led Tidcombe Hall proposals. Furthermore, I would point out that no decision is before Cabinet tonight in terms of the adoption of the revised Conservation Area Appraisal and Management Plan, rather, the recommendation set before Cabinet tonight is that the

revised document was approved for public consultation so that we might engage the public in discussion on these proposed changes before any final document can be put before Cabinet for approval. I would therefore encourage all people with an interest in the Canal to please provide us with your feedback and contribute to the completion of this important piece of work.

3. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (1:11:49)**

The Leader declared an interest in the Grand Western Canal Conservation Area Appraisal as he had received emails regarding this item.

4. **MINUTES OF THE PREVIOUS MEETING (1:12:10)**

The minutes of the previous meeting held on 2nd April 2024 were approved as a correct record and **SIGNED** by the Leader.

5. **DRAFT CORPORATE PLAN (1:12:42)**

Cabinet had before it a report * from the Chief Executive and Corporate Performance and Improvement Manager on the Draft Corporate Plan.

The Leader outlined the contents of the report with particular reference to the following:

- The draft Corporate Plan had been under development since January 2024 when an initial meeting was held by the Council Leader with the Cabinet and Committee/ Policy Development Group Chairs and Vice-Chairs. Officer support was provided by the Leadership Team and the Corporate Performance and Improvement Manager.

The Chief Executive highlighted the following:

- The Corporate Plan set out the Council's Aims and Objectives.
- This was a draft document. It would benefit from the insight and review of all elected Members. It was therefore recommended that following review by Cabinet, it be considered at each Policy Development Group, with recommendations referred back to Cabinet, before the draft Corporate Plan was presented to Full Council for consideration and approval.

RESOLVED that:

1. Cabinet reviewed the draft Corporate Plan 2024-28, Appendix 1, and recommended any alterations.

2. Cabinet **AGREED** that the draft Corporate Plan 2024-28 was to be considered by each Policy Development Group and that their recommendations were brought back to a future Cabinet meeting, prior to any onward recommendation to Full Council.

(Proposed by the Leader of the Council)

Note: * Report previously circulated.

Reason for Decision:

Setting out the Council's Aims and Objectives through a Corporate Plan helped the Council to demonstrate its performance in relation to Value for Money considerations

6. **ACCESS TO PHOENIX HOUSE FOR VULNERABLE CUSTOMERS (1:18:50)**

Cabinet had before it a report * from the Head of Digital Transformation & Customer Engagement on Access to Phoenix House for Vulnerable Customers.

The Cabinet Member for Working Environment outlined the contents of the report with particular reference to the following:

- On the 26 March 2024 the Community PDG approved a report of the Public Access Working Group and agreed to recommend to Cabinet the installation of an intercom for use at Phoenix House.
- The intercom would be available for use during standard working hours when the building was closed to the public, i.e. when the interior doors were closed.
- Should the intercom installation be authorised, a review would be carried out six months after installation to confirm usage. A verbal report would be given at Community, People & Equalities PDG.

Discussion took place regarding:

- Would the Council consider a trial for the opening of longer hours at Phoenix House?
- Clarification on the feedback mechanism of as much data as possible and how that would be presented to Cabinet.

RESOLVED that:

The installation of an intercom for use by the public when Phoenix House was closed (available office hours only) be approved; as recommended by the Community PDG of 26 March 2024.

(Proposed by Cllr J Lock seconded by Cllr D Wulff)

7. **COMPLAINTS POLICY (1:28:15)**

Cabinet had before it a report * from the Head of Digital Transformation & Customer Engagement on the Complaints Policy.

The Cabinet Member for Working Environment outlined the contents of the report with particular reference to the following:

- The review of the policy was delayed due to the design timeline of the new Customer Relationship Management (CRM) system and a subsequent consultation on, and implementation of, a revised code by the Local Government Social Care Ombudsman (LGSCO) which came into effect on 1 April 2024.

- Stage one and two complaints would have a default response time of 10 working days from the date of acknowledgement, unless agreed with the senior officer responsible or their deputy as outlined in the policy.
- Implementation of new Complaints and Feedback recording system, including the design and creation of new reporting/monitoring tools.

Discussion took place regarding:

- Would there be a strategic review with how and what would get reported to the Policy Development Group.
- The involvement of senior officers more regularly and reporting more frequently.
- In relation to section 10 and 11, unreasonable, unreasonably persistent, and vexatious complaints. Clarification about there being no Member oversight and ahead of the recommendation going to full Council, consideration of the relevant Cabinet Members being involved.
- If a complaint came to an individual Councillor.

RECOMMENDED to Full Council the approval of the revised Complaints and Feedback Policy.

(Proposed by Cllr J Lock and seconded Cllr J Buczkowski)

Note: * Report previously circulated.

8. **CORPORATE HEALTH AND SAFETY POLICY (1:52:05)**

Cabinet had before it a report * from the Operations Manager for People Services on the Health and Safety Policy.

The Cabinet Member for Working Environment outlined the contents of the report with particular reference to the following:

- The Health & Safety Policy had been approved by the Health & Safety Committee on 24 January 2024, as well as, the Joint Negotiation and Consultation Committee (JNCC) on 25 January 2024.
- The Health & Safety Policy was reviewed and approved by Community PDG on 26 March 2024.

RESOLVED the revised Health & Safety Policy be approved.

(Proposed by Cllr J Lock and Seconded by Cllr S Clist)

Note:*Report previously circulated

9. **CULLOMPTON INFRASTRUCTURE (1:53:30)**

Cabinet had before it, and **NOTED**, a report * from the Strategic Manager Growth, Economy & Delivery and Director of Place and Economy on the Cullompton Infrastructure.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report with particular reference to the following:

- An update on the three key transport infrastructure schemes were as follows, the Cullompton Town Centre Relief Road; Strategic Improvements to Junction 28 of the M5 Motorway, and the reopening of Cullompton Railway Station in line with the adopted Local Plan.

Discussion took place regarding:

- The disappointment of the Cullompton Infrastructure being on hold.
- The importance of the infrastructure as it showed the detrimental effects on the residents, the frustration and the reliance on central Governments support.
- Could any of the local Ward Members or residents encourage Tesco's to sell the land?
- The environmental opportunities and the balance of carbon footprint in future reports.

Note: *Report previously circulated.

10. **SAFEGUARDING POLICY (2:06:30)**

Cabinet had before it a report * from the Head of Housing and Health on the Safeguarding Policy.

The Cabinet Member for Community and Leisure outlined the contents of the report with particular reference to the following:

- The Council was committed to safeguarding from harm all children, young people and adults with care and support needs using any Council services and involved in any of their activities and to treat them with respect during their dealings with the Council's staff and elected Members and Mid Devon District Council partners and contractors.
- Feedback from Members Safeguarding Training that took place in December 2023 had also helped to shape the policy format.
- As part of the policy review process, a potential gap was also identified in safeguarding provisions for Members with a recommended mechanism to review Disclosure Barring Service (DBS) checks which could be included in a future update of relevant policies.
- This would be a member led decision and the final recommendation recommended that the Standards Committee established a working group to review its potential future inclusion.
- Those leaving care faced their own unique challenges and support needs, and one of those challenges that the Council must break down was the presumption that they were predisposed to vulnerability rather than, in experience, often individuals who could teach Members a lot about supporting others.

RESOLVED that:

1. Cabinet revised para 1.3.3 of the updated Corporate Safeguarding Policy so the final bullet point was replaced by two new ones:
 - ~~having been in care, prison or other institution~~
 - being care-experienced
 - having been in prison or other institution
2. The updated Corporate Safeguarding Policy that was recommended for approval by the Community PDG was approved.
3. Cabinet **NOTED** that the Community PDG recommended to Standards Committee that a Member working group was established to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.

(Proposed by Cllr D Wulff and seconded by Cllr G DuChesne)

Note: *Report previously circulated

11. **COUNCIL PRODUCTIVITY PLAN (2:10:30)**

Cabinet had before it a report * from the Deputy Chief Executive (S151) Officer on the Council Productivity Plan.

The Leader of the Council outlined the contents of the report with particular reference to the following:

- The Council had produced an overarching Productivity Plan that had focused on the many areas where the Council had already made services more productive/effective.
- The Minister in his guidance letter, was expecting all Councils to provide Member oversight and endorsement of the plan. It was also fair to say that some of the areas focused on seemingly had very little to do with productivity; a point that had been addressed in the plan by way of responses.

Discussions took place regarding:

- That it needed to be noted that Central Government were supporting less each year and Councils were required to do more.
- The frequency of the report.

RESOLVED the attached Productivity Plan for submission to the Department for Levelling Up, Housing and Communities be approved.

(Proposed by the Chairman)

Note: *Report previously circulated

Reason for Decision:

The Council was required to produce a Productivity Plan as part of the Local Government finance settlement.

12. GRAND WESTERN CANAL CONSERVATION AREA APPRAISAL (2:17:10)

Cabinet had before it a report * from the Director of Place and Economy on the Grand Western Canal Conservation Area Appraisal.

- The Grand Western Canal had an adopted Conservation Area since October 1994. However, it was without a Conservation Area Appraisal.
- A Conservation Area Appraisal had now been undertaken to meet the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework (NPPF), and guidance published by Heritage England.
- This was in the form of a draft Grand Western Canal Conservation Area Appraisal and Management Plan, which was the document included in Appendix 1 of the report.
- The draft Grand Western Canal Conservation Area Appraisal and Management Plan would need to be subjected to a statutory public consultation before it was finalised and brought back to the Cabinet and Council for its approval and adoption.
- A summary of the history of the Grand Western Canal's development, and assessment of its historic and architectural interest also included proposed changes to the current designated boundary of the conservation area, ensuring that an area justifies inclusion within the conservation area because of the special historic or architectural interest, and that the concept of conservation is not devalued through designated areas that lack special interest.
- The proposed changes to the conservation area are included in Section 7.6 of the document.
- The Planning Policy Advisory Group (PPAG) considered the draft Grand Western Canal Conservation Area Appraisal and Management Plan at the meeting on 15th May 2024 and had endorsed the recommendations in this report to the Cabinet.

Discussion took place regarding:

- The results after the consultation.
- What involvement had Devon County Council had and their response and if so to include that in the report.
- The development and the impact it had on the Conservation area and houses in the surrounding areas.
- To maximise the consultation to give time for responses and for the Director of Place and Economy to consider an 8 week consultation.
- The statement of conservation area as there was no definition of this in the document and the public perception of this.
- The woodland not being historical.
- Clarification as to whether the County Park Manager was aware of this report and recommendations.
- The concerns of the residents in the Tiverton, Cranmore Ward.
- When would the consultation start on the Grand Western Canal Conservation area?

- All Members to be engaged with the consultation to ensure everyone had the opportunity to respond.

RESOLVED that:

1. The draft Grand Western Canal Conservation Area Appraisal and Management Plan (Appendix 1 to this report), including proposed alterations to the extent of the Grand Western Canal Conservation Area made through Section 69(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), be approved for public consultation.
2. That delegated authority be given to the Director of Place and Economy in consultation with the Cabinet Member for Planning and Economic Regeneration to finalise the material and arrangements for consultation.

(Proposed by Cllr S Keable and seconded by Cllr J Buczkowski)

Note: *Report previously circulated

Reason for Decision:

The Appraisal met the Council's obligations required by the Planning (Listed Building and Conservation Areas) Act 1990.

13. **ANNUAL TREASURY OUTTURN REPORT 23/24 (3:03:13)**

Cabinet had before it a report * from the Deputy Chief Executive (S151) Officer on Annual Treasury outturn report 23/24.

The Cabinet Member for Finance outlined the contents of the report with particular reference to the following:

- Treasury Management was a specialist area that required a number of important indicators to be approved.
- It had shown the level of capital expenditure for the year of 2023/ 2024 and how it had been funded, either through existing resources or through increasing the financial requirement.
- Investments conformed to the approved strategy and there were no liquidity difficulties. Indeed, healthy returns from investments were achieved averaging 5.25%, some way ahead of expectation.
- All loans to 3Rivers were cleared during the year 2023/2024 through a combination of repayments via the sale of assets, or through the final impairment of £1.483m. The company had no outstanding debt, either with the MDDC Council or any other creditor.

RESOLVED that:

1. Cabinet **NOTED** the treasury activities for the year.
2. Cabinet **RECOMMEND TO FULL COUNCIL** to approve the actual 2023/24 prudential and treasury indicators in this report.

(Proposed by Cllr J Buczkowski seconded by Cllr S Clist)

Note: *Report previously circulated

14. **2023/24 REVENUE AND CAPITAL OUTTURN REPORT**

Cabinet had before it a report * from the Deputy Chief Executive (S151) Officer on 2023/24 Revenue and Capital Outturn report.

The Cabinet Member for Finance outlined the contents of the report with particular reference to the following:

- In February 2023, a budget was set that required £400k of staffing savings to be identified and £625k to be taken from reserves to balance the budget. Over 1m was required to be saved in-year to avoid reducing reserves below the recommended minimum level.
- As part of the 2023 budget decision, 3Rivers were left without an approved business plan, restricted from undertaking new projects in significant financial losses; this was unaddressed in the budget this administration inherited.
- The subsequent decision to soft close the business, all assets had been sold and the final losses of £3.384m had been crystallised, with a further £1.483m impairment required. Combined, these challenges sum to over £2.5m.
- The Outturn position for the General Fund presented was an over spend of £635k which was directly attributable to the exceptional cost of closing 3 Rivers and the final impairment.
- Nearly £1.9m had been saved in year to avoid significantly depleting the Councils reserves, savings delivered since this Liberal Democrat administration.
- Significantly reduced staffing costs capitalising on staff turnover and sickness to review staffing levels, reduce reliance on agency staff and deliver the staff saving target.
- The Housing Revenue Account (HRA) (in full) underspend of £393k similarly reflected underspends on salaries, lower maintenance spend, increased income across rent and investments led to a reduction in bad debt provision.

RESOLVED that:

1. Cabinet **NOTED** the General Fund Outturn achieved in 2023/24 which requires no draw from the General Fund balance, but requires a transfer of £635k (4.05% on the Net Cost of Services Budget) from the New Homes Bonus reserve and the Housing Revenue Account which shows an under spend of £393k (3.28% on the Total Direct Expenditure Budget).
2. Cabinet **NOTED** the overarching General Fund budgetary savings delivered of £1,873k in order to mitigate the £2,508k exceptional cost pressures shown in paragraphs 1.3 and 1.4.
3. Cabinet **APPROVED** the transfer of the £393k Housing Revenue Account surplus to the ring-fenced HRA Earmarked Reserves as detailed in the HRA Budget Variance Report shown in Appendix 2 and summarised in Appendix 3.
4. Cabinet **APPROVED** the Net Transfers from Earmarked Reserves of £1,532k detailed in the General Fund Service Budget Variance Reports shown in Appendix 1a and 1b and summarised in Appendix 3.

5. Cabinet **APPROVED** the slippage of £28,441k from the 2023/24 Capital Programme to be delivered in 2024/25 or later years.
6. Cabinet **NOTED** the procurement waivers used in Quarter 4 of 2023/24, as outlined in Section 7.

(Proposed by Cllr J Buczkowski and seconded by Cllr L Taylor)

Note: * Report previously circulated

Reason for Decision:

Good financial management and administration underpinned the entire document. A surplus or deficit on the Revenue Budget would impact on the Council's General Fund balances. The Council's financial position was constantly reviewed to ensure its continued financial health.

15. AWARD OF THE OFFICE, MARKET AND LEISURE CLEANING CONTRACT (3:12:30)

Cabinet had before it a report * from the Head of Finance, Property & Climate Resilience on the Award of the Office, Market and Leisure Cleaning Contract.

The Deputy Leader and Cabinet Member for Housing and Property Services outlined the contents of the report with particular reference to the following:

- To advise Cabinet Members on the results for the tendering of the Office, Market and Leisure Cleaning Contract and confirm the award of the contract for an initial period of 12 months plus the option to extend for a further 12 months.

RESOLVED that:

1. The new one year Cleaning Contract for Office Market and Leisure Cleaning Contract be awarded to Contractor 1.
2. Delegated authority be granted to the S151 Officer (in consultation with the Cabinet Member for Property Services) to complete the Cleaning Contract for Office Market and Leisure Cleaning Contract.

(Proposed by Cllr S Clist and seconded by Cllr J Lock)

Note: *Report previously circulated

Reason for Decision:

The financial results of the tender exercise can be met from the budget available in the 2024/25 financial year. The initial contract term would be for 12 months with an option to extend for a further 2 x 12 months.

16. LEISURE MANAGEMENT SYSTEM (LMS) (3:15:35)

Cabinet had before it a report * from the Head of Revenues, Benefits & Leisure on the Leisure Management System (LMS).

The Cabinet Member for Community and Leisure outlined the contents of the report with particular reference to the following:

- The service's income exceeded £3m for the first time and resulted in it surpassing the budget by £419k. £332k was due to the change in VAT treatment for some services, with nearly £87k as a result of growth. In 2023/24, the Leisure service was subsidised by £1.4m.
- However, the budget for 2024/25 was set at £983k showing a substantial reduction of £419k to the taxpayer. This saving had been delivered as a consequence of our proactive decarbonisation investments, further cost control measures and some assumed income growth.
- In 2023, Max Associates were commissioned to undertake an independent review for the Council on the Leisure service. The Council was keen to understand how current performance compares to the wider public leisure sector and its offer against local competition.
- Leisure had already taken account of the external professional advice with regards to its pricing strategy, and Cabinet were asked to approve the digital transformation of the service that drew heavily on that external advice, alongside identified service needs.
- Part of the proposal would be to update the Leisure App, which was a significant public-facing part of the digital experience. As well as improving the customer interface with Mid Devon Leisure by streamlining the booking and membership processes, it presented an opportunity for future revenue streams from advertising and offering at-home video-based classes.

Discussion took place regarding:

- Whether the Leisure application on mobiles phones would be updated or a new one created.

RESOLVED that:

The digital transformation for the Leisure Service via a full tender process based on the four 'lots' proposed in (2.0) (2.1) (2.2) (2.3) be approved.

(Proposed by Cllr D Wulff and seconded by Cllr L Taylor)

Note: *Report previously circulated

Reason for Decision:

The commercial nature of the industry meant that Mid Devon Leisure could be vulnerable to threats from competition, substitutions and price sensitivity. Implementation of a new Leisure Management System would ensure the digital ecosystem is aligned resulting in improved customer service and continued growth and retention.

17. NOTIFICATION OF KEY DECISIONS

The Cabinet had before it and **NOTED** the notification of Key Decisions *.

The Democratic Services Manager added Public Spaces Protection Order to July's meeting.

Note: * Notification of Key Decisions previously circulated.

18. **THE NEXT SCHEDULED MEETING DATE**

Cabinet **NOTED** the next scheduled meeting of Cabinet was 9th July 2024.

The Leader announced changes to the Cabinet Portfolios and there are now as follows:

Leader- Cllr Luke Taylor

Cabinet Member for People, Development and Deputy Leader- Cllr Jane Lock

Cabinet Member for Housing, Assets and Property and Deputy Leader- Cllr Simon Clist

Cabinet Member for Governance, Finance and Risk- Cllr James Buczkowski

Cabinet Member for Planning and Economic Regeneration- Cllr Steve Keable

Cabinet Member for Parish and Community Engagement- Cllr Gwen DuChesne

Cabinet Member for Environment and Climate Change- Cllr Natasha Bradshaw

Cabinet Member for Service Delivery and Continuous Improvement- Cllr Josh Wright

Cabinet Member for Quality (Cost) of Living, Equalities and Public Health- Cllr David Wulff

(The meeting ended at 20.19pm)

CHAIRMAN

Cabinet 4th June 2024 Public Questions and Answers

Name of person submitting	Questions
<p>Paul Elstone</p> <p>Page 35</p>	<p>Question 1: This Administration has stated that it will manage Council Taxpayers funds and budgets prudently and will not repeat the failings of the 3 Rivers debacle.</p> <p>I contend this Administration is grossly failing in these aims by pursuing Modular Housing to provide social homes. Specifically, the Revenue and Capital Outturn report Agenda Item 14 states that there is an overspend of £717,000 for the Shapland Place modular development.</p> <p>In answer to a question, I asked at Cabinet Meeting of March 2023 I was told that the initial budget was £1.4 million that the ZED PODS quote for Shapland Place was £1.488 million. Therefore, with the overspend the total cost is now around £2.2 million.</p> <p>As the gross internal floor area for the eight (8) Shapland Place dwellings is 438 square meters the £2.2million cost equates to an extortionate cost of £5,022 per square meter. Calculations show similar excessive cost for the St Andrews, Cullompton development.</p> <p>I would refer you to the Haddon Heights Viability Assessment and a document which Council Officers did all they could to prevent me from seeing. It states the following. The Building Cost Information Service (BCIS) data on building cost and rebased for Mid Devon is £1,396 per square meter. Using the upper quartile rate it is £1,626 per square meter. Incidentally the current sales price of £675,000 for a luxury Haddon Heights property of 228 square meters or £2,960 per square meter - That is sale price not build cost.</p> <p>Therefore, the Shapland Place modular home development has cost the MDDC taxpayers between two and three times as much as available data shows it reasonably should.</p> <p>Will the Council Leader fully explain how he considers this is prudent spending or lessons have been learned? This when the data shows that MDDC could build over twice as many and much needed social homes and for the same capital spend ?</p>

Response from Cabinet Member for Governance, Finance and Risk:

The total cost is as set out in reply to Q1 from Mrs Kearns-Hannah.

With regard to the unit costs comparison between the MDH social housing scheme at Shapland Place and the market scheme Haddon Heights these are not readily comparable projects and the method of comparison is not valid.

Shapland Place is an urban flood zone 3 development which was also designed and specified from the outset to provide wider regeneration benefits to the Shapland Place area which includes a mix of existing/former MDH tenants and private homeowners. It has enabled MDH to transform low-value underutilised, challenging land previously blighted by poor drainage within its ownership into a valuable long-term use as vital social housing. This includes broader benefits of bringing forward a scheme in a sustainable location within an existing community whilst enhancing the wider area.

In terms of comparison costs:

The £2.2m referred to the question is the total project cost for the development at Shapland Place and not just the modular units themselves. So works include:

- Feasibility study, viability works, planning and design costs
- Legal and s106 fees
- Demolition of 40+ end of life garages
- Removal and disposal of asbestos containing materials
- Groundworks and new services
- Significant below ground drainage and flood attenuation covering the footprint of the building and car parking areas
- Steel frame podium design with undercroft due to flood zone requirements
- 30+ car parking spaces (significantly above planning policy requirements to alleviate wider parking pressures in the locality)
- Surfacing and line marking across the whole scheme including the extended parking areas
- Additional costs arising from planning committee design requirements (above policy)
- EV chargers
- Modular units

- Commissioning

In terms of comparison method, the question makes a comparison between the internal floor areas for the Haddon Heights homes versus the entire floor area of Shapland Place. The modular scheme has a large amount of external floor area including communal bin stores, cycle store, communal walkways and communal staircases.

In terms of specification, Shapland Place has an enhanced 120year life-span design with significantly reduced cyclical maintenance costs to the MDH Housing Revenue Account compared to more a traditional build such as Haddon Heights. Furthermore, the modular units contains a significant future-proof investment in renewables enabling it to achieve EPC A+ rating and net-zero lifetime carbon accreditation versus an EPC B rating for Haddon Heights and the co-benefit to MDH tenants of exceptionally low energy running costs.

Since the flood and drainage attenuation has been completed, the wider Shapland Place area has seen no winter or flash flooding for the first time in many years and we expect the new Council homes to be occupied soon.

Question 2:

In terms of the 3 Rivers Final Impairments, agenda Item 14 many of the numbers provided deserve close scrutiny. As one example interest payments on St Georges Court. For year 2023/2024 shows an interest payment of £428,148 on an outstanding loan balance of £12.86 million.

It is understood that MDDC only purchased St Georges Court in March 2024. Therefore 12 months interest payments are due from 3 Rivers. At a very low loan interest rate of 5% or 0.5% base rate plus 4.5% agreed uplift, the loan interest payment due should be over £643,000 or £215,000 more. There are many other similar irregularities it seems.

Why do the interest payable numbers not reconcile, this amongst many other things?

Response from Cabinet Member for Governance, Finance and Risk:

The interest charged was dependent upon the prevailing interest rate at the time of the draw down. Therefore, the simple equation of £xm outstanding at y% interest rate is not applicable. In addition, interest ceased to be charged from the date the offer to purchase the site was accepted 17 November 2023.

	<p>Question 3: Will the results of an external audit conducted on the 3 Rivers numbers be made available to the public?</p> <p>Response from Cabinet Member for Governance, Finance and Risk: The external auditor’s opinion will be included within the company’s accounts filed at Companies House.</p>
<p>Barry Warren</p> <p>Pages</p>	<p>May I refer members to Agenda item 14 on page 265 of the papers. Recommendation 1 seeks approval for a transfer of £635k from the New Homes Bonus reserve. Paragraph 1.3 on page 266 sets out some history but a little more detail shows the fuller picture. Council in March 2023 had to set a budget and the original proposal from officers showed an income of about £900k in interest from 3 Rivers but most knew that this money would have to be borrowed before it could be paid. It was not acceptable to members. Members were told that to take this from reserves would take the agreed reserves to under £2m.</p> <p>It now appears that in paragraph 1.5 £635k can be taken from reserves without a problem. In paragraph 1.6 it states: “Appendix 1a. The table below assumes this is offset by a transfer from the New Homes Bonus <u>Earmarked</u> Reserve.”</p> <p>Question 1: Does this mean that using these <i>Earmarked Reserves</i> does not affect the £2m reserve figure?</p> <p>Response from Cabinet Member for Governance, Finance and Risk: Yes</p> <p>Question 2: In paragraph 1.5 it states: “This is a major corporate achievement and reflects the hard work and efforts of managers and services during the year.” This is good work but why was the <i>Earmarked Reserves</i> option not offered to Council in March 2023?</p> <p>Response from Cabinet Member for Governance, Finance and Risk: The use of the NHB earmarked reserve was for the specific one-off exceptional cost directly attributable to the closure of 3Rivers. This additional cost was not funded in the original budget as the future of the company had not been decided.</p>

The financial challenges that were included within the original revenue budget set by the previous administration were ongoing rather than one-off in nature. It is not prudent to fund ongoing expenditure from one-off sources, therefore, the need to identify a plan to replenish the reserves used to balance the budget was included as part of the budget recommendation. I am pleased that this administration successfully delivered that plan and protected the General Fund reserve.

I refer to Agenda Item 7 starting on page 65. Section 10 of the Complaints and Feedback Policy page 77 has a section which states: The term complaint in this guidance also covers requests made under access to information law such as the Freedom of Information Act 2000.

Question 3:

Why does this Council policy regard requests for information as Complaints?

Response from Cabinet Member for People, Development and Deputy Leader:

The Council does not regard requests for information as complaints. However, repetitive requests from an individual on the same subject once a response is given could be deemed to be vexatious. Guidance on requesting information and appealing a Council response can be found in our Freedom of Information (FOI) Policy which is available on our website. [Freedom of information - MIDDEVON.GOV.UK](http://MIDDEVON.GOV.UK)

Question 4:

If the Council consider such requests: *are time consuming and repetitive and can take up excessive officer and Member time that could be used on other council/landlord priorities*; why are those seeking information not dealt with in a straight forward, open and honest manner rather than being denied information and then having to seek reviews?

Response from Cabinet Member for People, Development and Deputy Leader:

The Council considers each request for information on its own merits. The Complaints Policy text is alluding to repetitive requests for the same information. Please refer to our website for further information and question 5 response.

Question 5:

Would it not be better to provide the information rather than have enquirers complaining to the Information Commissioner and have that office direct the Council to release the information?

Response from Cabinet Member for People, Development and Deputy Leader:

A request will only be refused:

- It is a vexatious or repeated request;
- If it falls under one of the exemptions;
- If a clarification request has not been responded to within 60 days.

If the Request is refused, we will provide a detailed explanation as to why any relevant exemptions have been applied to the request. The applicant has an appeal route as outlined in our FOI policy.

Question 6:

Where can a member of the public actually see the numbers of Freedom of Information requests made and the results?

Response from Cabinet Member for People, Development and Deputy Leader:

The FOI disclosure logs can be found on our websites: [FOI/EIR disclosure logs - MIDDEVON.GOV.UK](https://www.middevon.gov.uk/foi/eir-disclosure-logs)

Report for: Cabinet

Date of Meeting:	4 June 2024
Subject:	Complaints and Feedback Policy
Cabinet Member:	Cllr Jane Lock, Cabinet Member for Working Environment
Responsible Officer:	Lisa Lewis, Head of Digital Transformation & Customer Engagement
Exempt:	N/A
Wards Affected:	All
Enclosures:	Appendix 1

Section 1 – Summary and Recommendation(s)

To approve the content of the reviewed Complaints and Feedback Policy in light of the new Complaints Code issued by the Local Government Ombudsman and Social Care Ombudsman (LGSCO).

Recommendation(s):

That Cabinet recommend to Full Council the approval of the revised Complaints and Feedback Policy

Report

1.0 Introduction

- 1.1 The Complaints and Feedback policy was last reviewed in 2021.
- 1.2 The policy sets out the standards and response timescales that customers can expect when providing feedback to the authority. It also provides standards for staff in dealing with complaints and feedback received.
- 1.3 The review of the policy was delayed due to the design timeline of the new Customer Relationship Management (CRM) system and a subsequent consultation on, and implementation of, a revised code by the LGSCO which came into effect on 1 April 2024.

2.0 Summary of Changes

- 2.1 The LGSCO code came into effect on 1st April, however monitoring compliance will not formally start until 1 April 2025. Due to the redesign of the system used for logging feedback the intention is that we will move to the new code formally at the point that the policy is approved and the system goes live. To that end certain changes in process are outlined below.
- 2.2 In addition, the Housing Ombudsman Service (HOS) has taken the opportunity to revise their current code for complaints. For the ease of staff, members and customers this policy is aligned for both the LGSCO and HOS codes and whichever is more favourable through process for our customers/tenants.
- 2.3 More information about Housing complaints will be presented to the Homes PDG on 11 June 2024 in the Complaints Handling paper.
- 2.4 Acknowledgements of complaints will be done within five working days from submission.
- 2.5 Stage One and Two complaints will have a default response time of 10 working days from the date of acknowledgement, unless agreed with the senior officer responsible or their deputy as outlined in the policy.
- 2.6 Evidence/ reasons for extensions of time for complaints will be communicated to customers/ tenants and monitored.
- 2.7 Performance around complaints will be monitored and breaches reported to the Corporate Performance group and designated member responsible. The annual report to Scrutiny committee will continue with enhanced analysis after the new system has been implemented and enough data gathered.
- 2.8 A senior officer responsible will be appointed to oversee complaints performance. This will be the Head of Digital Transformation & Customer Engagement (excluding Housing which will be dealt with as per current arrangements).
- 2.9 A Member responsible for Complaints will be appointed. This is proposed to be the Cabinet member for Service Delivery & Continuous Improvement.
- 2.10 The review frequency of the policy has been reduced from three years to two years.

3.0 Impacts

- 3.1 The new code places additional burdens on services responding to complaints.

- 3.2 The Customer First team will be responsible for managing the general process and system. This will include triage of complaints (excluding Housing) for all services and assigning to services/ officers as appropriate.
- 3.3 Extensions of time over the initial 10 working days will be referred back for authorisation based upon the nature and complexity of the case for agreement of additional time.
- 3.4 Services will be expected to respond to complaints in a much shorter period of time and for complex cases seek clarification from customers prior to commencing any investigation.
- 3.5 The administrative and recording process of complaints may very well impact on service capacity and resources. This is, as yet, unquantifiable but in future may mean additional resources are required within the council to administer and monitor the additional burdens the code places on us.
- 3.6 The annual Scrutiny report is likely to be in a state of flux this year as we transition to a new system and data will not be easily comparable between the new systems. The data may therefore be presented in two distinct formats over the normal annual period within the Scrutiny report.

4.0 Next Steps

- 4.1 A member briefing was held on 7 May 2024 to inform members of the changes.
- 4.2 On the adoption of the policy the web pages and other information sources will be updated.
- 4.3 Implementation of new Complaints and Feedback recording system, including the design and creation of new reporting/ monitoring tools.
- 4.4 A satisfaction survey will be created to monitor customer satisfaction with the complaints process.
- 4.5 Staff training on complaints for designated staff and the dissemination of the new policy to all staff and members through the online Learning Management System (LMS).
- 4.6 We will be required to complete a self-assessment to meet the LGSCO guidelines.

Financial Implications - Failure to deal with service failures and complaints promptly and appropriately may result in compensation being due to the complainant.

Legal Implications - Failure to deal with service failures and complaints promptly and appropriately as identified in our policies may have legal implications.

Risk Assessment – Failure to adopt and apply the new code may result in LGSCO action and reputational damage.

Impact on Climate Change - There is no impact or opportunity for improvement/adaptation in conjunction with MDDC Climate Action Plan.

Equalities Impact Assessment - Complaints are received in a variety of ways. MDDC ensures that there is equality of opportunity for all customers. In addition, and where there is a need, staff will assist in the recording of complaints. There is also an interpretation service available through Language Line.

Relationship to Corporate Plan - The Complaints and Feedback policy underpins the core values of MDDC relating to People and Performance and outlines the process to measure our success with service delivery.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 21/05/24

Statutory Officer: Maria De Leburne
Agreed on behalf of the Monitoring Officer
Date: 21/05/24

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 21/05/24

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 14/05/2024

Cabinet member notified: (yes/no)

Report: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. (Yes/No)

Appendix: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. (Yes/No)

Section 4 - Contact Details and Background Papers

Contact: Lisa Lewis, Head of Digital Transformation & Customer Engagement
Email: llewis@middevon.gov.uk
Telephone: 01884 234981

Background papers:

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Mid Devon District Council

Complaints and Feedback Policy

March 2024

Version Control Sheet

Title: **Complaints and Feedback Policy**

Purpose: To detail the commitment of the authority to encourage and accept customer feedback of all types and to enable identification of recurring issues and learn from mistakes. Also to set standards for all staff in recording and managing feedback received.

Owner: Head of Digital Transformation and Customer Engagement

llewis@middevon.gov.uk

Telephone number 01884 234981

Date: March 2024

Version Number: 5.0

Status: Draft

Review Frequency: Every 2 years or sooner if required

Next review date: 2026

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

Corporate Managers

Leadership Team

Cabinet Member

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Corporate Managers	Mar 24	5.0
Leadership Team	Apr 24	5.0
Cabinet	Jun 24	5.0

1. Introduction

Complaints, compliments, and comments provide valuable feedback and are used to assess service performance. The Council needs to address recurring problems, identify and learn from areas of good practice and ensure service delivery is continually improved.

This policy sets out Mid Devon District Council's standard for dealing with complaints, compliments, and comments, for ensuring feedback is recorded and appropriate action is taken. The policy details a two stage complaints process that all staff should follow to ensure a consistent approach to dealing with complaints, feedback, and redress.

This policy is relevant to Mid Devon District Council (MDDC) AND Mid Devon Housing (MDH). Compliance and regulatory oversight of the application of this policy is provided by the Local Government and Social Care Ombudsman (LGCSO) and the Housing Ombudsman Service (HSO) respectively.

All complaints will be acknowledged within 5 working days of receipt and resolved within 10 working days where possible (Stage 1). If a longer investigation is required, the customer/tenant will be informed that a further period is required to investigate and resolve their complaint. This will usually be no longer than an additional 10 working days. If the complaint is of such complexity that it will require further time the matter will be referred to the designated officer responsible for complaints to agree an appropriate response time.

Stage 1 will be to refer the complaint to the relevant service manager or Housing Complaints Officer. If the customer/tenant is still unhappy with the response, **Stage 2** will result in a further investigation by an alternative officer or more senior officer as appropriate.

If the complaint is about a named officer, the case will be assigned to a more senior manager/officer, independently of the service, or the MDH Complaints Officer as appropriate.

At each stage, the customer/tenant will be given details of how they can make further referral to the [Local Government Ombudsman](#) OR [Housing Ombudsman](#). Details of how to do this can be found in these links and on our website.

2. Scope

The policy sets out the Council's approach to complaints and details the procedure for dealing with complaints received from our customers/tenants and is available to everyone who receives a service from MDDC or MDH.

3. Process Maps

See Appendices 1a, 1b and 1c.

4. Policy

MDDC and MDH are committed to delivering quality services to all customers/tenants. The views of our customers/tenants are welcomed on what we get right and what we do wrong. We recognise that from time to time we do get things wrong, and we do not provide the high standards of service expected.

We encourage customers/tenants to report complaints and would like to hear about each instance, as they give us an opportunity to put things right and learn from our mistakes.

MDDC is using the Local Government Ombudsman's definition of what a complaint is:

"An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals".

MDH is using the Housing Ombudsman Service definition of what a complaint is:

"An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the landlord, its own staff, or those acting on its behalf, affecting a resident or group of residents."

A complaint is not a service request.

A **service request** is a request from a customer/tenant to the organisation/landlord requiring action to put something right. Service requests are not complaints, but must be recorded, monitored and reviewed regularly. MDDC/MDH should have the opportunity to deal with a service request before a complaint is made.

A **complaint** may be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. The council/landlord will not stop its efforts to address the service request if the individual complains.

Any member of the public, or their representatives, staff, businesses, public and voluntary bodies can make a complaint about the Council/Landlord.

5. Exclusions

The council/landlord will accept a complaint unless there is a valid reason not to do so. If the council/landlord decide not to accept a complaint an explanation will be provided to the complainant. Each complaint will be considered on its own merits.

Acceptable exclusions include:

- The issue giving rise to the complaint occurred over twelve months ago
- Legal proceedings have started. This is defined as details of the claim, such as the Claim Form and Particulars of Claim, having been filed at court
- The matter has been previously considered under the complaints policy

The council/landlord will accept complaints referred to us within 12 months of the issue occurring or the customer/tenant becoming aware of the issue unless they are excluded on other grounds. The council/landlord may decide to apply discretion to accept complaints made outside this time limit where there are good reasons to do so, e.g. Health and Safety, Safeguarding or conduct matters.

If the council/landlord does not accept a complaint, an explanation will be provided to the customer/tenant setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman. If the Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may instruct the council/landlord to take on the complaint.

6. Aims and Objectives

In dealing with complaints from any party MDDC/MDH will:

- ensure all staff are trained in dealing with complaints and feedback
- ensure that making a complaint is as easy as possible
- ensure that all staff can log a complaint on behalf of customers/tenants
- listen to the complainant's views and those of others
- treat complainants with respect, dignity, and fairness, regardless of the section of society from which they come. MDDC/MDH aims to be sensitive to the diverse needs of individuals and will endeavour to meet those needs wherever possible
- investigate the issues raised
- not restrict the ways in which our customers can make complaints
- deal with any complaint, promptly, politely, and seriously
- respond to all complaints and include in our response:
 - an apology
 - an explanation of what our investigation has found
 - information on any actions taken or to be taken
 - confirmation of whether the complaint was upheld or not
- learn from the complaint and use it positively to continually improve our services; a record of lessons learnt is recorded on each case and changes to working practices or policies are also recorded and reported on annually
- recognise that complaints are an invaluable tool and measure of the quality of service the organisation is delivering
- publish information on complaints via our council/landlord web pages
- seek to resolve complaints in an amicable and professional manner
- provide information in alternative formats e.g. large print upon request (there may be a slight delay in receiving these items)
- keep complainants informed of how their complaints are being dealt with
- record and monitor complaints to make sure they are dealt with within the time stated by us
- report to Members annually as a minimum
- treat all complaints and appeals in strictest confidence
- provide information on how to contact the relevant Ombudsman if we have been unable to resolve issues to the customer's satisfaction

- ask customers/tenants to complete equality monitoring questions to ensure our complaints system is meeting the needs of all customers/tenants
- ensure objective investigation of any complaints about officers by assigning independent and/or senior officer oversight of the investigation of the complaint. In the case of MDH complaints these will be referred to the MDH Complaints Officer

7. Confidentiality

All complaints will be dealt with in the strictest confidence.

8. Provision of Information

We will protect customer/tenant privacy both in face-to-face discussions and in the transfer and storage of information.

All staff complete data protection training at induction and have regular updates on their responsibility in relation to the protection of personal information.

Where customers/tenants provide information, we will make it clear what is required and only retain as much data as is required for that purpose.

Customers/tenants should be aware that if a complaint is about a 3rd party/contractor who provides services on behalf of MDDC, then to expedite the complaint the minimum data necessary will be shared to resolve the issue.

9. Assistance for complainants

Complaints do not have to be in writing and can be made in whatever format is most suitable for the complainant; this can be by phone, email, writing a letter, using our on-line form, or in person.

Complaints can be made on behalf of customers who are unable to make the complaint themselves. Customer Services staff are available to help customers who are unsure what to do.

Support can be provided for those who have difficulty reading or writing.

Information about the complaints procedure can be provided in an alternative format on request.

10. Unreasonable, unreasonably persistent, and vexatious complaints

We recognise that the council/landlord may receive complaints from persons with widely varying ways of expressing themselves and who may feel angry, impatient, frustrated or extremely worried, depending on their circumstances. We will therefore only very exceptionally wish to categorise a complaint as unreasonable, unreasonably persistent, or vexatious.

This policy identifies situations and ways of responding where a complainant, either individually or as part of a group, might be making complaints that are unreasonable, persistent, or vexatious. In this policy the terms mean:

- unreasonable - exceeding the bounds of reason, not listening to reason

- persistent - to continue, firmly or obstinately
- vexatious - not having sufficient grounds for action and/or seeking to annoy.

The policy is intended to assist in managing people by categorising them within these terms and agreeing the actions to be taken.

The term complaint in this guidance also covers requests made under access to information law such as the Freedom of Information Act 2000 and the Data Protection Act 2018.

Unreasonable, persistent, and vexatious complaints can be a problem for staff and Members. The difficulty in handling such complaints is that they are time consuming and repetitive and can take up excessive officer and Member time that could be used on other council/landlord priorities.

Officers and Members will endeavour to respond appropriately according to the individual complainant's needs, and in compliance with our complaints policy, but this guidance is to cover occasions where nothing further can be reasonably done to assist or rectify a real or perceived problem.

Complaints received about District, Town or Parish Councillors should be referred to the Monitoring Officer.

11. Action to be taken on unreasonable, unreasonably persistent, or vexatious complaints

An individual assessment will need to be made in each case to determine if the complaint is to be categorised as unreasonable, persistent, or vexatious. When considering whether a complaint should fall within this category, consideration will need to be given to the extent of the complaints made to date and/or meet the criteria below:

- are unduly repetitious and/or potentially an obsessive or unreasonable pursuit of the matter
- continuing to deal with the matter is incompatible with the wider public interest.
- complaints where there is an expectation of unrealistic outcomes
- reasonable complaints made in an unreasonable manner

The District Solicitor will investigate the issues and provide a response within 10 working days, whenever possible or such longer time as considered appropriate in the case. The complainant should be notified that the complaint is being investigated to determine if it is unreasonable, persistent, or vexatious following receipt of the latest relevant complaint.

It is essential that any new contacts are checked and only sent to the District Solicitor if they relate to the current complaint under investigation. Any new service requests or complaints should be logged separately and dealt with by the service area.

The Council's District Solicitor will notify the relevant officers, the complainant and where appropriate the ward member in writing of the reason the complaint has been classed as unreasonable, persistent, or vexatious and of the actions to be taken.

Once a complaint has been determined as unreasonable, persistent, or vexatious, its status will be kept under review and if the complainant demonstrates a more reasonable approach, their status or any restrictions applied to access to our officers will be reviewed.

Staff who may potentially be involved in service delivery concerning the complainant will be made aware of any restrictions imposed which may affect their service area.

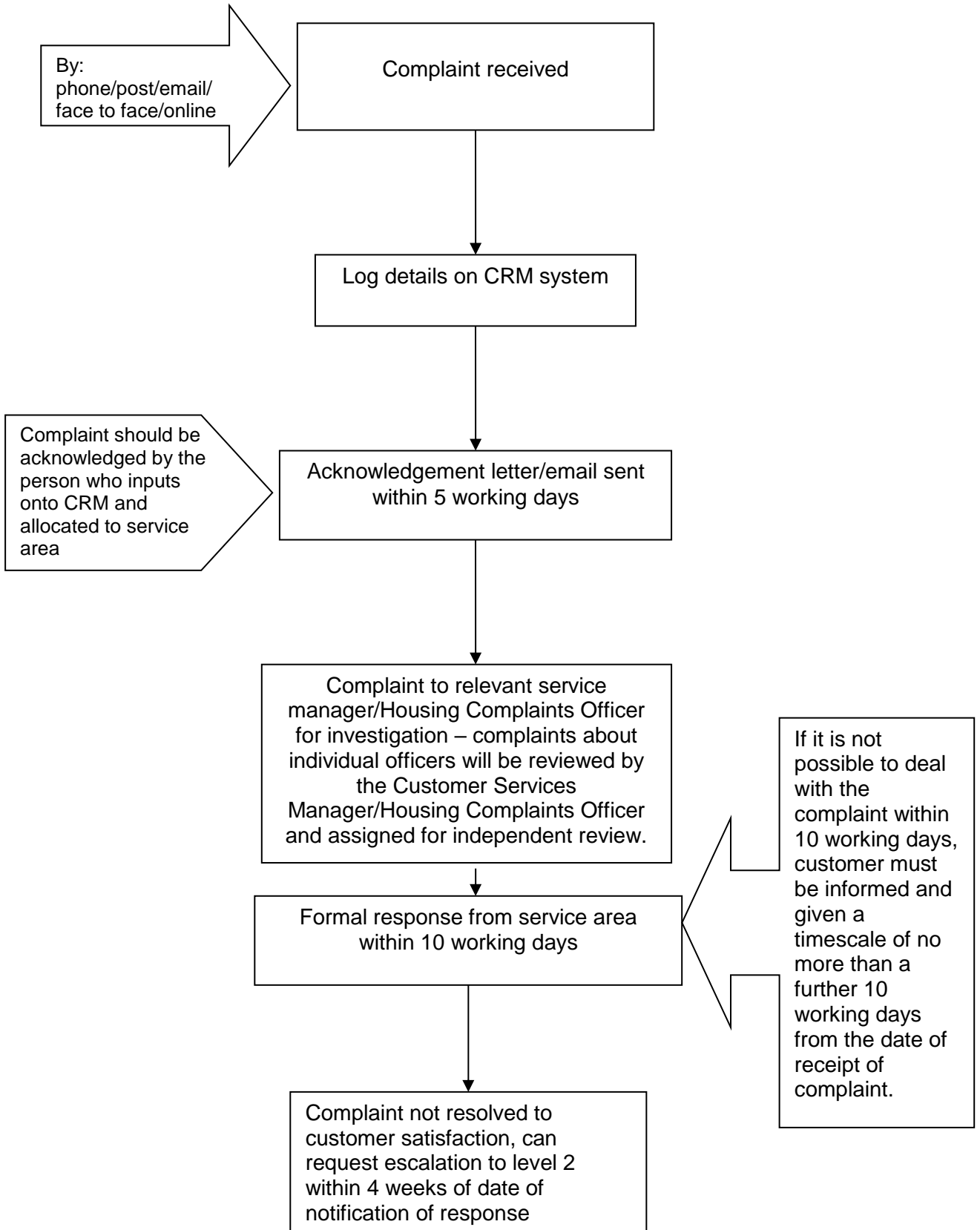
12. Review

This policy will be reviewed within two years to incorporate legislative, regulatory, or best practice developments. Policy and procedural amendments will be made as and when new services or systems are introduced to improve the quality of complaint monitoring. Periodic reviews will be undertaken in consultation with members.

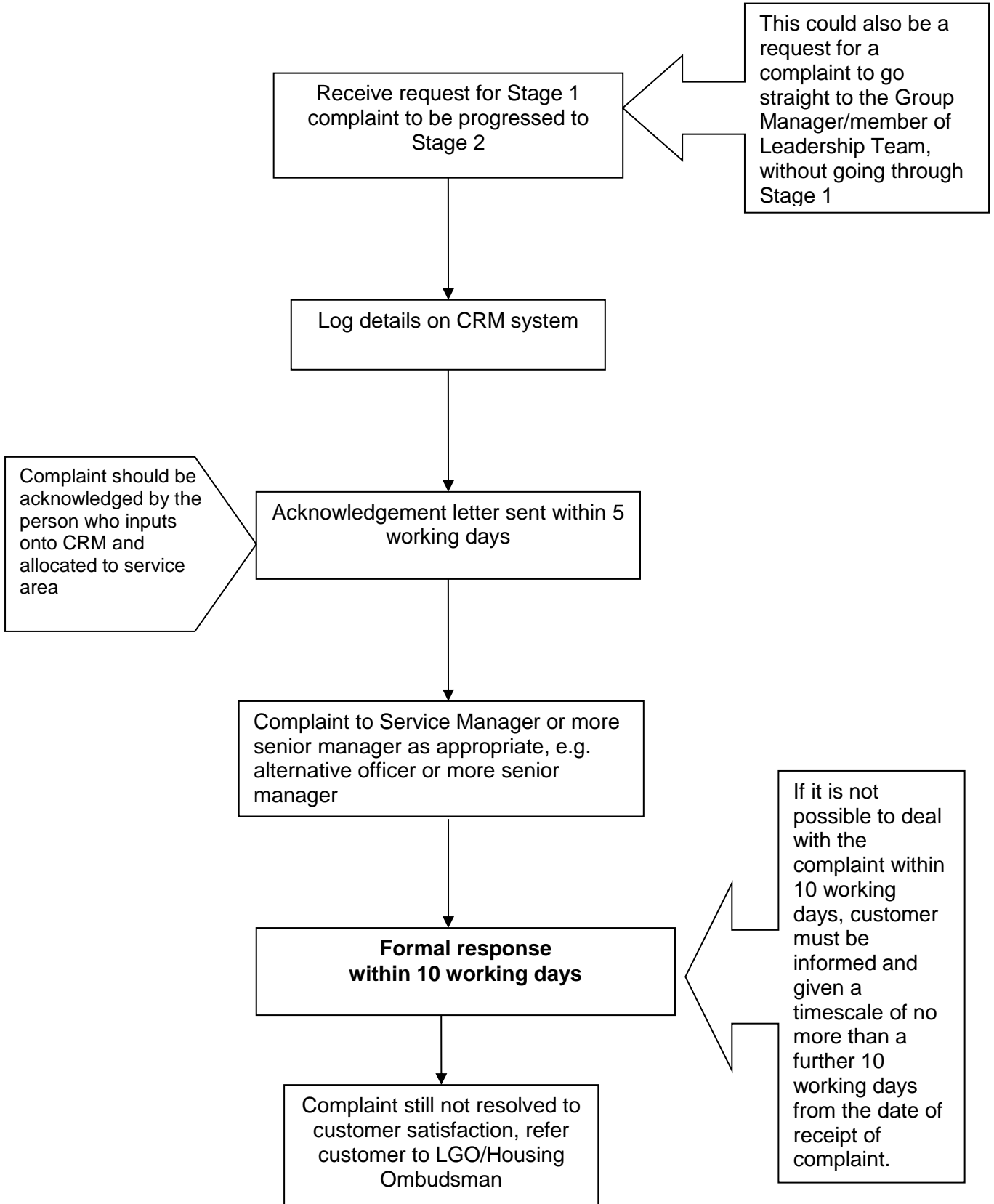
13. Customer/Tenant Consultation and Surveys

We will ask customers/tenants that have used the complaints system to let us know how easy it was to make their complaint and if they found the procedure to be fair and covered all their needs. We will use the information from these surveys when reviewing our policy to inform changes and ensure our complaints procedure is “fit for purpose.”

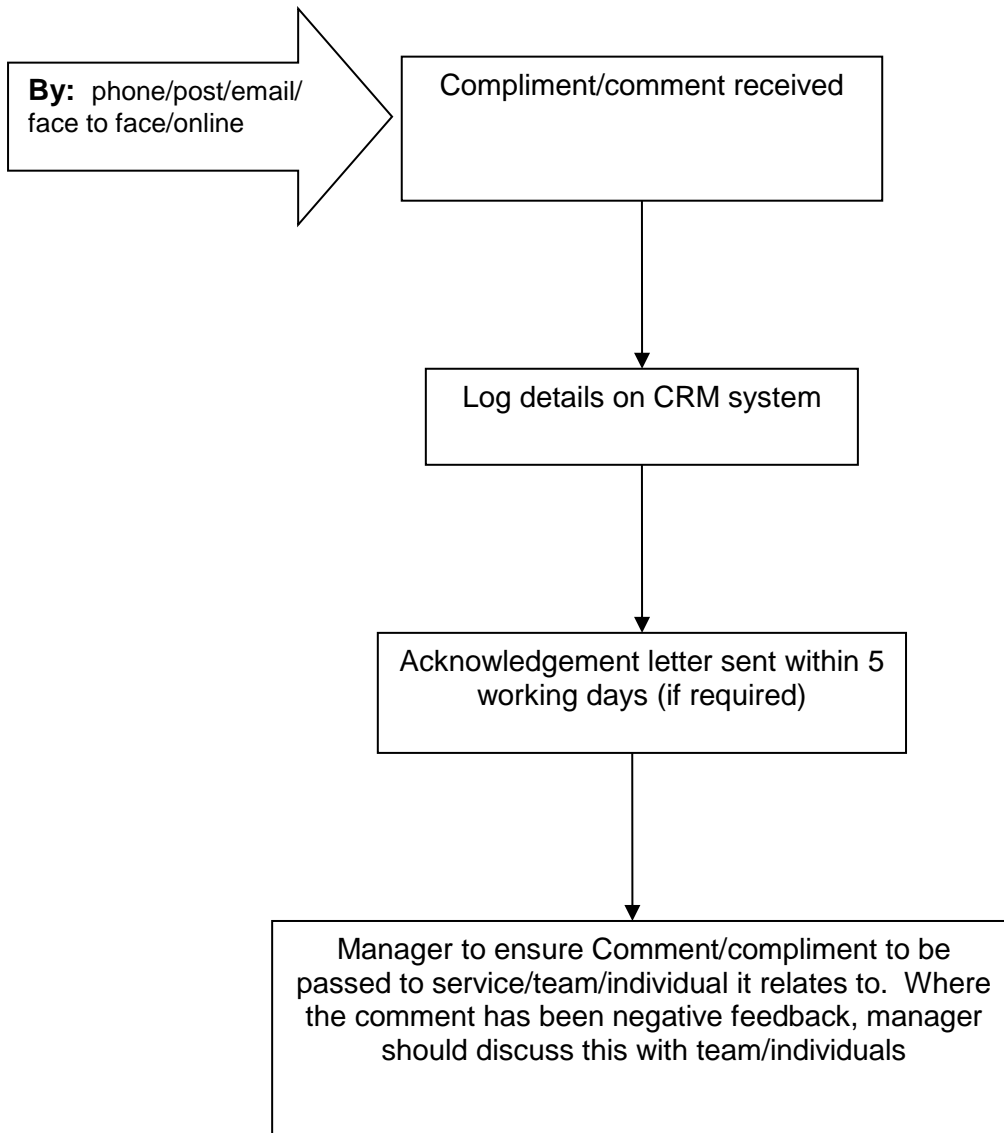
Stage 1 Complaint Process Map



Stage 2 Complaint Process Map



Compliment/Comment Process Map



Criteria for determining unreasonable, persistent, or vexatious complaints

A complaint may be classed as unreasonable, persistent, or vexatious if the complainant meets one or more of the following criteria: -

1. Persists in pursuing a complaint where the Council's complaint process has been fully and properly implemented and exhausted and where the complainant has failed to escalate the complaint to the appropriate Ombudsman.
2. Persistently changes the substance of a complaint or continually raises new issues that prolong the contact and make it more difficult to respond effectively. It is important that any completely new issue is raised as a new complaint if appropriate.
3. Is repeatedly unwilling to accept documented evidence or deny receipt of an adequate response despite correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a lengthy period of time has elapsed.
4. Repeatedly make complaints but does not identify the precise issues which they wish investigated.
5. Regularly focuses on trivial matters to an extent which is out of proportion to its significance and continues to focus on this point. It is important to recognise that determining what is trivial can be subjective.
6. Have threatened or used physical violence towards employees at any time, this will mean that the complainant can only contact us in writing and staff will be informed what access to staff and buildings they are permitted to.
7. Have while dealing with their complaint made an excessive number of contacts with the Council, placing unreasonable demands on employees. Contacts can be in person, phone, email, fax, letter, or web-form. Judgement will be used to determine excessive contact, considering the specific circumstances of each individual case.
8. Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. The individual circumstances of each person need to be considered and treated sensitively.
9. Makes unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practise.
10. Makes unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - a. does not have any serious purpose or value
 - b. is designed to cause disruption or annoyance
 - c. has effect of harassing the public authority
 - d. can otherwise fairly be characterised as obsessive or manifestly unreasonable
 - e. is using the Council as a means of causing harassment to another member of the public.
11. Makes repetitive complaints and allegations which ignore the replies which Council officers have supplied in previous correspondence.

Options for dealing with unreasonable, persistent, and vexatious complainants

The options below can be used singularly or in combination depending on the circumstances of the case.

1. Send a letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
3. Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint and there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end because they have been classed as an unreasonable, persistent, or vexatious and the Council does not intend to engage in further correspondence relating to the complaint.
4. Inform the complainant that in extreme circumstances the Council will seek legal advice and if appropriate commence court proceeding for an injunction.
5. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered as unreasonable, persistent, or vexatious, while seeking advice or guidance from its solicitor or other relevant agency, such as the Local Government Ombudsman.

If any of the above actions are taken, the Council's District Solicitor will ensure that all services are advised of the actions to avoid any repetition across services and to ensure the complainant is treated in the same way regardless of how he/she contacts the Council.

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Report for: Cabinet

Date of Meeting:	4 June 2024
Subject:	2023/24 Annual Treasury Management Review
Cabinet Member:	Cllr James Buczkowski, Cabinet Member for Finance
Responsible Officer:	Andrew Jarrett, Deputy Chief Executive (S151)
Exempt:	N/A
Wards Affected:	All
Enclosures:	N/A

Section 1 – Summary and Recommendation(s)

To provide Members with a review of activities and the prudential treasury indicators on actuals for 2023/24.

Recommendation(s):

- 1. That Cabinet note the treasury activities for the year.**
- 2. That Cabinet approve the actual 2023/24 prudential and treasury indicators in this report.**

Section 2 – Report

1. Introduction

- 1.1 This Council is required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2023/24. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).
- 1.2 During 2023/24 the minimum reporting requirements were that the full Council should receive the following reports:
 - an annual treasury strategy in advance of the year (Council 08/03/2023)

- a mid-year (minimum) treasury update report (Council 20/12/2023)
- quarterly treasury updates included within the Q1 and Q3 financial monitoring reports (Council 06/09/2023 & 21/02/2024)
- an annual review following the end of the year describing the activity compared to the strategy (this report)

1.3 The regulatory environment places responsibility on members for the review and scrutiny of treasury management policy and activities. This report is, therefore, important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by members.

1.4 This Council confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by Cabinet before they were reported to the full Council. Member training on treasury management issues was undertaken during 2019, with further training being planned during 2024 in order to support members' scrutiny role.

2. The Council's Capital Expenditure and Financing

2.1 The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
- If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

2.2 The actual capital expenditure forms one of the required prudential indicators. The table below shows the actual capital expenditure and how this was financed.

Capital Expenditure & Financing	2022/23 Actual £000	2023/24 Actual £000
General Fund		
Capital expenditure	10,273	13,778
Financed in year	4,815	3,739
Unfinanced capital expenditure	5,458	10,039
Funded by Leases	95	353
Funded by Internal Borrowing	5,363	9,686
HRA		
Capital expenditure	6,957	16,653
Financed in year	5,035	10,347
Unfinanced capital expenditure	1,922	6,305
Funded by Leases	63	106
Funded by Internal Borrowing	1,859	6,200

3. The Council's Overall Borrowing Need

3.1 The Council's underlying need to borrow to finance capital expenditure is termed the Capital Financing Requirement (CFR).

3.2 **Gross borrowing and the CFR** - in order to ensure that borrowing levels are prudent over the medium term and only for a capital purpose, the Council should ensure that its gross external borrowing does not, except in the short term, exceed the total of the capital financing requirement in the preceding year (2022/23) plus the estimates of any additional capital financing requirement for the current (2023/24) and next two financial years. This essentially means that the Council is not borrowing to support revenue expenditure. This indicator allowed the Council some flexibility to borrow in advance of its immediate capital needs in 2023/24. The table below highlights the Council's gross borrowing position against the CFR, including Finance Leases. The Council has complied with this prudential indicator.

Capital Financing Requirement	31 March 2023	31 March 2024
	Actual £000	Actual £000
CFR General Fund	23,925	16,252
CFR HRA	40,668	45,973
Total CFR	64,593	62,225
Gross borrowing position	35,291	33,390
(Under) / over funding of CFR	(29,302)	(28,835)

3.3 **The authorised limit** is the "affordable borrowing limit" required by s3 of the Local Government Act 2003. Once this has been set, the Council does not have the power to borrow above this level. The table below demonstrates that during 2023/24 the Council has maintained gross borrowing within its authorised limit.

3.4 **The operational boundary** is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary are acceptable subject to the authorised limit not being breached.

Borrowing Limits	2023/24 £000
Authorised limit	107,000
Maximum gross borrowing position during the year	35,291
Operational boundary	98,000
Average gross borrowing position	34,323

4. Treasury Position as at 31 March 2024

4.1 At the beginning and the end of 2023/24 the Council's treasury (excluding borrowing by PFI and finance leases) position was as follows:

Debt Portfolio	31 March 2023 £000	31 March 2024 £000
Fixed rate funding:		
-PWLB	33,310	31,373
Total debt	33,310	31,373
CFR	62,611	60,207
(Under) / over borrowing	(29,301)	(28,834)
Total treasury investments*	21,000	19,000
Net debt	12,310	12,373

*See 4.3 for a breakdown of treasury investments

4.2 The maturity structure of the debt portfolio was as follows:

Debt Maturity Structure	31 March 2023 Actual £000	31 March 2024 Actual £000
Under 12 months	1,937	1,975
12 months and within 24 months	1,975	2,033
24 months and within 5 years	6,279	6,463
5 years and within 10 years	11,756	12,101
10 years and within 20 years	11,364	8,802
20 years and within 30 years	0	0

4.2.1. During 2023/24, the Council maintained an under-borrowed position. This meant that the capital borrowing need (the Capital Financing Requirement) was not fully funded with loan debt, as cash supporting the Council's reserves, balances and cash flow was used as an interim measure. This strategy was prudent as interest rates on new borrowing remained high during the year and minimising counterparty risk on placing investments also needed to be considered.

4.2.2. The policy of avoiding new borrowing by running down spare cash balances, has served the Council well over the last few years. However, this has been kept under review to avoid incurring higher borrowing costs in the future when this Authority may not be able to avoid new borrowing to finance capital expenditure.

4.3 The Council's investment portfolio as at 31 March was as follows:

Investment Portfolio	31 March 2023 Actual £000	31 March 2023 Actual %	31 March 2024 Actual £000	31 March 2024 Actual %
Treasury investments				
Banks	4,000	19%	2,000	11%
Local authorities	12,000	57%	12,000	63%
Other Government Organisations	0	0%	0	0%
Total managed in house*	16,000	76%	14,000	74%
Property funds (CCLA)	5,000	24%	5,000	26%
Total managed externally	5,000	24%	5,000	26%
Total Treasury Investments	21,000	100%	19,000	100%

*See Appendix 1 for a breakdown of internally managed investments held as at 31 March.

4.4 The value shown in the above table for the Council's CCLA investment is the amount paid by the Council on share acquisition. This differs to the carrying amount in the year end accounts of £4,458k (£4,639k in 2022/23) as there is a requirement to carry the investment at fair value. The fair value of the fund will continue to change over the longer term, and so this decrease in value may only be temporary in which case it would not be realised as a loss to Council funds.

4.5 During 2021/22 the Council made two loans totalling £2,175k to Redlands Primary Care to help fund the construction of a new NHS hub in Crediton. These loans are being repaid in quarterly instalments over a period of 27 years, with a balance of £2,048k outstanding at 31 March 2024.

Investment Portfolio	31 March 2023 Actual £000	31 March 2023 Actual %	31 March 2024 Actual £000	31 March 2024 Actual %
Non-treasury investments				
Subsidiaries (3 Rivers Developments Ltd)	20,075	91%	0	0%
Crediton NHS Hub (Redlands Primary Care)	2,100	9%	2,048	100%
Total non-treasury investments	22,175	100%	2,048	100%

5. **Borrowing Outturn**

- 5.1 **Borrowing** – due to high interest rates on new borrowing, and counterparty risk on temporary investments, no borrowing was undertaken during the year.
- 5.2 **Borrowing in advance of need** – the Council has not borrowed more than, or in advance of its needs, purely in order to profit from the investment of the extra sums borrowed.
- 5.3 **Rescheduling** – no rescheduling was done during the year as the average 1% differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable.

6. **Investment Outturn**

- 6.1 **Investment Policy** – the Council's investment policy is governed by the Department of Levelling Up, Housing and Communities (DLUHC) investment guidance, which has been implemented in the annual investment strategy approved by the Council on 08/03/2023. This policy sets out the approach for choosing investment counterparties, and is based on credit ratings provided by the three main credit rating agencies, supplemented by additional market data from our treasury advisers (Link Asset Services).
- 6.2 The investment activity during the year conformed to the approved strategy, and the Council had no liquidity difficulties.
- 6.3 **Investments held by the Council** – the Council made a total return of £2,431k from investments in 2023/24 against a budget of £1,473k. This can be broken down as follows:
- The Council maintained an average balance of £22.7m of internally managed funds.
 - The internally managed funds earned interest of £1,191k (£595k of which was transferred to HRA) giving an average rate of return of 5.25%.
 - The comparable performance indicator is the 365 day backward looking SONIA rate, which was 3.9317%.
 - The Council held £5m invested in Churches, Charities and Local Authorities (CCLA) property funds earning dividends of £234k (4.68%) in 2023/24.
 - Interest received from 3 Rivers Ltd amounted to £782k in 2023/24.
 - Interest received from Redlands Primary Care amounted to £73k in 2023/24.
 - Interest of £151k was received from HMRC in year against the Council's successful Leisure VAT claim.

7. Other Issues

7.1 Non-treasury management investments

7.1.1. As shown in the non-treasury investments table in section 4, the Authority previously held a 100% interest in 3 Rivers Developments Limited (3 Rivers), a private limited company engaged in construction in the Mid Devon area. The Authority advanced funds to the Company to facilitate operations with the intention that they are repaid from the proceeds of the sale of the developments.

7.1.2. During the year ended 31 March 2023, a further £4,249k was loaned to the Company to complete the live development projects at St George's Court, Tiverton and Hadden Heights, Bampton. In addition, further working capital was also lent to meet the cost of running the company. Interest of £782k was charged against the outstanding loan balances during 2023/24.

7.1.3. In September 2023, the Council decided to "soft close" the company, with all assets being realised and a commitment to paying all contractors, suppliers and tradesmen in full. The following actions were taken to soft close the company:

- St George's Court was sold to the Housing Revenue Account at an agreed price of £8,150k to enable an over 60's social housing scheme.
- Knowle Lane, Cullompton, was bought by the Council at 3 Rivers book value (£3,662k) to be held until such time as development is permitted within Cullompton. A decision can then be taken as to the most appropriate use for the site.
- The 5 unsold units at Haddon Heights, Bampton, were bought by the Council at the marketed price (£3,135k) and continue to be marketed for sale.
- The property managed by 3Rivers was also bought by the Council at 3 Rivers book value (£180k).
- Finally, the outstanding balance on the Working Capital Loan was written off.

7.1.4. In total, £26,723k was lent to the company over its lifetime. Through previous sales and the above transactions, £19,923k was repaid to the Council, leaving loan impairments required of £6,800k, mainly against St George's Court, Tiverton. £5,317k has previously been impaired, leaving an additional impairment of £1,483k required within 2023/24, split between Revenue (£1,069k) and Capital (£414k).

7.1.5. As at 31 March 2024, the Company has no loans outstanding.

7.1.6. The only other non-treasury investment held is the loan to Crediton NHS Hub (Redlands Primary Care), which is being repaid in line with the loan agreement.

8. Conclusion

8.1 Whilst 2023/24 has been far from that initially anticipated, it has provided the Council with significant additional income through its increased returns on investments, £958k above budget.

8.2 The Council continued its under borrowed position effectively utilising its balances to avoid additional debt financing costs. It also complied with all internal policies agreed by the previous Full Council and all requirements under the CIPFA Code of Practice.

Financial Implications

Good financial management and administration underpins the entire document. The Council's treasury position is constantly reviewed to ensure its continued financial health.

Legal Implications

Authorities are required by regulation to have regard to the Prudential Code when carrying out their duties under Part 1 of the Local Government Act 2003.

Risk Assessment

The S151 Officer is responsible for the administration of the financial affairs of the Council. Implementing this strategy and the CIPFA Code of Practice on Treasury Management manages the risk associated with the Council's treasury management activity.

Impact on Climate Change

The General Fund, Capital Programme and the Housing Revenue Account all contain significant investment in order to work towards the Council's Carbon Reduction Pledge.

Equalities Impact Assessment

No equality issues identified for this report.

Relationship to Corporate Plan

Maximising our return from all associated treasury activities enables the Council to support current levels of spending in accordance with our Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 21/05/2024 via Leadership Team Meeting

Statutory Officer: Maria De Leiburne

Agreed on behalf of the Monitoring Officer

Date: 21/05/2024 via Leadership Team Meeting

Chief Officer: Stephen Walford

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 21/05/2024 via Leadership Team Meeting

Performance and risk: Dr Stephen Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 21/05/2024

Cabinet member notified: Yes.

Section 4 - Contact Details and Background Papers

Contact: Kieran Knowles, Principal Accountant & Procurement Manager

Email: kknowles@middevon.gov.uk

Telephone: 01884 24(4624)

Background papers: Treasury Management Strategy Statement 2023/24 (Council 08/03/2023) & Treasury Mid-Year Review 2023/24 (Council 14/11/2023)

Appendix 1: Investment Portfolio

Internally managed investments held as at 31 March:

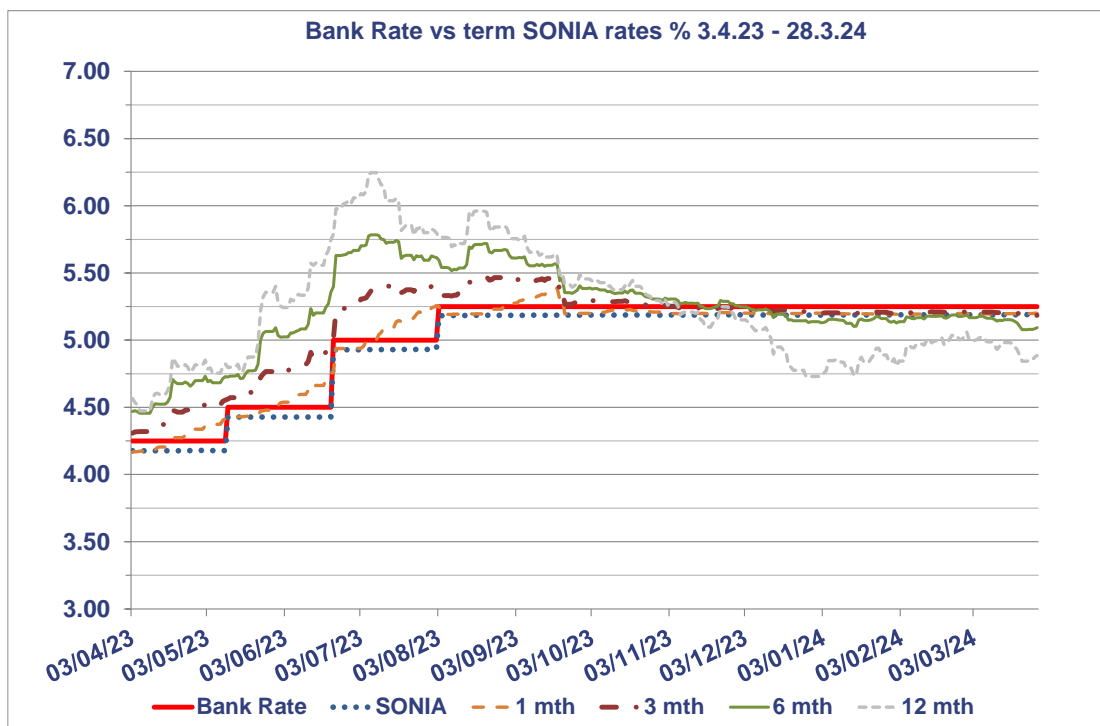
Bank/Building Society/Local Authority/PCC	Term		Fixed Interest Rate %	31/03/2023	31/03/2024
	From	To		£000	£000
Thurrock Council	25/10/2022	24/10/2023	3.55%	2,000	
Thurrock Council	14/07/2022	14/04/2023	2.00%	2,000	
London Borough of Croydon	24/10/2022	24/04/2023	4.00%	3,000	
West Dunbartonshire Council	25/10/2022	25/07/2023	3.90%	2,000	
NBK International PLC	15/11/2022	15/05/2023	3.92%	1,500	
Santander	01/12/2022	01/06/2023	3.90%	2,500	
Aberdeen City Council	26/01/2023	26/05/2023	3.60%	3,000	
City of Liverpool	29/09/2023	31/05/2024	5.70%		2,000
Surrey County Council	26/10/2023	26/04/2024	5.55%		2,500
NBK International PLC	02/11/2023	02/05/2024	5.55%		2,000
Surrey County Council	15/11/2023	15/05/2024	5.55%		2,500
Eastleigh Borough Council	20/11/2023	20/05/2024	5.55%		3,000
Central Bedfordshire Council	19/01/2024	19/04/2024	5.45%		2,000
Total				16,000	14,000

Appendix 2: Market commentary provided by our Treasury Advisors (Link Group)

The strategy for 2023/24

Investment strategy and control of interest rate risk

The following chart shows how Bank Rate and SONIA (Sterling Overnight Index Average) rates have changed during the year.



Investment returns picked up throughout the course of 2023/24 as central banks, including the Bank of England, continued to respond to inflationary pressures that were not transitory, and realised that tighter monetary policy was called for.

Starting April at 4.25%, Bank Rate moved up in stepped increases of either 0.25% or 0.5%, reaching 5.25% by August. By the end of the financial year, no further increases were anticipated. Indeed, the market is pricing in a first cut in Bank Rate in either June or August 2024.

The upward sloping yield curve that prevailed throughout 2023/24 meant that local authorities continued to be faced with the challenge of proactive investment of surplus cash, and this emphasised the need for a detailed working knowledge of cashflow projections so that the appropriate balance between maintaining cash for liquidity purposes, and “laddering” deposits on a rolling basis to lock in the increase in investment rates as duration was extended, became an on-going feature of the investment landscape.

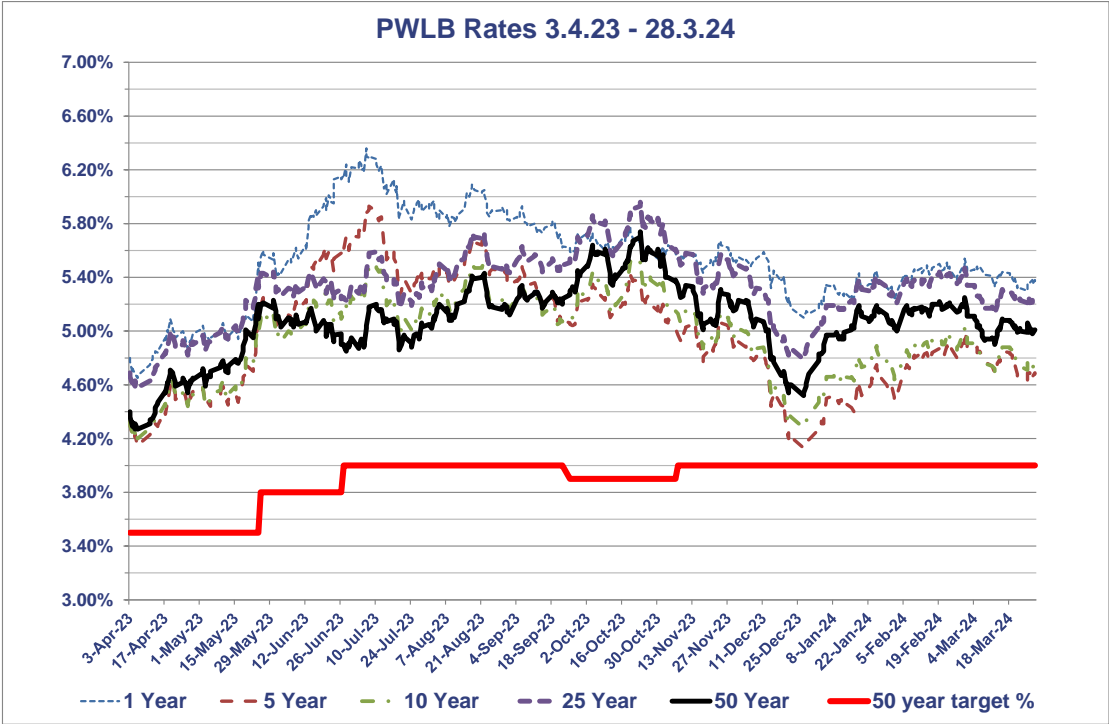
With bond markets selling off, UK equity market valuations struggled to make progress, as did property funds, although there have been some spirited, if temporary, market rallies from time to time – including in November and December 2023. However, the more traditional investment options, such as specified investments (simple to

understand, and less than a year in duration), have continued to be at the forefront of most local authority investment strategies, particularly given Money Market Funds have also provided decent returns in close proximity to Bank Rate for liquidity purposes. In the latter part of 2023/24, the local authority to local authority market lacked any meaningful measure of depth, forcing short-term investment rates above 7% in the last week of March.

While the Council has taken a prudent approach to investing surplus monies, it is also fully appreciative of changes to regulatory requirements for financial institutions in terms of additional capital and liquidity that came about in the aftermath of the Global Financial Crisis of 2008/09. These requirements have provided a far stronger basis for financial institutions, with annual stress tests by regulators evidencing how institutions are now far more able to cope with extreme stressed market and economic conditions.

Borrowing strategy and control of interest rate risk

PWLB rates during 2023/24 are illustrated by the following chart:



	1 Year	5 Year	10 Year	25 Year	50 Year
Low	4.65%	4.13%	4.20%	4.58%	4.27%
Date	06/04/2023	27/12/2023	06/04/2023	06/04/2023	05/04/2023
High	6.36%	5.93%	5.53%	5.96%	5.74%
Date	06/07/2023	07/07/2023	23/10/2023	23/10/2023	23/10/2023
Average	5.54%	4.99%	4.97%	5.34%	5.08%
Spread	1.71%	1.80%	1.33%	1.38%	1.47%

The following table shows forecast interest rates over the next three years:

Link Group Interest Rate View	08.01.24												
	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26	Mar-27
BANK RATE	5.25	5.25	4.75	4.25	3.75	3.25	3.00	3.00	3.00	3.00	3.00	3.00	3.00
3 month ave earnings	5.30	5.30	4.80	4.30	3.80	3.30	3.00	3.00	3.00	3.00	3.00	3.00	3.00
6 month ave earnings	5.20	5.10	4.60	4.10	3.70	3.30	3.10	3.10	3.10	3.10	3.10	3.10	3.10
12 month ave earnings	5.00	4.90	4.40	3.90	3.60	3.20	3.10	3.10	3.10	3.10	3.10	3.20	3.20
5 yr PWLB	4.50	4.40	4.30	4.20	4.10	4.00	3.80	3.70	3.60	3.60	3.50	3.50	3.50
10 yr PWLB	4.70	4.50	4.40	4.30	4.20	4.10	4.00	3.90	3.80	3.70	3.70	3.70	3.70
25 yr PWLB	5.20	5.10	4.90	4.80	4.60	4.40	4.30	4.20	4.20	4.10	4.10	4.10	4.10
50 yr PWLB	5.00	4.90	4.70	4.60	4.40	4.20	4.10	4.00	4.00	3.90	3.90	3.90	3.90

PWLB rates are based on gilt (UK Government bonds) yields through HM Treasury determining a specified margin to add to gilt yields. The main influences on gilt yields are Bank Rate, inflation expectations and movements in US treasury yields. Inflation targeting by the major central banks has been successful over the last 30 years in lowering inflation and the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers: this means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last 30 years. Indeed, in recent years many bond yields up to 10 years in the Eurozone turned negative on expectations that the EU would struggle to get growth rates and inflation up from low levels. In addition, there has, at times, been an inversion of bond yields in the US whereby 10-year yields have fallen below shorter-term yields. In the past, this has been a precursor of a recession.

However, since early 2022, yields have risen dramatically in all the major developed economies, first as economies opened post-Covid; then because of the inflationary impact of the war in Ukraine in respect of the supply side of many goods. In particular, rising cost pressures emanating from shortages of energy and some food categories have been central to inflation rising rapidly. Furthermore, at present the FOMC, ECB and Bank of England are all being challenged by levels of persistent inflation that are exacerbated by very tight labour markets and high wage increases relative to what central banks believe to be sustainable.

Gilt yields have generally been on a continual rise since the start of 2021, peaking in the autumn of 2023. Currently, yields are broadly range bound between 3.5% and 4.25%.

At the close of the day on 28 March 2024, all gilt yields from 1 to 50 years were between 3.81% and 4.56%, with the 1 year being the highest and 6-7 years being the lowest yield.

Regarding PWLB borrowing rates, the various margins attributed to their pricing are as follows: -

- PWLB Standard Rate is gilt plus 100 basis points (G+100bps)
- PWLB Certainty Rate is gilt plus 80 basis points (G+80bps)
- Local Infrastructure Rate is gilt plus 60bps (G+60bps)
- HRA Borrowing rate is gilt plus 40 40bps (G+40bps)

There is likely to be a fall in gilt yields and PWLB rates across the whole curve over the next one to two years as Bank Rate falls and inflation (on the Consumer Price Index measure) moves below the Bank of England’s 2% target.

As a general rule, short-dated gilt yields will reflect expected movements in Bank Rate, whilst medium to long-dated yields are driven primarily by the inflation outlook.

The Bank of England is also embarking on a process of Quantitative Tightening. The Bank’s original £895bn stock of gilt and corporate bonds will gradually be sold back into the market over several years. The impact this policy will have on the market pricing of gilts, while issuance is markedly increasing, and high in historic terms, is an unknown at the time of writing.

The Economy and Interest Rates

Against a backdrop of stubborn inflationary pressures, the Russian invasion of Ukraine, and war in the Middle East, UK interest rates have continued to be volatile right across the curve, from Bank Rate through to 50-year gilt yields, for all of 2023/24.

Markets have sought an end to central banks’ on-going phase of keeping restrictive monetary policy in place on at least one occasion during 2023/24 but to date only the Swiss National Bank has cut rates and that was at the end of March 2024.

UK, EZ and US 10-year yields have all stayed stubbornly high throughout 2023/24. The table below provides a snapshot of the conundrum facing central banks: inflation is easing, albeit gradually, but labour markets remain very tight by historical comparisons, making it an issue of fine judgment as to when rates can be cut.

	UK	Eurozone	US
Bank Rate	5.25%	4%	5.25%-5.5%
GDP	-0.3%q/q Q4 (-0.2%y/y)	+0.0%q/q Q4 (0.1%y/y)	2.0% Q1 Annualised
Inflation	3.4%y/y (Feb)	2.4%y/y (Mar)	3.2%y/y (Feb)
Unemployment Rate	3.9% (Jan)	6.4% (Feb)	3.9% (Feb)

The Bank of England sprung no surprises in their March meeting, leaving interest rates at 5.25% for the fifth time in a row and, despite no MPC members no longer voting to raise interest rates, it retained its relatively hawkish guidance. The Bank’s communications suggest the MPC is gaining confidence that inflation will fall sustainably back to the 2.0% target. However, although the MPC noted that “the restrictive stance of monetary policy is weighing on activity in the real economy, is leading to a looser labour market and is bearing down on inflationary pressures”, conversely it noted that key indicators of inflation persistence remain elevated and policy will be “restrictive for sufficiently long” and “restrictive for an extended period”.

Of course, the UK economy has started to perform a little better in Q1 2024 but is still recovering from a shallow recession through the second half of 2023. Indeed, Q4 2023 saw negative GDP growth of -0.3% while y/y growth was also negative at -0.2%.

But it was a strange recession. Unemployment is currently sub 4%, against a backdrop of still over 900k of job vacancies, and annual wage inflation is running at above 5%. With gas and electricity price caps falling in April 2024, the CPI measure of inflation - which peaked at 11.1% in October 2022 – is now due to slide below the 2% target rate in 2024 and to remain below that Bank of England benchmark for the next couple of years, according to Capital Economics. The Bank of England still needs some convincing on that score, but upcoming inflation and employment releases will settle that argument shortly. It is noted that core CPI was still a heady 4.5% in February and, ideally, needs to fall further.

Shoppers largely shrugged off the unusually wet weather in February, whilst rising real household incomes should support retail activity throughout 2024. Furthermore, the impact of higher interest rates on household interest payments is getting close to its peak, even though fixed rate mortgage rates on new loans have shifted up a little since falling close to 4.5% in early 2024.

From a fiscal perspective, the further cuts to national insurance tax (from April) announced in the March Budget will boost real household disposable income by 0.5 - 1.0%. After real household disposable income rose by 1.9% in 2023, Capital Economics forecast it will rise by 1.7% in 2024 and by 2.4% in 2025. These rises in real household disposable income, combined with the earlier fading of the drag from previous rises in interest rates, means GDP growth of 0.5% is envisaged in 2024 and 1.5% in 2025. The Bank of England is less optimistic than that, seeing growth struggling to get near 1% over the next two to three years.

As for equity markets, the FTSE 100 has risen to nearly 8,000 and is now only 1% below the all-time high it reached in February 2023. The modest rise in UK equities in February was driven by strong performances in the cyclical industrials and consumer discretionary sectors, whilst communications and basic materials have fared poorly.

Despite its performance, the FTSE 100 is still lagging behind the S&P 500, which has been at an all-time high for several weeks.

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MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 15 April 2024 at 5.30 pm

Present

Councillors

R Gilmour (Chairman)
G Westcott (Vice Chairman), E Buczkowski,
A Cuddy, G Czapiewski, G Duchesne,
M Farrell, B Holdman, L Knight, R Roberts
and S Robinson

Also Present

Councillor(s)

J Buczkowski, S Keable and D Wulff

Also Present

Officer(s):

Andrew Jarrett (Deputy Chief Executive (S151)), Maria De
Leiburne (Director of Legal, HR & Governance (Monitoring
Officer)), Angie Howell (Democratic Services Officer) and
David Parker (Democratic Services & Policy Research
Officer)

Councillors

Online

S J Clist, F J Colthorpe, A Glover, L G J Kennedy, L Taylor
and J Wright

Officers Online

Lisa Lewis

91 **APOLOGIES AND SUBSTITUTE MEMBERS (0:05:03)**

There were no apologies for absence.

92 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:05:19)**

There were no interests declared under this item.

93 **PUBLIC QUESTION TIME (0:05:40)**

Goff Welchman

At previous meetings I have asked questions about 3 Rivers Developments Ltd and have been very dissatisfied with the replies given which I believe to have been at best evasive and at worst highly economical with the truth.

At the recent Audit Committee meeting the following statement was made by the Council's Auditors concerning 3 Rivers, I quote "Risk Management is the responsibility of the Board of Directors, whether this is the management of Health and Safety, Programme Delivery or Financial Performance".

My question is; given the continued and escalating losses incurred throughout 3 Rivers disastrous history and not just since the pandemic, the war in Europe and the cost of living crisis as has been implied by some, I fail to see why this Committee refuses to apportion blame for the apparent gross mismanagement and incompetence which has led to these extensive losses of public funds? In fact, if these business amateurs had presented 3 Rivers to Lord Alan Sugar and asked merely for a quarter of a million pounds not the £23 million actually borrowed, his answer would have been "you're fired". Therefore, why are those responsible getting clean away with it and in some cases enjoying generous pay rises?

The Chairman explained that as the questions had not been provided in writing in advance of the meeting that written responses would be provided within ten working days.

Nick Quinn

Q1: When the new 2024 Leisure prices were introduced, it was said that the increase had been based on the September 2023 inflation figure of 6.7%. Why did the session prices for Juniors and Concessions increase by up to double that percentage?

Response from the Cabinet Member for Community and Leisure:

I believe your reference to the September 2023 inflation figure of 6.7% comes from the Fees and Charges report brought before Cabinet on the 9th January 2024.

Rather than reading entire sections of that report verbatim today, I will instead reference the paragraphs so you may refer to them alongside my answer.

Paragraph 1.3 sets out the distinction between the statutory and discretionary charges, and specifically mentions that leisure fees may be charged above inflationary increases where the market supports this.

I draw you attention to paragraph 1.6 which sets out the key principles for setting discretionary charges which we have followed.

Additionally, paragraph 2.4 requires that any proposal that exceeds inflation must be presented to, and supported by, the relevant PDG, which happened at the Community PDG on 24th October 2023.

As you are aware from previous times you have asked me, extensive market research by a specialist leisure consultancy company preceded the fees changing which provided key guidance around the setting of all the leisure fees, including Junior Memberships and Concessions. The recommendation that was made by the Community PDG and approved by Cabinet was based on that market research. That information remained commercially sensitive and exempt from publication.

Q2: Why was it felt necessary to recently increase the car parking charges by an additional 6.7% when the previous price increase seemed, from the quarterly dashboard reports, to be raising sufficient income to cover the cost of the service?

Response from the Cabinet Member for Finance:

Inflationary fee increases were agreed / delegated last year to ensure that charges increase with inflation, to avoid higher than inflation fee increases in later years (as we saw proposed last year), it is also likely that some inflationary cost pressures would be realised in future periods along with provisions for longer term maintenance costs.

Q3: As at today's date, have all the assets of the 3 Rivers Developments Ltd been sold to the Council (including the parking spaces at Halberton)?

Response from the Cabinet Member for Finance:

As of 31.03.2024, all of the property holdings and fixed assets of 3 Rivers Developments Ltd had been transferred to the Council.

Q4: How many properties at Haddon Heights, Bampton, did the Council actually buy from 3 Rivers?

Response from the Cabinet Member for Finance:

5

Q4(a): On what date was that purchase made?

Response from the Cabinet Member for Finance:

28.03.2024

94 **MINUTES OF THE PREVIOUS MEETING (0:12:51)**

The minutes of the meeting held on 18 March 2024 were approved as a correct record and **SIGNED** by the Chairman.

95 **DECISIONS OF THE CABINET (0:13:16)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 2 April 2024 had been called in.

96 **CHAIRMAN'S ANNOUNCEMENTS (0:13:24)**

The Chairman announced that as she was standing for election as a Member of Parliament at the next election she needed to give more time to her candidacy and would be stepping down as Chairman of the Scrutiny Committee.

The Chairman commented that she had had a fantastic year as a new Councillor chairing the Scrutiny Committee, it had had its challenges but she had worked with some very committed people, and people that had the best interests of the community at heart.

97 **MOTION 564 INCLUSION AND DIVERSITY (0:14:32)**

The Committee had before it, a *report from the Inclusion and Diversity Working Group on Motion 564 relating to the data gleaned from the responses in the Councillor's Questionnaires.

Councillor G Czapiewski gave an overview of the findings and highlighted the following:

- Time (or lack of it) was the greatest impediment to Councillors.
- Time taken for journeys to the Council offices.
- The Local Government Association and Rural Services Network were interested in the findings of the Working Group.
- The virtue of Chairs experiential training would help to keep the length of meetings to a minimum.

Discussion took place with regard to:

- What were Officer's views on the timing of meetings?

Conclusions and Recommendations

1. **Conclusion:** The move to more early evening meetings, as had already happened in this administration, was an appropriate way to maximise attendance. The Council needed to review the spread of meetings over the working day and evenings after a period and also consider the impact on officers with respect to the move to more early evening meetings.

2. **Recommendation:** The findings strengthen the case for further experiential training for Chairs and Vice Chairs.

3. **Recommendation:** A change in rules to allow voting by online participants in a meeting improved access for some Councillors. This may be particularly relevant to improve the potential for parents or carers to attend, as well as those with mobility problems and those at the greatest distances, particularly in the evening. It would also reduce costs and carbon emissions. The Working Group noted that the Local Government Association had campaigned for this change. The Scrutiny Committee recommend that the Council advocate for this change and lobby the government to introduce it.

4. **Recommendation:** The Scrutiny Committee believed that the work of this Working Group had concluded and recommended that the subject of Inclusion and Diversity with regard to removing obstacles to becoming a Councillor be added to the Policy Framework or the Scrutiny Work Plan to be considered annually.

5. **Recommendation:** The Scrutiny Committee recommend that those considering standing for elections be warned about the unpredictable time demands for working with residents' issues and Town & Parish Councils. This may be something for the Political Groups to consider.

The Committee **RECOMMENDED** paragraphs 2, 3, 4 & 5 above to Full Council.

Proposed by Cllr G Westcott and seconded by Cllr G Czapiewski

Motion on Remote Attendance Meetings

Background;

As part of the Diversity and Inclusion workgroup a questionnaire was issued to Members.

The results showed that time was the most common and consistent issue affecting Members' ability to fulfil their roles and was also a reason for people not putting themselves forward. In particular the ability to attend meetings, especially in the evening, was significantly improved if meetings could be attended remotely. In addition, many Members travelled over 10 miles with a return journey time of 1 hour or more, most often by car. This had a financial, environmental and social impact.

The Local Government Association (LGA) worked hard last year to influence amendments to the Levelling Up and Regeneration Bill so that virtual council meetings would be allowed. They said "Unfortunately, we were not successful and those amendments came out of the Bill. Our position is still, that councils should be allowed this flexibility, but we are not actually working on this issue."

With the advent of enhanced audio visual systems in Mid Devon District Council and other councils, remote attendance and voting was more realistic than may have been possible previously.

If the motion is approved we ask that it be sent to Devon County Council and Devon Districts Forum to request their support, and to the Local Government Association for their information.

Proposal to take Motion to Full Council

A survey of Mid Devon District Councillors had shown that remote attendance at meetings significantly improved inclusion of Councillors with caring responsibilities, mobility issues, or greater distances to travel to attend meetings. We ask the Department for Levelling Up, Housing and Communities (DLUHC) to reconsider the regulations which prevent those participating remotely from voting and permit their full participation in decisions if they have attended the full meeting. As they stand the rules contribute to obstacles facing women's participation in local government identified by the Fawcett Report ([Does Local Government Work for Women? - Final Report of the Local Government Commission | The Fawcett Society](#)), as well as negatively affecting those with caring responsibilities of whatever gender and those with mobility issues. We ask this Council to follow the Local Government Association

in lobbying the Government to allow councils, if they choose, to enable remote participants to play a full role and vote in decision making.

Proposed by Cllr G Westcott and seconded by Cllr G Czapiewski

The proposal to take this Motion to Full Council was **CARRIED**

Note: * Report previously circulated.

98 **CABINET PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR COMMUNITY AND LEISURE (0:29:11)**

The Cabinet Member for Community and Leisure gave a presentation relating to his Portfolio. The Presentation is now attached to the agenda.

The Community & Leisure portfolio broadly encompassed;

- Community development,
- Public health and welfare,
- Licensing, and many regulatory functions.
- It also included most technology and data processing functions including information governance and digital transformation.

Each function reported to one of three Committees: Cabinet, Community PDG and Licencing Committee.

The Cabinet Member highlighted the following in his report:

- Information (Data) and data security.
- Freedom of Information and Subject Access Requests.
- Digital Transformation.
- Customer Relationship Management system.
- ICT Services.
- Community Safety and Safeguarding.
- The three Leisure Centres.
- Active Start Programme of GP referrals to improve patient's fitness.

Discussion took place with regard to:

- In answer to a question from a Member, the Deputy Chief Executive gave an overview of the Council's insurance arrangements, and implications on cover against data loss and breaches.
- A public presentation reflecting the Portfolio of the Cabinet Member for Community and Leisure was suggested along similar lines to that presented to the Scrutiny Committee.

The Committee **NOTED** this presentation.

99 **CABINET PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR FINANCE (0:52:00)**

The Cabinet Member for Finance gave a presentation relating to his Portfolio. The Presentation is now attached to the agenda.

The finance portfolio underpinned, facilitated and supported the delivery of all Council Services.

Every decision the Council made, or initiative it sought, had a financial implication that needed to be understood and managed, in addition to this and more specifically the portfolio responsibilities included:

- Revenue and Budget Development for the General Fund and Housing Revenue Account
- Budget Monitoring and in year Virements
- Medium Term Financial Strategy
- Treasury Management
- Capital Programme Planning
- Annual Report and Accounts
- Internal and External Audit
- Council Tax, Revenue and Benefits
- Car Parking
- External Company Liaison with 3 Rivers Developments Limited

The Cabinet Member for Finance highlighted the following:

- The good number of financial achievements and outcomes delivered by the Council.
- Balancing the budget.
- The closure of 3 Rivers.
- Reducing the level of subsidy to our excellent 3 leisure centres.
- The 2024/25 budget was set without any utilisation of reserves (and with only a 2.99% increase in Mid Devon District Council's share of the Council Tax).
- All 3 Rivers assets had either been sold or transferred back into Council ownership, and the annual budget for leisure had been reduced by over £400k, without any reduction in service and coupled with a decarbonisation investment of around £3.5m.
- Collection rates of 97.5% for Council Tax, 99.4% for business rates and 98.9% for corporate debt recovery.
- Housing Benefit (HB) / Council Tax reduction – Department of Works and Pensions (DWP) see the Council as upper quartile in processing of claims and general checking that is required, HB subsidy had seen a positive increase of c£33k.
- The Council had processed Household Support Fund payments of over £413,000 to help 1,253 households.
- Delivered the co-location of Devon County Council at Phoenix House, saving costs and realising additional revenue.
- The Council were about to complete on a land sale that would unlock the delivery of 70 affordable homes.
- Recently the Council held an evening with all of the Town/Parish Councils to promote better partnership working – which was a great success, and covered cost saving and shared costs.

- Introduction of a Council Tax exemption for Care Leavers and agreed a higher charge for second home owners that would be effective from April 2025.
- The Council continued to make bids to Government for further decarbonisation projects with successful outcomes.
- Maximised the deployment of “Right To Buy” funds to secure more housing and ensure none is returned to Government.
- Reduced the costs of senior management by over £100k.
- The Council continued to benefit from partnership arrangements in Building Control, Procurement and Business Rates.
- Bucking national trends by maintaining virtually full occupation rates across their retail and commercial portfolio.
- The Council earned around £2.4m from their treasury activities in 2023/24.
- The Finance Team continued to provide regular financial information to Council meetings.
- Creation of a new performance/risk monitoring dashboard for a number of Council meetings, these allowed Councillors to have relevant and accurate financial information to support their sound decision making.
- The Council had new external auditors and were seeking to appoint an independent person to the Audit Committee, to further reinforce their already robust audit processes.

As far as the overall outturn position for 2023/24 was concerned the Finance Team were still pulling all of this together.

Initial indications were that the Council’s General Fund balance would be restored to an acceptable level whilst maintaining high levels of service provision and ensuring they had sufficient financial balances and ear marked reserves to provide for long term funding commitments.

The Cabinet Member for Finance was already deep in discussion with senior officers about the shape and scope of the 2025/26 budget, and as part of their Medium Term Financial Plan forecasting. They would be estimating the financial context that would impact future budgets and how they would align to the delivery of the Council’s new Corporate Plan.

The Cabinet Member was keen for the whole Council to be involved in the budget setting 2025-26 and the development of the Medium Term Financial Strategy and the Scrutiny Committee, along with the Policy Development Groups would be fully involved at every stage.

The Cabinet Member for Finance thanked all of the officers who had delivered such a great number of these achievements over the past 12 months and looked forward in continuing to work closely with them in order to navigate the Council through the next set of challenges and opportunities.

The Cabinet Member invited feedback from the Scrutiny Committee, and the wider membership, on both what the Council does well and what they could do better. Additionally feedback would be particularly welcome around reporting, did the Council provide the right information, at the right time and was there anything else Councillors would like to see? With regard to the budget setting process, how could they improve on last year?

The Committee **NOTED** this presentation.

100 **SCRUTINY COMMITTEE CHAIRMAN'S ANNUAL REPORT (1:01:16)**

The Committee had before it and NOTED the Scrutiny Committee Chairman's Annual report*.

Note: - *Report previously circulated.

101 **WORK PROGRAMME (1:01:40)**

The Committee had before it and **NOTED** the *Forward Plan and the *Scrutiny Committee Work Programme.

The following was discussed and requested that it be added to the Work Programme:

- Planning Enforcement.
- Void Properties – how many properties were empty in the Housing Revenue Account, results to be broken down by ward, what was the Council doing to reduce those Voids and could Councillors be provided with the trends as to why those properties were empty.
- Air Management Control in Cullompton and beyond relating to relief roads and traffic management.
- Care-Leaver friendly Employer briefing – pre. Cabinet.
- Destination Management Plan – could we look at data and visitor spend?
- Solar Panel farms and Anaerobic Digesters – quantity and how much land was devoted to renewable energies?
- Town and Parish Charter meeting including feedback from the State of the District meeting. Goal to define the message that is taken out to Towns and Parishes.

Note: - *Forward Plan and *Scrutiny Committee Work Programme previously circulated.

(The meeting ended at 6.38 pm)

CHAIRMAN

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Report of the Working Group on Diversity and Inclusion Survey

This follows the Report of the Working Group on Inclusion and Diversity delivered to Scrutiny in February 2024, and completes the reporting to Scrutiny Committee on this phase of the Group's work. A survey of MDDC Councillors was undertaken to gain more complete information on issues which had arisen in earlier investigations, including obstacles to recruiting a diversity of candidates and facing Councillors in their work, timing of meetings and travel time. The survey was carried out online over a three week period. 30 Councillors responded, 11 women and 19 men.

Overall we consider that a response rate of around 75% (we have 40 functioning councillors at present) is good. There was a higher response rate among women (who fill 13 of the 42 member positions) than among men.

Findings in brief

1. Early evening meetings have the least number of Councillors who find it challenging to attend, even though some can only attend with difficulty. Morning and late evening meetings presented the most challenges for some people to attend.
2. The option of online attendance makes evening meetings possible for some who would otherwise be unable to attend. Therefore, we suggest that MDDC promote the case to central government that, as during Covid, online attendance should have parity in voting rights with in-person attendance.
3. Councillors generally found their work interesting, at times rewarding and at times frustrating. Training by officers had been much appreciated and there were some requests for further training, though 43% felt that no further training was required. Topics mentioned in the survey included: finance matters; how to present a motion, how to propose an amendment and how to manage the motion; a 'one year in' Councillor workshop, run similarly to the icebreaker; experiential training generally was also mentioned. There were a number of comments of appreciation for the help given by Democratic Services. It was observed that the Chairing of some meetings could be tightened up with recommendations for experiential training, specifically in regard to time management and adherence to the agenda as well as the chairing for inclusion of all Members as mentioned in our earlier report.

Obstacles to becoming a Councillor

Time balance with family and employment (or both) was often mentioned, and by as many men as women. Time requirements were mentioned 11 times as deterring potential candidates.

Lack of confidence and perceived powerlessness in relation to red tape and central government were also mentioned. Perhaps testimony from current members about what they have been able to achieve since becoming councillors (e.g. matters raised, resident's problems resolved, changes in policy) could help to put this view

into perspective and counter the view that local government cannot help communities.

Perceived unpopularity for a particular party allegiance, and the anticipation of receiving abusive comments from members of the public, were cited as reasons why some might not stand for office, and had to be overcome by some who did in fact stand.

Meeting times

Attending morning and early afternoon meetings was challenging for a number of Councillors in full time employment whose work pattern was not flexible. None of the respondents said that early evening meetings were impossible, even though for some they are still problematic; and later evenings were difficult or impossible for 40% of respondents to attend in person. Mention was made of having to leave 5 or 6 pm meetings early to put children to bed, or to attend Parish Councils. Skilful chairing might be helpful in reducing the length of meetings.

The results showed fewer problems with attending meetings remotely, evening meetings beginning at e.g. 7.30 p.m. becoming possible for some who would find in-person attendance impossible, and would make it easier for some who found in-person attendance difficult.

Travel

Distance does make a difference to the ease with which Councillors can attend meetings in person. 40% of respondents live over 10 miles from Phoenix House and 20% have a travel time over 30 minutes each way.

Most Members attend meeting by car (88%). This contributes to the carbon footprint of MDDC and adds to financial expenditure, not to mention the wear and tear on Councillors. The journey can potentially double the time required for a meeting, and time for some Councillors is very much an issue.

Therefore, we recommend that MDDC should support the ability to vote while attending meetings remotely on MS Teams, or other suitable technology. This decision rests with Central Government but we should consider MDDC's position and lobby for change if agreed by Council. We suggest that the Standards Committee should consider this recommendation for progression.

Workload

Comments were made about the number of parish meetings, and there were issues with conflicts between Parish or Town Council and MDDC meetings. We considered whether Parish and Town council meetings could be put into a shared calendar for reference in relation to meeting times, although we accept that clashes cannot always be avoided altogether. We concluded that with the numerous factors influencing the preparation of the annual schedule of meetings including strict timing

between meetings that this would not be practicable. For those Members who wanted the Town or Parish Council meetings to appear in their diary, there was nothing stopping them putting that information into their calendar themselves. The demands for email correspondence and casework appear to vary greatly between parishes. We recommend that those considering standing for elections be warned about the unpredictable time demands for working with residents' issues and Town & Parish councils.

Experiences of being a Councillor

There were many comments from respondents about positive relationships and helpfulness of colleagues and party groups. The picture is, on the whole, encouraging. Most Councillors felt confident enough to add their views in discussions and thought they were listened to. Of those who did not feel that they were always listened to, or were not attended to as well as other Councillors, three were female and four were male, and were from across age groups. Although the numbers are small, it appears that women Councillors are slightly less likely to feel listened to with equal respect.

Many Councillors recorded that they found their roles interesting, rewarding and encouraging, and some said that they appreciated being able to take on casework and speaking up for residents. The need for more officer help with casework was mentioned in one response. The length and complexity of reports was another problem mentioned. Some commented that the learning needed was a work in progress and they hoped to achieve more as time went on.

Training

The training which had been given so far was much appreciated.

Some further requests were made for training and there was one response expressing interest in being mentored on Council procedures and administrative methods, managing motions etc,

Other specific needs mentioned were

- Experiential (on the job, hands on) training desired
- Finance - government finance terms and jargon needed to be better understood
- Charing - for efficient use of time as well as inclusion of all voices
- Corporate Parenting (This could fit within the already requested training on protected characteristics?)

Conclusions and Recommendations

1. Conclusion: The move to more early evening meetings, as has already happened in this administration, is an appropriate way to maximise attendance. We need to review the spread of meetings over the working day and evenings after a period, and also consider the impact on officers with respect to the move to more early evening meetings.

2. Recommendation: The findings strengthen the case for further experiential training for Chairs and Vice Chairs.

3. Recommendation: A change in rules to allow voting by online participants in a meeting improves access for some Councillors. This may be particularly relevant to improve the potential for parents or carers to attend, as well as those with mobility problems and those at the greatest distances, particularly in the evening. It would also reduce costs and carbon emissions. We note that the LGA has campaigned for this change. We recommend that MDDC advocate for this change and lobbies the government to introduce it.

4. Recommendation: We believe that the work of this Working Group has concluded and recommend that the subject of Inclusion and Diversity with regard to removing obstacles to becoming a Councillor be added to the Policy Framework or the Scrutiny Work Plan to be considered annually.

5. Recommendation: We recommend that those considering standing for elections be warned about the unpredictable time demands for working with residents' issues and Town & Parish Councils. This may be something for the Political Groups to consider.

Suggested Motion on Remote Attendance Meetings

Background

As part of the Diversity and Inclusion workgroup a questionnaire was issued to Members.

The results showed that time was the most common and consistent issue affected Members' ability to fulfil their roles and was also a reason for people not putting themselves forward. In particular the ability to attend meetings, especially in the evening, was significantly improved if meetings could be attended remotely. In addition, many members travel over 10 miles with a return journey time of 1 hour or more, most often by car. This has a financial, environmental and social impact.

The LGA worked hard last year to influence amendments to the Levelling Up and Regeneration Bill so that virtual council meetings would be allowed. They said "Unfortunately, we weren't successful and these amendments came out of the Bill. Our position is still that councils should be allowed this flexibility, but we aren't actually working on this issue."

With the advent of enhanced AV in MDCC and other councils remote attendance and voting is more realistic than may have been possible previously.

If the motion is approved we ask that it be sent to Devon County Council and Devon Districts Forum to request their support, and to the LGA for their information.

Motion

A survey of Mid Devon District Councillors has shown that remote attendance at meeting significantly improves inclusion of councillors with caring responsibilities, mobility issues, or greater distances to travel to attend meetings. We ask the DCLG to reconsider the regulations which prevent those participating remotely from voting and permit their full participation in decisions if they have attended the full meeting. As they stand the rules contribute to obstacles facing womens' participation in local government identified by the Fawcett Report ([Does Local Government Work for Women? - Final Report of the Local Government Commission | The Fawcett Society](#)), as well as negatively affecting those with caring responsibilities of whatever gender and those with mobility issues. We ask this council to follow the LGA in lobbying the government to allow councils, if they choose, to enable remote participants to play a full role and vote in decision making.

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Diversity Questionnaire

31 Responses

12:20 Average time to complete

Active Status

1. For yourself, were there any disadvantages or problems involved in standing as a candidate or in potentially being elected which you had to face when you stood for election? If so please note them below.

30
Responses

Latest Responses

"no"

"No"

"no"

4 respondents (13%) answered **time** for this question.

proportional representation **Physical handicap**
equestrian yard **work time** **female Councillors** **hours and wo**
lack of time **working** **time** **councillo**
confident at the time **parties** **year** **meetings**
female candidate

2. If relevant, what helped you to overcome or dismiss these considerations?

27
Responses

Latest Responses

"n/a"

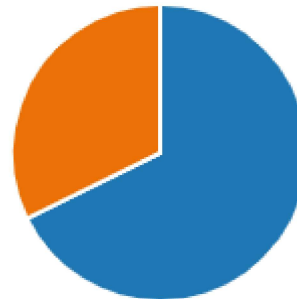
"Na"

3 respondents (11%) answered **supported** for this question.

meetings are in the evening Wulff able to move
Conversations at selection **supported** meet
David face to
insight foreign lobbyists Heavy supports big business
profit future of our planet Gilmour Rac

3. Are there others you know of who would have made good councillors but were unwilling to stand for election?

● Yes 21
● No 10



4. If yes, what factors do you think deterred them?

29
Responses

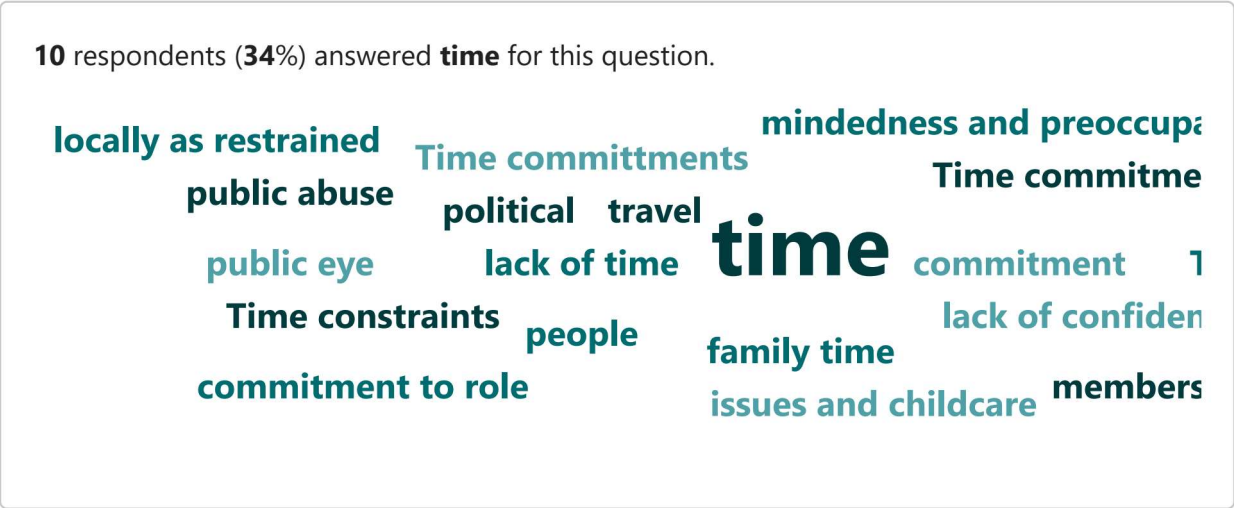
Latest Responses

"lack of time because of their family and business commit...

"Commitment "

"no"

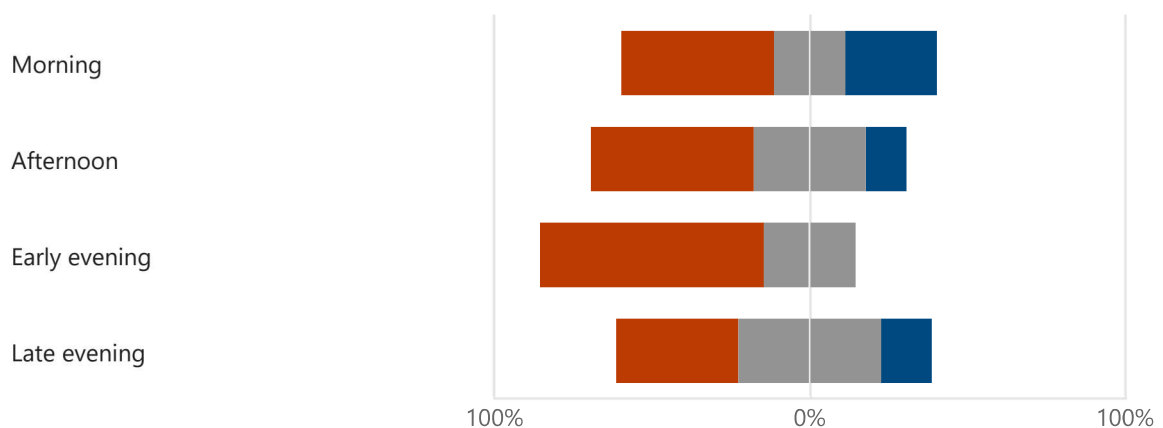
10 respondents (34%) answered **time** for this question.



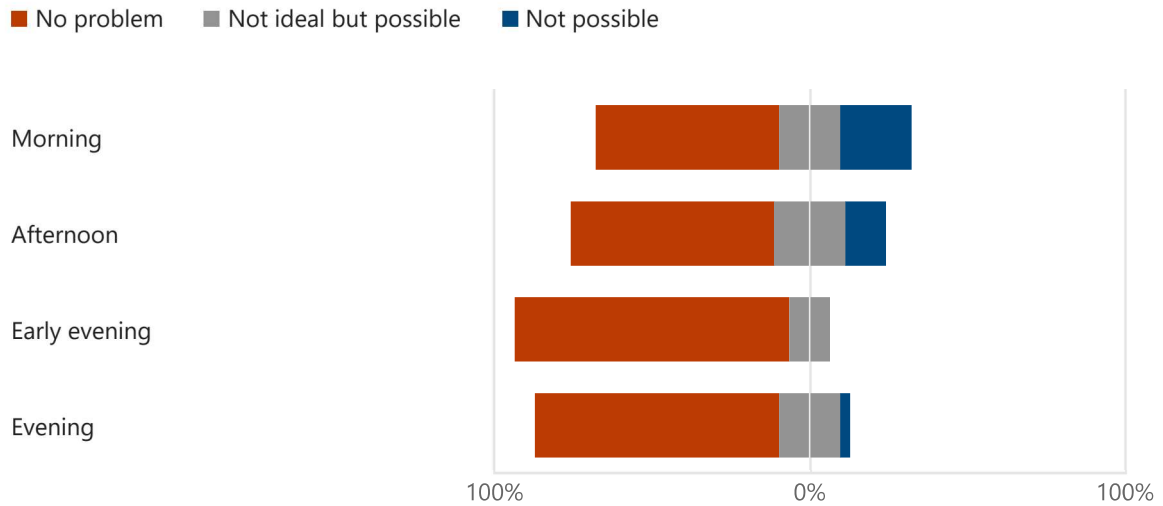
5. . Some meetings have been moved to 5:30 or 6:00 p.m., to meet the needs of those in employment to achieve greater inclusion in council business. However, it is also likely that no single meeting time will be ideal for all councillors. To achieve the best compromise, it will be helpful to have the following information:

What times of day can meetings generally be scheduled which are easy for you to attend **in person**? What times of day would make it difficult for you to attend in person?

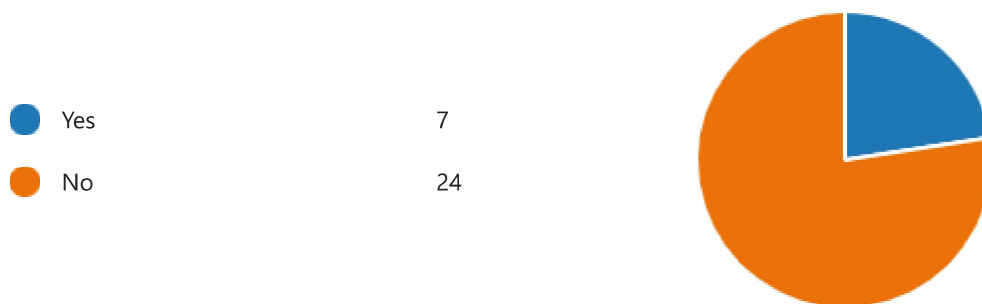
■ No problem ■ Not ideal but possible ■ Not possible



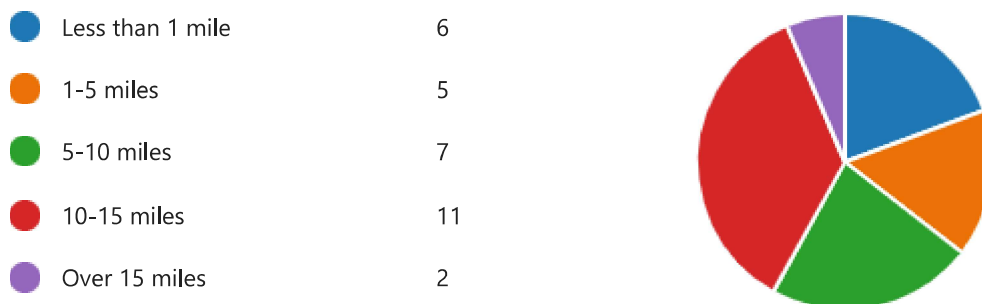
6. If the question were "what times could you attend online?" how would this be different? Please consider the question again but from the point of view of online attendance, (setting aside for the moment, the consideration that one cannot vote when attending online).



7. Does the distance you have to travel and the time spent travelling have any impact on your ability to attend meetings in person?

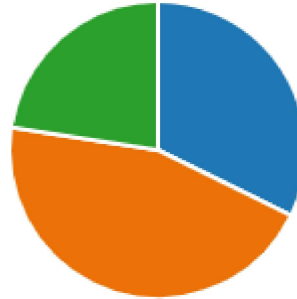


8. How far do you have to travel to meetings at Phoenix House, one way?



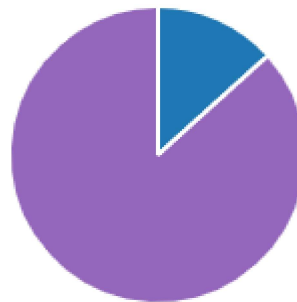
9. How long does your one way journey take?

● Less than 15 minutes	10
● 15-30 minutes	14
● 30-45 minutes	7
● Over 45 minutes	0



10. How do you usually travel to Phoenix House

● Walk	4
● Bicycle	0
● Motorbike	0
● Bus	0
● Car	26



11. Do you have any comments on the timing of meetings?

27
Responses

Latest Responses
"Most are ok for me"
"no"

6 respondents (22%) answered **time** for this question.

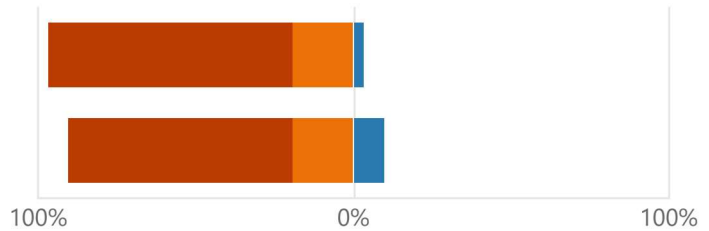
outward bound
normally work
parish councils
meetings are not
Council meetings
difficult
hours
timing
committee
time to time
time
members
time-compatible
afternoon mee
Evening meet
early evenin
meetings

12. In full council meetings, or in committee meetings, the frequency of interventions by different councillors varies greatly.

■ Yes ■ Not always ■ Less than others ■ No

Do you feel able and confident to make salient points whenever you wish?

Do you feel listened to when you do?



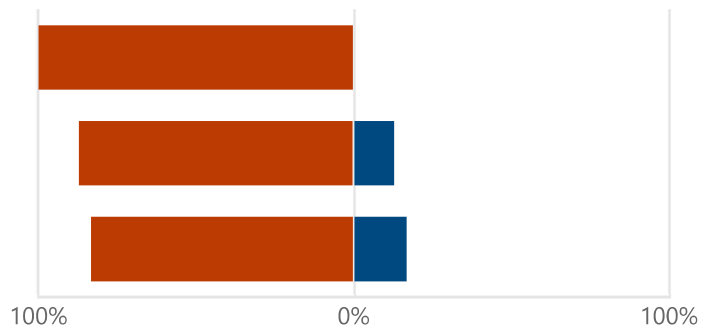
13. About your present experience of being a councillor

■ Yes ■ No

Has it been rewarding?

Have you felt able to accomplish at least some of your aims?

Regardless of your actual intentions, has it encouraged you to stand again?



14. Please comment briefly, or extensively if you wish, about your time as a councillor.

29
Responses

Latest Responses

"I had problems with bad sound at the meetings but it has ...

"I feel valued member"

"Very rewarding experiance"

8 respondents (28%) answered **times** for this question.

A word cloud visualization of responses for question 14. The most prominent words are 'work times councillo' and 'councillors wer'. Other visible words include 'access to officers', 'party', 'great', 'people', 'Parish councils', 'senior officers', 'meetings', 'able', 'members', 'officer', 'he', 'role as Councillor', and 'rewai'.

15. If you have experienced difficulty in fulfilling your role as a councillor (including any chairing or cabinet role you occupy), please say whether any further training for yourself or others, or any other changes in process, would have enabled you to be more effective in your role.

29
Responses

Latest Responses

"I have a problem with communications: I often can not fin...

"All training valuble"

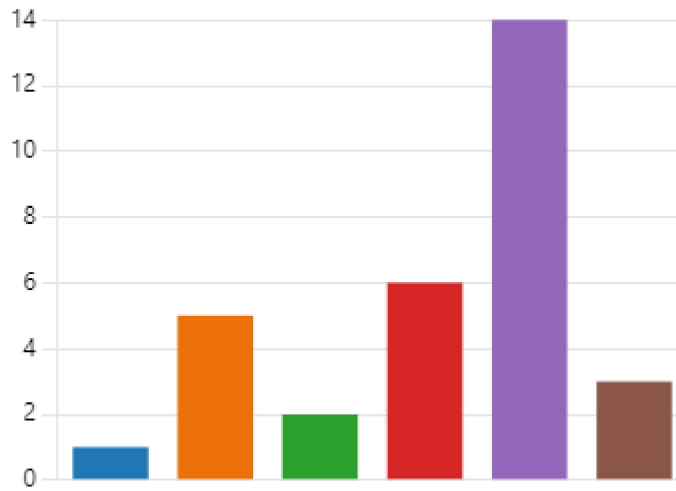
"n/a"

8 respondents (28%) answered **training** for this question.

A word cloud visualization of responses for question 15. The most prominent words are 'training officers' and 'officers and councillors'. Other visible words include 'training would be good', 'particular officer', 'time', 'level of training', 'members', 'practical training', 'issues', 'ideas', 'help be', 'names of the officers', and 'officers nor members'.

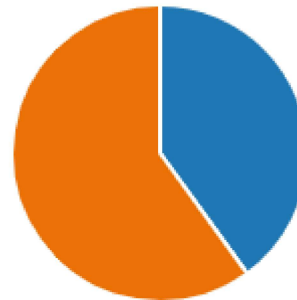
16. What is your age?

Under 35	1
35-44	5
45-54	2
55-64	6
65+	14
Prefer not to say	3



17. What is your gender?

Female	12
Male	18
Non-binary	0
Prefer not to say	0



18. Do you have children at home for whom you are a carer? If yes please give their ages.

28
Responses

Latest Responses

"no"

"No"

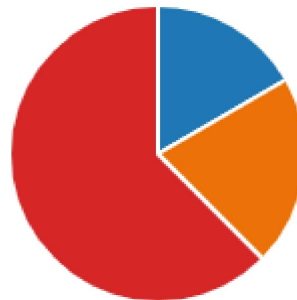
"no"

18 respondents (64%) answered **No** for this question.

older son **No** year old
son is happy **None**

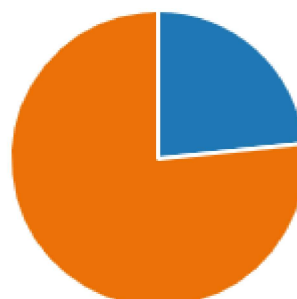
19. If the answer is yes, Do you regularly share the care of these children with another family member (e.g. spouse, partner, grandparents, other)?

● Yes	4
● No	5
● Sometimes	0
● N/A	15



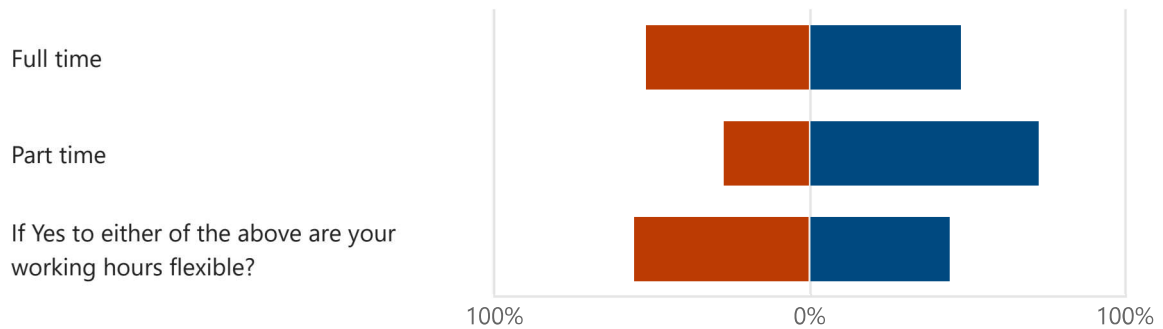
20. Are there any adults in need of daily assistance for their living requirements for whom you are a carer?

● Yes	7
● No	23



21. Are you in employment? Exclude elected councillor role.

■ Yes ■ No



22. Do you have any further comments regarding employment?

27
Responses

Latest Responses

"no"
"My businesses "
"i own my own business "

5 respondents (19%) answered **time** for this question.



MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 17 June 2024 at 5.30 pm

Present

Councillors

L G J Kennedy (Chairman)
G Westcott (Vice Chairman), D Broom,
E Buczkowski, A Cuddy, G Czapiewski,
M Farrell, C Harrower, B Holdman, L Knight,
R Roberts and S Robinson

Also Present

Councillor(s)

J Buczkowski, D Wulff

Also Present

Officer(s):

Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer)), Laura Woon (Democratic Services Manager), Angie Howell (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

Councillors

Online

A Glover, S Keable, J Lock, L Taylor and L J Cruwys

Officer Online

Richard Marsh (Director of Place and Economy)

1 ELECTION OF VICE-CHAIR OF THE SCRUTINY COMMITTEE (0:04:34)

The Chairman of the Committee invited nominations for the election of a Vice-Chairman for the municipal year 2024/25.

RESOLVED that Cllr G Westcott be elected Vice Chair of the Scrutiny Committee for the municipal year 2024/2025.

(Proposed by Cllr L Knight and Seconded by Cllr B Holdman).

2 START TIME OF MEETINGS (0:06:35)

Cllr L Kennedy proposed and seconded by Cllr A Cuddy that the Committee meet at 5.00pm for the remainder of the 2024/25 municipal year.

The Committee **AGREED** to meet at 5.00pm for the remainder of the 2024/25 municipal year.

3 **APOLOGIES AND SUBSTITUTE MEMBERS (0:09:29)**

There were no apologies.

4 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:09:42)**

No interests were declared under this item.

5 **PUBLIC QUESTION TIME (0:10:07)**

The public questions that were raised were judged to be inadmissible under the terms of the Constitution of the Council, due to the fact that they were not related to any item remaining on the agenda.

6 **MINUTES OF THE PREVIOUS MEETING (0:19:58)**

The minutes of the meeting held on 15 April 2024 were approved as a correct record and **SIGNED** by the Chairman.

7 **CHAIRMAN'S ANNOUNCEMENTS (0:20:36)**

The Chairman commented that he was grateful to be chairing this Committee.

8 **DECISIONS OF THE CABINET (0:21:22)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 4th June 2024 had been called in.

9 **TOWN AND PARISH CHARTER (0:21:27)**

The Committee had before it, and **NOTED**, a report * from the Democratic Services Officer and Town and Parish Liaison Officer.

The Town and Parish Charter was a partnership between Mid Devon District Council and the Towns and Parishes within its district.

The Community Policy Development Group (PDG) had considered the Charter and the process for renewing it, at its meeting in January 2024 and had approved a decision to send the charter to the Towns and Parishes for consultation. Subsequently, the draft Town and Parish Charter and its annex regarding planning, had been sent to the Town and Parish Councils in the district and their views on the charter sought. The Towns and Parishes had been given three months in which to respond in order that it would fit into their meeting cycle.

The District Council had received 24 responses out of 50 Towns and Parishes, some councils had made comments, the majority had accepted the proposed changes and only one had not accepted the document. Many of the suggestions that the Town and Parishes had made, had been incorporated into the revised Charter documents.

Discussion took place with regard to:

- Why the Town and Parish Charter was coming to the Scrutiny Committee before it went to the Community, People and Equalities PDG. This was at the request of the Scrutiny Committee when they added items to their work plan.
- That this was the final document, subject to any comments that District Councillors wished to make.
- The role of the District Council Chairman in relation to the Town and Parish Councils. The local District Councillors and the Cabinet Member for Parish and Community Engagement were there to answer queries and liaise with Town and Parish Councils but the District Council Chairman was ultimately responsible.
- Regarding major planning applications A3 notices would be displayed prominently adjacent to the proposed site.
- That all feedback from the Town and Parish Councils had been included within the committees' papers. Approximately half of councils had not responded and so that had been taken as acceptance.

The Chairman commented that this was an important document, partnerships with Towns and Parishes was the way forward and he wished the Cabinet Member for Parish and Community Engagement and the Town and Parish Liaison Officer all the best with the progress.

Note: * Report previously circulated.

10 **PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR HOUSING AND PROPERTY SERVICES - WITHDRAWN**

This item was withdrawn prior to the meeting.

11 **WORK PROGRAMME (0:30:21)**

The Committee had before it and **NOTED** the *Forward Plan and the *Scrutiny Committee Work Programme.

The Clerk took the Committee through the Work Programme and highlighted the following:

- He was awaiting confirmation from the Cabinet Member for Housing, Assets and Property as to when would be convenient for him to give his Portfolio Presentation and that may mean that other Portfolio presentations were moved to accommodate it.
- The Community Safety Partnership briefing would not be ready for the July meeting and so would move to the 9 September meeting.
- For the moment nothing would be scheduled for the 12 August meeting so that if no items were called in from Cabinet, that meeting could be cancelled to reflect that a number of Members and officers may be away.
- A report would need to be prepared on Solar Panel and Anaerobic Digesters so that would come to the 30 September meeting.

Discussion took place with regard to:

- Inviting South West Water to address the Committee following completion of the Water Cycle study. The work for the Water Cycle had been out to tender and a consultant had been or was about to be selected so this work was slightly behind schedule. An interim update was to be scheduled in the Work Plan in the autumn.
- The Cullompton Infrastructure update report to come to the 9 September meeting. The Council were in discussions with Homes England but had been told that they would not hear anything until after the General Election. A request was made that the report include both private and public sector involvement.
- The Cabinet Member for Finance had mentioned a land sale that was imminent and would unlock 70 affordable homes, the Committee requested an update be provided at their next meeting on 15 July.
- An update was requested on the Council being a “Trauma Informed Council”.
- Whether it would be appropriate at the Committee meeting on 15th July to look at the impact of the structure of the new Government on Mid Devon District Council’s priorities and specifically the next Plan Mid Devon.
- Could both the “Void Properties” and “Air Management Control” items be brought forward on the Work Plan?

Note: - * Forward Plan and Scrutiny Committee Work Programme previously circulated.

(The meeting ended at 6.18 pm)

CHAIRMAN

MINUTES of a **MEETING** of the **AUDIT COMMITTEE** held on 25 June 2024 at 5.00 pm

Present

Councillors

L Knight (Chairman)
D Broom, E Buczkowski, G Czapiewski
(Vice-Chair), B Holdman, R Roberts,
Paul Deal (Spare1) and Matthew Page
(Spare1)

Apologies

Councillors

A Cuddy and B Fish

Also Present

Councillors

J Buczkowski and L Taylor

Also Present

Officers

Andrew Jarrett (Deputy Chief Executive (S151)), Paul Deal
(Head of Finance, Property and Climate Resilience),
Matthew Page (Head of People, Governance and Waste)
and Sarah Lees (Democratic Services Officer)

Councillors

Online

S Robinson and D Wulff

Officers Online

S Carr, D Emery and L Woon

Also in

Attendance

Tony Rose (Devon Assurance Partnership)

1. **ELECTION OF CHAIRMAN**

RESOLVED that Cllr L Knight be elected Chair of the Audit Committee for the municipal year 2024/2025.

2. **ELECTION OF VICE CHAIRMAN**

RESOLVED that Cllr G Czapiewski be elected Vice Chair of the Audit Committee for the municipal year 2024/2025.

3. START TIME OF MEETINGS

It was **AGREED** to continue to commence Audit Committee meetings at 5.00pm on Tuesday evenings for the remainder of the municipal year 2024/2025.

4. APOLOGIES

Apologies were received from Cllr A Cuddy and B Fish who was substituted by Cllr B Holdman.

5. PUBLIC QUESTION TIME

The following questions were received from members of the public:

Mr Nick Quinn

Addressing the Draft Statement of Accounts and the 3 Rivers closure:

Q1. On page 79 of the accounts, there is a list of the assets bought from 3 Rivers and the amounts paid for each - but the Halberton Car Parking spaces and the Architectural drawings for the failed Park Nursery development, both bought from 3 Rivers, are not on the list. Why are these purchases and amounts not listed?

Q2. How much was paid for the Park Nursery Architectural drawings? and on what date?

Q3. The Council paid £3.66M for the Knowle Lane land, which was valued at only £1.66M. It was already known that this land was not worth £3.66M - so this purchase breached the Council's Financial Regulations on the Acquisition of Assets, which state that: "*All purchases or leasing of land and buildings shall be on the best financial terms that can be obtained for the Council*". Will Audit Committee please look into this breach?

Q4. On page 62 of the accounts, it says that the loss on 3 Rivers loans was £6.8M but also "*the revaluation of assets purchased... resulted in a 'notional' loss of £2M*". **This is not a 'notional' loss – it is real.** This Council overpayment for assets, allowed 3 Rivers to repay loans which it would not otherwise have been able to do. Will Audit Committee agree that if this £2M overpayment had not been made, the total loss of loans to 3 Rivers would have been £8.8M?

Q5. A Revenue and Capital Outturn report went to Cabinet on 4 June 2024. In that report, the loan loss figure, shown as £6.8M, was 'reduced' to 'only' £3.384M by subtracting all the Interest and Recharge payments ever received from 3 Rivers during the whole of the previous six years. I understand that this declared income was spent in each of those years, therefore it cannot be 'resurrected and reused' to discount a very real monetary loss in this year. Will Audit Committee confirm that this attempt to 'reduce' these real losses in this year, is not acceptable?

Barry Warren

My observations and questions are stimulated by Item 10 on your agenda – in particular the Annual Governance Statement and the principles listed in paragraph 1.5 [pages 209/210] covering Codes of Practice and Ethical Aims.

At the Annual General Meeting of the Council on the 22nd May 2024 the Leader gave a report, which is minuted, and the relevant point stated: *“The 2024/25 budget was set without any use of reserves, was fully balanced and was unanimously supported across the political spectrum.”*

In a report to Cabinet on 6th February 2024 headed **2024/25 Budget** at paragraph 4.2. the Cabinet Member for Finance states: *“Appendix 1 (p39) shows in detail which amounts are being contributed to, or drawn down from, various earmarked reserves in 2024/25. This totals a net reduction in Earmarked Reserves of £840k.”*

Paragraphs 4.3 and 4.4 describe in detail how this net reduction in Earmarked reserves of £840k is arrived at.

Paragraph 4.7 states *“No draw on General Reserves is required to support the 2024/25 Budget”*.

Having previously been accused by the Leader of using “reserves” to balance the budget, I felt that the I should question his unqualified statement to the Council AGM.

At the Cabinet meeting on 4th June 2024 I asked public questions regarding the use of reserves. The answer I received differentiated between “Reserves” and “Earmarked Reserves” and was further complicated by referring to their use being dependent on specific one-off situations or on-going expenditure nature, etc.

Question 1.

In the interests of openness and honesty; will the Audit Committee please look into the preparation of the 2024/25 budget and make a statement on whether ‘Reserves’, of any description, have been used in setting it?

Question 2.

In the interests of openness and honesty; if the Audit Committee find that ‘Reserves’, of any type, have been used in the setting of the 2024/25 budget, will they ask the Leader to make a public correction to his statement to the Council AGM on the 22nd May 2024?

Paul Elstone

**My questions relate to Agenda Item 9 Corporate Risk
Specifically CR 7 Financial Sustainability and CR 12.5 and 12.6 Housing Crisis**

QUESTION 1

Industry Data published in April 2024 reveals that the relative mid-range building cost for the South West of England is £1,860 per square metre.

Also data available that shows the additional cost increment for Nett Zero builds is only around 4 percent and for the Passivhaus between 6 and 8 percent. A standard that ZED PODS modules do not meet.

Yet the total building cost for the ZED PODS modular homes for St Andrew Cullompton was £4,778 per square metre or put another way it cost £155,000 per bedroom. This for a simple to develop brownfield site with little ground works.

For Shapland Place the cost was a massive £170,000 per bedroom

For the avoidance of doubt the current per bedroom selling price of Commercial new builds are:

Persimmon, in Cullompton, is £95,000

Bellway, in Willand, is £103,000

David Wilson – upmarket- Homes in Tiverton are £110,000

Unlike the ZED PODS developments, these are Greenfield developments where the developer needs to purchase the land and build the infrastructure plus pay very substantial S106 and affordable home costs.

The cost of each bedroom at St Andrews, Cullompton is £60,000 more than a Persimmon bedroom.

Under no circumstances can the modular home developments being built for this Council be called “Best Value”. In fact this Council could have nearly two (2) houses for every one (1) they are currently getting and to the same or higher energy and sustainable standards.

Will this Audit Committee urgently investigate the full circumstances involving the grossly excessive expenditure on modular homes - before this Council commits to further purchases?

QUESTION 2

Evidence available reveals the following potential modular build risk.

1. It is widely reported that there is a suppressed UK Government Report which has identified potential fire and structural integrity risk with modular homes.
2. The UK National Fire Chiefs Council have raised fire risk concerns, referencing that they consider the current Building Regulations are not tight enough including a lack of modular home fire testing.

This should be of particular concern with modular homes built over car parking - like Shapland Place.

3. The life of modular homes estimated at 60 years, to 100 years maximum, against over 150 years for conventional builds. Impacting on insurance.
4. Wind loading and snow loading risks have caused modular builds in Cornwall to be shut down.
5. Overheating risk and with internal temperatures in excess of 36 Degrees C being reached in the ZED POD'S modules in Bristol.
6. Mould risk.

Given these modular home risks, coupled with excessively high expenditure, Is this not a case of Double Jeopardy for this Council. Will this committee call for an expert and fully independent investigation?

Hannah Kearns (questions received in advance)

Question 1

In the Draft Accounts, on page 147, is an Earnings table. I am interested in the figures for the Managing Director of 3 Rivers for 2023/24.

Note 7 to that table says the Managing Director was made redundant on 31 March 2024 and received the redundancy package commensurate with the length of service. Given it is known that the Managing Director was only directly employed by 3 Rivers from 1st April 2021, that is only three years service with the Company before he resigned.

The Compensation and Pension Contribution figures seem excessive for someone with only three years of service and at £143,264

Was three years the length of service used in the calculation of the redundancy package?

Response from the Cabinet Member for Governance, Finance & Risk:

No

Question 2

If not, what was the length of service used?

Response from the Cabinet Member for Governance, Finance & Risk:

The applicable length of service included the previous service at Mid Devon District Council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Question 3

Was some other 'special arrangement' made to arrive at these figures?

Response from the Cabinet Member for Governance, Finance & Risk:

No – This was the contractually due settlement and confirmed by external legal advice.

Question 4

What was the total cost of the 2023/24 Salaries, Compensation and Pension Contributions for all the 3 Rivers Directors put together?

Response from the Cabinet Member for Governance, Finance & Risk:

From the company's draft accounts, the Directors' remuneration for the year was £347k.

Question 5

Where any redundancy payments made to the employees of 3 Rivers?

Response from the Cabinet Member for Governance, Finance & Risk:

Yes, three further employees were also made redundant in line with their contractual entitlement.

Question 6

If so what was the total amount?

Response from the Cabinet Member for Governance, Finance & Risk:

The total cost was less than £10k.

The Chairman stated that those questions which had not been received in advance would be responded to in writing within 10 days and attached to the minutes.

6. **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

7. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 26 March 2024 were confirmed as a true and accurate record and **SIGNED** by the Chair.

8. **CHAIRMAN'S ANNOUNCEMENTS**

The Chair thanked Paul Middlemass (Devon Assurance Partnership) for his service to the Audit Committee over recent years and wished him a long and happy retirement.

He also thanked the Committee for electing him.

9. CORPORATE RISK Q4 (00:20:00)

The Committee had before it, and **NOTED**, a report * from the Corporate Performance and Improvement Manager and the Head of People, Performance and Waste providing Members with a quarterly update on the Corporate Risk Register.

The contents of the report were outlined with particular reference to the following:

- This was the usual quarterly report presented to the Committee and now included target risk ratings for all Corporate Risks.
- Any significant changes which had been made to the corporate risks since the last meeting were listed in section 2.3 of the report.

Discussion took place regarding:

- The risk ratings relating to the delivery of the closedown of 3Rivers. This had reduced from 8 to 3. However, it was felt that the reputational risk in relation to 3Rivers was still quite significant. It was explained that all the timelines in the closedown plan had been met and the Council would be applying to Companies House in the next three weeks for 3Rivers to be struck off. Whilst there would still be some reputational risk, all the management actions that could have been taken had been delivered. The Committee requested that this continue to be monitored.
- A view was expressed that the risk ratings in relation to the Culm Garden Village and the Cullompton Relief Road needed to be the same as they were interdependent. The officer stated that he would refer these comments back to the Director of Place & Economy.
- It was confirmed that in the initial stages risks were assessed by the risk owners and then assessed by the Corporate Management team.
- Concern continued to be expressed around Cyber Security and it was requested that this particular issue receive a specific agenda item at the next meeting so that the Committee could be reassured all that could be done to mitigate risk was being done or was planned to be done. This was **AGREED**.

Note: * Report previously circulated.

10. DRAFT STATEMENT OF ACCOUNTS FOR 2023/2024 (00:30:00)

The Committee had before it, and **NOTED** a report * from the Deputy Chief Executive (S151) presenting the draft version of the annual Statement of Accounts and Annual Governance Statement to Members published on the website and presented for external audit.

The Committee was informed that it was not expected to approve the Statement of Accounts this evening, it would be asked to do this after they had been audited, finalised and brought before it at the October Committee meeting. As a helpful aid in trying to understand what the role of the Committee was in the process a presentation was delivered that provided the following summary information:

- The role of the Audit Committee in relation to the Annual Accounts and the Annual Governance Statement.
- Things the Committee needed to consider, for example, previous assurance reports from internal and external audit.
- Financial performance.
- Was the Council a 'Going concern'?
- How well did the accounts 'tell the story'?
- What were the 'Financial Statements'?
- Timeframes.
- Regulations.
- Accounting policies.
- Main aspects of the Accounts.
- Main Financial Statements.
- Key issues being:
 - The soft closure of 3 Rivers Development Ltd.
 - District Council election.
 - Cost of Living Crisis.
 - Patronage levels.
 - Bin-It 123 performance.
- Audit Annual Report and the Audit Opinion.
- The Annual Governance Statement.
- External Audit outputs.

It was hoped that when the Accounts came back to the Committee in October Members would have a better understanding of their role in approving them. Members were asked to contact officers if there was anything they needed clarification on. No question was a stupid question.

Discussion took place regarding:

- The Accounts made no mention of the upcoming General Election and this was because they represented a true and fair reflection of the Council's finances as at 31 March 2024. There was no way of knowing what a new Government would do with regards to local authority funding in the future.
- Several auditing firms were mentioned in the Accounts, for example, Grant Thornton, Bishop Fleming and KPMG. The role of each was explained.
- A Committee member had recently attended a DAP event and informed the Committee that DAP now stood for 'Devon Assurance Partnership'.

Note: * Report previously circulated.

11. **DAP INTERNAL AUDIT ANNUAL REPORT FOR 2023/24 (01:05:00)**

The Committee had before it, and **NOTED**, a report * from the Devon Assurance Partnership (DAP) presenting their annual Outturn report for 2024/2025.

The following was highlighted within the report:

- This was the end of year summary report and reflected back on all of the work that had taken place set against their Internal Audit Plan for 2023/2024.
- The different types of assurance opinion were explained.
- The Committees attention was drawn to the management actions listed under each summary report.
- The Assurance Map was referred to.
- The internal framework for auditors had been revised.
- There was a 96% satisfaction rate for the audits undertaken by DAP.

Discussion took place with regard to:

- The fact that no evidence of fraud had been detected in relation to 3Rivers, therefore it was now hoped those allegations would cease.
- A Phoenix House fire drill had been undertaken in the previous month, therefore the report needed updating.

Note: * Report previously circulated.

12. **DAP MANAGEMENT ACTIONS UPDATE REPORT (01:14:00)**

The Committee had before it, and **NOTED**, a report * from the Devon Assurance Partnership (DAP) presenting the actions needing to be addressed by Management.

The contents of the report were outlined with particular reference to the following:

- Any high risk areas had an agreed timeframe for action to resolve identified issues of concern.
- On the face of it, one high level risk in relation to Cyber Security was seen as very good when compared to other local authorities.

Discussion took place with regard to:

- It was explained that there were 3 levels of risk identified in each audit, high, medium and low. The process needed to be very robust and whilst there was an element of subjectivity there was a framework underpinning all decisions.
- It was confirmed that the Leadership Team looked at the Audit Recommendations on a regular basis making sure that 'check' and 'challenge' was cascaded down to the managers. Given resource levels within the Council the high risk recommendation were given priority. It was further confirmed that if the Committee were concerned about a particular service area it could call the manager to a meeting of the Committee to question them on their audit and service area.

Note: * Report previously circulated.

13. **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:22:00)**

The Committee had before it, and **NOTED**, the items identified in the work programme for the next meeting. The following was also requested to be on the agenda:

- Appointment of an Independent Person to the Audit Committee

- Appointment of representatives to the Devon Assurance Partnership (DAP) Committee
- An update on the Cyber Security arrangements

(The meeting ended at 18:25pm)

CHAIRMAN

MINUTES of a **SPECIAL MEETING** of the **AUDIT COMMITTEE** held on 30 April 2024 at 5.00 pm

Present

Councillors

L G J Kennedy (Chairman)
E Buczkowski, F J Colthorpe, C Connor,
G Duchesne, L Knight and S Robinson

Apology

Councillor

R Roberts

Also Present

Councillors

D Broom, J Buczkowski, G Czapiewski and D Wulff

Also Present

Officers

Andrew Jarrett (Deputy Chief Executive (S151)), Paul Deal
(Head of Finance, Property & Climate Resilience and
Sarah Lees (Democratic Services Officer)

Councillor

Online

J Downes

Also

In Attendance

Julie Masci (Grant Thornton)

80. APOLOGIES

Apologies were received from Cllr R Roberts who was substituted by Cllr Mrs F J Colthorpe.

Cllr J Downes attended the meeting online.

81. PUBLIC QUESTION TIME

The following questions were asked by members of the public:

Barry Warren

My questions relate to item 6 on your agenda:

At the Cabinet meeting on the 16th February 2024 I asked a number of questions relating to finance. The Leader made a response which commenced with this sentence:

*“When this administration took control of the Council in May last year, it inherited the **significant financial mess** that had been left by the previous administrations.”*

On page 62 of your papers at paragraph 3.19 the Deputy Chief Executive (S151 Officer) in the first paragraph of his Conclusion writes:

*Overall 2022/23 should be considered a successful year with the outturn position for the General Fund and Housing Revenue Account delivered close to, or within, budget. The Council’s performance was strong with the vast majority of our performance targets achieved, despite the significant financial pressures and strain on resources experienced. **This achievement should be celebrated.***

Question 1

There appears to be a direct conflict between the Deputy Chief Executive, S151 Officer, and the Leader of the Council. Can you advise which statement is correct please?

Question 2

If the Audit Committee approve the FINAL version of the annual Statement of Accounts and formally sign the two documents as recommended in Section 1 on page 25 of your papers, will this signify that Audit Committee support the view expressed by the Deputy Chief Executive, S151 Officer in his Conclusion and celebrate the achievement?

Question 3

On page 152 of the Draft Accounts (page 184 in your bundle) you will see the salary of the 3 Rivers Managing Director was £80,862 for 2022/23. That Director has resigned and been replaced - please will you tell me what is the salary being paid to the current Managing Director?

Nick Quinn

Concerning Agenda Item 7 – Audit Findings:

Issued late, with the Grant Thornton Audit Findings Report, is a Supplementary “*Post Audit Adjustments*” paper.

You will see on page 42, of the supplementary papers, it states that “*To achieve the “soft close” all of the assets held by the company will need sold or transferred to Mid Devon District Council by the end of March 2024*”.

My questions are about these transactions - which, by now, will have taken place.

“St George’s Court is being sold to the Council for £8.15 Million”.

Question 1

Did the Council Pay £8.15M for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The £8.15m was the negotiated sales/purchase price agreed between the Council’s Housing Revenue Account and 3Rivers

“Knowle Lane, Cullompton, will be sold to the Council at book value of £3.66 Million”.

Question 2

Considering the amount paid for the land in 2019, and the value ascribed to it in the Large Housing Sites Options Report presented to Cabinet in August 2023, the amount of £3.66 Million seems very high indeed. It is said to be a “book value”, but in whose “book” was it listed at this value?

Response from the Deputy Chief Executive (S151 Officer)

This was the carrying value in 3Rivers accounts.

Question 3

Did the Council Pay £3.66M for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £3.66m.

“Any unsold units at Hadden Heights, Bampton, will be bought by the Council at the marketed price of £3.135 Million”.

Question 4

Did the Council Pay £3.135M for these or were these Assets Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £3.135m.

“The investment property will be bought by the Council at book value of £180,000”.

Question 5

Did the Council Pay £180,000 for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £180k.

Addressing the Parking Spaces at Halberton.

Question 6

How many parking spaces did the Council acquire from 3 Rivers?

Response from the Deputy Chief Executive (S151 Officer)

5

Question 7

What was the total value of these spaces?

Response from the Deputy Chief Executive (S151 Officer)

£21.7k

Question 8

Did the Council Pay 3 Rivers for these spaces or were these Assets Transferred at this value?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £21.7k

The paper did not address the amounts previously impaired on projects:

Question 9

Do any of the above amounts include previous impairment amounts?

Response from the Deputy Chief Executive (S151 Officer)

No, impairment amounts only related to our end of year calculations on outstanding loans. This was based on the likely level of loan repayment that was estimated to be received, based on all available market information at that time.

Paul Elstone

Question 1

At the Audit Committee Meeting of the 26TH March Council, Officers were highly commended for recovering £150,000 from 293 local residents wrongly claiming single occupancy Council Tax discount. This is equivalent to around £500 per individual.

In March 2023 a complaint was made to the Monitoring Officer concerning an Elected Member benefiting from a grossly incorrect Council Tax Banding. This as the result its believed, due to an agricultural occupancy discount and which they were not entitled also a serious breach of Planning Permission going back to 2001. No action was taken.

It is important to state that the person concerned was an elected Member of this Council when the serious breach occurred, also when the complaint was made. That they have been both the Leader and Chairman of this Council.

The Monitoring Officer responded to the complainant by saying:

Quote: *"I would find that the alleged misconduct happened some 20 years ago and that taking further action would be disproportionate to public money and officer's time"*. Unquote:

Had the correct banding (probably F or G) been properly declared by the Councillor from the very first day of occupancy in 2001 the Councillor would not have underpaid Council Tax by over £30,000 and by £1,800 this year alone. The property was only put into Band C for Council Tax, probably based on the 3 bedroom bungalow submitted plans and assumptions concerning agricultural occupancy agreements.

The situation arose when Planning Permission was granted for the building of a 3-bedroom bungalow, with an agricultural worker tie. The building in fact constructed was a house, with first floor, accommodating 5/6 bedrooms, five bathrooms, dedicated office space and consulting room all in addition to kitchen, utility room and extensive living/dining room. A property that was specifically built in breach of the Planning Permission which one of the occupants has openly admitted.

I am aware that several current Members of this Council are unhappy with this position and quite rightly so. One in fact who encouraged the investigation and complaint.

Will this Audit Committee agree that a full investigation is warranted as to why the Monitoring Officer failed to progress the complaint and that it would be in the public interest to do so?

Question 2

This is not an isolated example of the Monitoring Officer failing to investigate alleged Member and Officer misconduct complaints. This where there is a clear public interest to do so and with substantive evidence available. This including the Bampton site land purchase. Other examples are available.

Will this Audit Committee fully investigate these matters. This including the Monitoring Officers own, and it's believed obvious failures. Failures which are bringing this Council into disrepute?

Question 3

Will this Committee ensure that full and necessary remedies are enacted and as a visible deterrent. This as other Councils do?

Question 4

Will this Committee do what is required to ensure correct Council Tax is paid and if possible, retrospectively?

Question 5

Can it be understood why more and more residents of this council are publicly questioning then exposing the cover-up culture that seems to pervade this Council including challenging those who promote that culture?

The Chairman stated that written answers would be provided (and attached to the minutes of the meeting) for those questions not supplied in advance.

82. **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

83. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 26 March 2024 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

84. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

85. **FINAL STATEMENT OF ACCOUNTS 2022/23 AND ANNUAL GOVERNANCE STATEMENT (00:20:00)**

The Committee had before it a report * from the Deputy Chief Executive (S151) presenting the draft final version of the annual Statement of Accounts and

Governance Statement to Members, highlighting the areas which had been amended since the draft accounts were published on the website and presented for external audit in July and considered by the Audit Committee in August and December 2023.

The following was highlighted within the report:

- The net overall balance on the General Fund at the end of March 2023 was an overspend of £190k.
- The key variances from budget were listed within the report.
- The General Reserve balance remained above the recommended amount.
- The delay in signing off the accounts had been due to some outstanding elements in relation to the group accounts, however, the subsequent independent audit had resulted in no material findings.
- The audit had resulted in a clean, unqualified opinion which was reflective of the hard work undertaken by officers throughout the organisation.
- Adjustments had been made to reflect comments and findings made by the external auditors. This included a whole new section 2 contained within the Annual Governance Statement (AGS).
- The final draft accounts and AGS presented to the Committee this evening represented a true and fair summary of the Council's net worth as at 31st March 2023.

It was **RESOLVED** that:

- i) The Statement of Accounts for 2022/2023 (noting the findings made by the external auditor, Grant Thornton) be approved;
- ii) The Annual Governance Statement be approved.
- iii) The Letter of Representation be signed.

(Proposed by the Chairman)

Reasons for the decision

Good financial management and administration underpinned the entire document.

It was a statutory requirement to follow the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) when producing the Statement of Accounts.

The Section 151 Officer was responsible for the administration of the financial affairs of the Council. Adhering to the Code mitigated the risk of receiving a qualified set of accounts. The Finance Team had also reviewed its overall calculations/workings against the CIPFA published Disclosure Checklist for 2022/23 and entered into detailed discussions with the appointed Audit Manager prior to and during the completion of the accounts.

The financial resources of the Council impacted directly on its ability to deliver the Corporate Plan. The Statement of Accounts indicated how the Council's resources had been used to support the delivery of budgetary decisions.

Note: * Report previously circulated.

86. **GRANT THORNTON - AUDIT FINDINGS REPORT FOR 2022-23 (00:27:00)**

The Committee had before it, and **NOTED**, a report * from Grant Thornton providing their audit findings having assessed the Council's financial accounts for 2022/2023.

The following was highlighted within their report:

- Their findings report updated their final position having audited the outstanding elements from the group financial statements.
- Page 3 of their report set out the key headlines.
- Their overall opinion was unqualified with the Committee's attention being drawn to one small 'Emphasis of Matter' in relation to 3Rivers no longer being a 'going concern'.
- Other small errors had been noted and adjusted for, outside of that, all work had now been completed.
- Their audit fees had been set by the Public Sector Audit Appointments (PSAA).
- Julie Masci stated that as this would be her last audit and meeting with the Council she wished to thank officers and the Committee for their support over recent years.

Note: * Report previously circulated.

(The meeting ended at 17:39pm)

CHAIRMAN

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MINUTES of a MEETING of the COMMUNITY, PEOPLE & EQUALITIES POLICY DEVELOPMENT GROUP held on 25 June 2024 at 2.15 pm

Present

Councillors

B Holdman (Chairman)
C Connor (Vice-Chair), D Broom, A Cuddy,
M Farrell, A Glover, C Harrower and
H Tuffin

Also Present

Councillor(s)

G Duchesne, J Lock and D Wulff

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer)), Simon Newcombe (Head of Housing & Health), Harriet Said (Team Leader (Commercial), Public Health), Angie Howell (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

Councillors

Online

L G J Kennedy and S Robinson

Officers Online

Dr Stephen Carr (Corporate Manager for Performance and Improvement), Tanya Wenham (Operations Manager for Public Health), Lewis Dyson (Resilience Officer), Laura Woon (Democratic Services Manager).

1 ELECTION OF CHAIR (0:03:11)

The Chair of the Council invited nominations for the election of Chair of the Policy Development Group (PDG) for the municipal year 2024/25.

RESOLVED that Cllr B Holdman be elected Chair of the Community, People and Equalities Policy Development Group for the municipal year 2024/2025.

(Proposed by Cllr A Glover and Seconded by Cllr D Broom).

2 **ELECTION OF VICE-CHAIR (0:14:32)**

The Chair of the Community, People and Equalities Policy Development Group invited nominations for the election of Vice Chair of the PDG for the municipal year 2024/25.

RESOLVED that Cllr C Connor be elected Vice Chair of the Community, People and Equalities Policy Development Group for the municipal year 2024/2025.

(Proposed by Cllr C Harrower and Seconded by A Glover).

3 **START TIME OF MEETINGS (0:07:10)**

Cllr A Glover proposed, seconded by Cllr C Harrower that the Community, People and Equalities PDG meet at 12.30pm for the remainder of the 2024/25 municipal year.

This was AGREED.

4 **APOLOGIES AND SUBSTITUTE MEMBERS (0:09:34)**

There were no apologies.

5 **PUBLIC QUESTION TIME (0:09:57)**

No members of the public had registered to ask a question in advance.

6 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:10:13)**

No interests were declared under this item.

7 **MINUTES OF THE PREVIOUS MEETING (0:10:34)**

The Minutes of the Meeting held on Tuesday 26 March 2024 were amended to record that Cllr A Glover sent her apologies and that Cllr D Wulff attended the meeting. Subject to those amendments the minutes were approved as a correct record and **SIGNED** by the Chair.

8 **CHAIR'S ANNOUNCEMENTS (0:16:38)**

The Chair commented that under the new Corporate Plan the following thematic areas for this PDG were:

- Emergency Plan
- Parish Liaison
- Community Engagement and Consultation

- Grants and Funding
- External Health & Safety
- Equalities
- Local Welfare Assistance
- Air Quality
- Contaminated Land
- Licensing
- Food and Water Control
- Pollution and Noise Control
- Poverty Premium/Vulnerable Persons Strategy
- Benefits
- Health Services
- Community Safety
- Anti-Social Behaviour
- CCTV
- Gazetteer Management
- Land Charges
- Street naming and numbering
- Public health,
- Environmental Health (e.g. food standards, water quality)
- Presentations from grant funded organisations
- Safeguarding children and vulnerable adults
- Community engagement and consultation
- Digital transformation – broadband,
- Local welfare assistance, Benefits, Presentations from local interest groups such as Drink Wise Age Well, Youth Services, Older Persons strategy,
- Updates from the clinical commissioning group,
- RIPA,
- Targeted families.

9 DRAFT CORPORATE PLAN (0:19:05)

The Group had before it a report * from the Chief Executive, Head of People, Performance and Waste and Corporate Performance and Improvement Manager to consider the draft Corporate Plan for 2024-2028. The Group were invited to provide feedback on the document to recommend back to the Cabinet before the final draft was presented to Full Council for approval.

The contents of the report were outlined by the Corporate Performance and Improvement Manager and the following was highlighted in the report:

- The draft document had been developed by officers and Members over the past 6 months and set out the draft aims and objectives of the Council from 2024 – 2028.
- The document had been presented to Cabinet on 4th June and had been discussed at every PDG, before returning to Cabinet and ultimately Full Council in mid-July.
- The draft plan was structured around five thematic areas for which the Council now had a fifth PDG in place.
- Draft performance measures and targets were set out within the report. It was explained that these metrics were still in development

Discussion took place regarding:

- The performance measure targets should exceed those achieved in 2023/24.
- Whether planning enforcement was going to be supported by a viable number of officers? That would be a challenge for the budget but the Council should be willing to accept the challenge.
- Whilst the document mentioned supporting groups and stakeholders e.g. voluntary, community and social enterprise organisations, there was no mention of more meaningful engagement. This should be added to the Plan.
- Why there was no performance target for supporting residents and communities through the Cost of Living Crisis? Officers responded to say that not all Aims and Objectives suit being measured through metrics. An annual report will be presented covering all aspects of the Plan.
- Why the target set for complaints resolved within time scales was being reduced? It was explained that the time scales in which to respond to complaints were due to be reduced even for complex cases. The proposed target is pragmatic based upon the revised timescales.
- Whether the targets in the document could show an improvement year on year? The targets in the document stated the Council's minimum aspirations but the Council always tried to be ambitious and to improve. The Corporate Performance and Improvement Manager commented that sometimes maintaining performance was an achievement when the Council had fewer resources.
- What areas complaints were more prevalent in and whether it was possible to be more specific in areas of complaint. The levels of complaint were higher in the Council's major areas of service due to their volume – Housing, Waste and Street Scene and Open Spaces.
- Geographically, where did more complaints come from? Officers commented that an annual complaints report is presented to this PDG that provides a more in-depth analysis of the Council's complaints.

RECOMMENDED to the Cabinet that the draft Corporate Plan for 2024 – 2028 be approved.

(Proposed by Cllr C Connor and seconded by Cllr A Glover)

Reason for the decision

Setting out the Council's aims and objectives through a Corporate Plan, communicated and provided a framework for the delivery of strategic priorities.

Note: * Report previously circulated.

10 PERFORMANCE DASHBOARD AND OUTTURN QUARTER 4 (0:19:05)

The Group received, and **NOTED**, information * showing performance data for quarter 4 of 2023/24.

This included the following summary in relation to the red and amber RAG ratings:

- The only Corporate Risk relating to this PDG was Severe Weather Emergency Recovery and that risk rating remained at 12.
- All Council complaints resolved within timescale was amber and this reflected lower levels in performance in quarter 1 relating to housing complaints. Performance had recovered towards target levels throughout the remainder of the financial year.
- Environmental protection service requests (red rated) was a new indicator in 2023/24. Following data cleansing from quarter 2, performance had continued to improve (quarter 3 was 100% and quarter 4 was 98%).
- Capital Slippage of projects was red and that related to delays in projects such as getting the new Changing Places toilets into operation.
- The performance dashboard would be reviewed as part of the new Corporate Plan. Any changes for this revised PDG would be reflected in the performance data for quarter 1 2024/2025.

Consideration was given to the following:

- What were the reasons for the slippage in getting the Changing Places toilets into operation? The Corporate Performance and Improvement Manager would investigate and reply in writing.

Note: * Performance Dashboard and Outturn previously circulated.

11 FOOD SAFETY PLAN (0:40:33)

The Group had before it and **NOTED** a report * from the Head of Housing and Health relating to Public Health Food Safety Service Plan and Service update.

The contents of the report were outlined by the Head of Housing and Health. He highlighted that the Council operated under the guise of the Food Standards Agency (FSA) and that the Council worked in partnership with the FSA. The FSA set the standards and the Council had to deliver the functions locally. Public Health and Food Safety were a statutory service. The Team Leader (Commercial), Public Health stated that they had an obligation to provide data back to the FSA. Previously the Council had fallen short and as a result was in a period of enhanced engagement with the FSA. Once the new plan was in place the FSA were content for the Council to return to six monthly reporting.

Discussion took place regarding:

- The backlog the service had been experiencing was a result of the Covid pandemic. Now measures had been put in place the Council was on top of the situation.

- Whether the Council had enough resources? Two new posts were being advertised and once filled, the manager was confident that they would have sufficient capacity to move forward. There had been a loss of competent staff across the industry and so the Council were now training their own staff in house.
- Whether the team regulated tattoo piercing premises? The lead officer confirmed that they were responsible for infectious disease control and so did regulate that area.
- With regard to Food Safety Service it was clear in the district that the standard was high but it had to be accepted that there would always be those businesses that needed to improve. Where any business was rated zero, one or two, then, the team would work with them to achieve a level of compliance that was acceptable.

Note: * Report previously circulated.

12 RESILIENCE STRATEGY (0:54:24)

The Group had before it and **NOTED** a report * from the Head of Housing and Health relating to Resilience Strategy.

The report was introduced by the Head of Housing and Health who noted that this report was before the PDG for the first time. It was not a mandatory requirement for the Council to have this strategy, but the document did set out how the Council would meet its statutory duties under Civil Contingency legislation. The report covered the response the Council would take if there was a major incident. That response included the recovery of the various communities in mid-Devon.

The report covered the areas of Risk Management, Core Plans, Supporting Plans and Preparedness. It was largely a framework for officers to follow.

The Head of Housing and Health then introduced the Council's Resilience Officer who outlined the contents of the report:

- The Council were a category 1 responder.
- The plan covered both response and recovery.
- The Resilience Officer and the Corporate Management Team had an on-call rota should an emergency occur.
- Each service area had a business continuity plan detailing how best to manage resources in the event of a problem.
- Community Resilience – the officer would be working with people at local community level.
- The Resilience Officer stated that he would provide another update at the next Community, People and Equalities PDG on the Council's plans for Community Resilience going forward.

Discussion took place regarding:

- Volunteers – was there a list, how were they managed, what training were they given and were volunteers DBS checked? – The Resilience Officer

explained that they were internal volunteers who were employed by the Council and were suitably trained.

- The perception of some communities as to whether their town or parish Council was doing enough.
- The strategy outlined was about getting the Council's own house in order first, in terms of a wider community strategy, the Council would work out where their key risk areas were through their community risk register, that document would give the Council a much better understanding as to where the key risks were across mid-Devon.
- Devon Communities Together were a partner organisation in this work and the officer would check with them whether they had engaged with the community. Work needed to be done in communicating the community plans.
- Any review of the strategy would be brought back to the PDG.
- A target had been proposed relating to the number of communities that had an Emergency Plan and the number of communities that the Council had engaged with, this would show on the PDG's performance dashboard.

Note: * Report previously circulated.

13 **TOWN AND PARISH CHARTER (1:12:55)**

The Group had before it a report * from the Town and Parish Liaison Officer.

The Town and Parish Charter reflected a partnership between the Council and the Towns and Parishes within its district.

The PDG had considered the Charter and the process for renewing it, at its meeting in January 2024 and had approved a decision to send the Charter to the Towns and Parishes for consultation. Subsequently, the draft Town and Parish Charter and its annexe regarding planning, had been sent to the Town and Parish Councils in the district and their views on the Charter sought. The Towns and Parishes had been given three months in which to respond in order that it would fit into their meeting cycle.

The Council had received 24 responses out of 50 Towns and Parishes, some of the town and parish councils had made comments, the majority had accepted the proposed changes and only one had not accepted the document. Many of the suggestions that the Towns and Parishes had made, had been incorporated into the revised Charter documents.

The Chairman of the Group expressed his thanks to those Towns and Parishes that did engage with this piece of work. The Town and Parish Liaison Officer was also thanked for an excellent piece of work.

RECOMMENDED to the Cabinet that the revised Town and Parish Charter and its annex be approved as set out in the report.

(Proposed by Cllr A Glover, Seconded by Cllr C Harrower)

Reason for the decision:

The Town and Parish Charter is evidence of the Council's vision to engage with others in a collaborative way and to work closely with Town and Parish Councils.

Note: * Report previously circulated.

14 **WORK PROGRAMME (1:16:35)**

The Group had before it, and **NOTED**, the current work programme for the Community, People and Homes PDG for 2024 / 2025.

Members were asked to consider whether there were other areas that they wanted to focus on in addition to those already listed in the work programme.

The following was discussed and **AGREED**:

- The Police would be invited to the September meeting of the Group.
- Would it be possible for a CCTV operator to come and speak with the Group? The CCTV was managed and run out of a hub in Exeter. It was hoped that the Group would be able to understand the operator's perspective of operating the equipment and whether it covered all areas or whether there were blind spots. The Corporate Manager for Housing and Health commented that this linked back to the Corporate Anti-Social Behaviour Policy and the Corporate Safety Partnership. CCTV was one small area of the policy, it was not just about geography but also about targeting the individual. It would be better to bring the Police in first and then look at CCTV.
- Were there any available statistics from the Police on cases where they intervened following information received by CCTV operators?

AGREED that an operator from the CCTV Central Hub be invited to address the Group.

(Proposed by Cllr A Glover, seconded by Cllr C Harrower)

Note: * Work Programme previously circulated.

(The meeting ended at 3.50 pm)

CHAIRMAN

MINUTES of a **MEETING** of the **ECONOMY & ASSETS POLICY DEVELOPMENT GROUP** held on 20 June 2024 at 5.30 pm

Present

Councillors J M Downes, M Farrell, G Cochran,
M Fletcher, N Letch and R Roberts

Also Present

Councillors D Broom, S Keable and F Letch

Also Present

Officers

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place & Economy), Dr Stephen Carr (Corporate Performance & Improvement Manager), Adrian Welsh (Strategic Manager for Growth, Economy and Delivery), Zoë Lentell (Economic Development Team Leader), Laura Woon (Democratic Services Manager) and Sarah Lees (Democratic Services Officer)

Councillors

Online

E Buczkowski, J Buczkowski, G Czapiewski and J Lock

Officers

Online

S Walford

Also in

Attendance

J Walker and J Yates from Petroc

1 ELECTION OF CHAIRMAN

RESOLVED that Cllr J Downes be elected as Chairman of the Economy & Assets Policy Development Group for the municipal year 2024/2025.

2 ELECTION OF VICE CHAIRMAN

RESOLVED that Cllr M Farrell be elected Vice Chairman of the Economy & Assets Policy Development Group for the municipal year 2024/2025.

3 **START TIME OF MEETINGS**

RESOLVED that the start time of meetings of the Economy & Assets Policy Development Group continue to be 5.30pm on Thursday evenings for the remainder of the municipal year.

4 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies for absence.

5 **PUBLIC QUESTION TIME**

There were no members of the public present and none had registered to ask questions in advance.

6 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

7 **MINUTES**

The minutes of the previous meeting, held on 7 March 2024, were approved as a correct record and **SIGNED** by the Chairman.

8 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had the following announcements to make:

1. He thanked the Group for electing him as Chair for a further year.
2. He referred to the 'Flock that Rocks' swan sculptures and suggested that perhaps the plinths that they sat on could have been painted.
3. He hoped that going forwards, the Policy Development Group would be more policy orientated. He referred to the Car Parking Working Group which had been established by the Group and had been a 'trail blazer' in terms of community engagement and consultation prior to making its recommendations. It was confirmed by the Chair of the Car Parking Working Group that work was ongoing and they would next be meeting in July.

9 **PRESENTATION FROM PETROC ON THE BUSINESS INNOVATION CENTRE PROJECT (00:10:00)**

Representatives from Petroc were present to provide a presentation on the Business Innovation Centre Project.

This included the following summary information:

- The centre was called the 'Centre of Technology & Innovation Excellence' or 'COTIE' for short.
- Refurbished 7 rooms for business activity including, hot-desking, conferences/expos, creative spaces, meeting pod's.
- Created a new link bridge to creative spaces.
- Created a new and separate IT infrastructure.

- Purchased a wide range of equipment to support the engagement project.
- They wanted to work with businesses who had innovative new ideas, new products/service, wanted to be more proactive or increase revenue, wanted to create more jobs or safeguard ones at risk, share knowledge and participate in research and development.
- They had delivered 16 engagements or training sessions/events and much more was planned from September onwards including digital skills training for businesses, support for business startups, Expo's and events and opportunities for businesses to use creative spaces.
- A vast array of technology had been purchased to support the help offered to businesses including the latest 3D photography technology, the latest 360 degree filming equipment, the very latest in extended reality headsets. As well as this, they had also invested in 10 Dell laptops, 2 gaming spec PC's. 3 27" monitors, 15 Microsoft Office 365 licences, 2 x 75" iiyama smart screens and 1 meeting owl.
- Upcoming events included the 'Business Innovation Showcase' on 11 July which would run all day and allow interested parties to drop in at any point during the day to find out how the programme could support them. The day would feature a tour of the Innovation Hub, free learning workshops, technology demonstrations and a virtual reality experience.

Discussion took place with regard to:

- Local businesses were actively marketed and Eventbrite used to market training courses.
- This was a project receiving funding specifically for businesses in Mid Devon and whilst this was the priority they were also reaching out to businesses in the wider community.
- They were working very closely with the Federation of Small Businesses.
- Different social media platforms were used to promote activities.
- They also had links with Exeter University who had also launched their own Incubator Hub.
- Despite what had been achieved so far the centre was still very much operating at an early stage of its development and much more was hoped for in the future.
- Voluntary groups could be helped, for example, the Scouts, if there was a business need.
- COTIE had a very good working relationship with the Economic Development Team. Helpful collaboration and referrals were working well.
- Since a key priority of the Group had been to support and encourage Incubator space start up activities, it was requested that it received a case study at a future meeting, particularly one that had been a start-up and which had progressed to be a success.
- It was confirmed that COTIE were focussing on certain core areas such as Agritech, Engineering, Digital and Food Manufacturing. However, support could be offered to other types of business, for example, a café, with issues such as website advice and financial support advice. Each business and the knowledge of those running the business was different, therefore a tailored approach was needed in each case.

10 DRAFT CORPORATE PLAN 2024-2028 (00:49:00)

The Group had before it a report * from the Chief Executive, the Head of People, Performance and Waste and the Corporate Performance and Improvement Manager presenting the draft Corporate Plan for 2024-2028.

The following was highlighted within the report:

- The Corporate Plan had been developed over the past 6 months and had been presented to Cabinet on 4 June.
- It provided a summary of the Council's strategic objectives and ambitions and highlighted the key areas for each Policy Development Group.
- The name of the Corporate Plan was still to be decided and Cabinet may choose to leave it as the 'Corporate Plan 2024-2028'.
- All PDG's were being asked to provide feedback so that the new Corporate Plan was in the best state it could be before being approved by Full Council.
- Comments from Members could be forwarded to the Corporate Performance and Improvement Manager outside of this meeting.

The Group provided the following feedback:

- Under the Economy & Assets area, it would be good to have listed the number of current jobs in Mid Devon and how many businesses those jobs supported set against how many the Council would like to help the District achieve in the next 4 years. This could then be measured.
- The paragraphs in 'The background' section could be rearranged to so that the third paragraph become the first one and the current first one become the last one. The middle paragraph did not need to be so detailed.
- Under the 'Medium Term Financial Plan' section accountant 'speak' needed to be avoided so as to make the numbers referred to easier for non-accountants to understand.
- Under the 'Planning, Environment & Sustainability' area mention should be made that the District Council is a 'considerate' Planning Authority.
- Under 'Service Delivery & Continuous Improvement' it would be better not to refer to the 'right price' as this gave the wrong message.
- Under the number of town events supported it should say 'a minimum of three'.
- J27 was not mentioned under section 4.5 in the relevant table, should it be?
- It was hoped that the Performance Measures and Targets under the 'Economy & Assets' area would be more populated the next time the Group saw it.

RECOMMENDED to the Cabinet that the draft Corporate Plan be approved subject to consideration of the Group's feedback.

(Proposed by the Chair)

Reason for the decision

Setting out the Council's aims and objectives through a Corporate Plan helped the Council demonstrate its performance in relation to Value for Money considerations.

Note: * Report previously circulated.

11 PERFORMANCE DASHBOARD Q4 (01:02:00)

The Group were presented with, and **NOTED**, summary information * reflecting performance in the Economy & Assets areas for quarter 4 2023/2024.

The following was highlighted on the Performance Dashboard:

- The data presented referred to the Economy PDG area for the last quarter of 2023/2024. This was before the creation of the newly titled PDG areas.
- The Corporate Performance and Improvement Manager listed the RAG ratings which were showing as either red or amber.
- Car parking income was slightly behind target, however, the new charges would not be applied until quarter 1 of 2024/2025.
- Pannier Market income was shown as amber and there were a couple of long term commercial voids
- Capital slippage was shown as red and was mainly to do with the delay of the Cullompton Relief Road.
- The Dashboards for quarter 1 in 2024/2025 would be updated once the new Corporate Plan had been approved.

Consideration was given to:

- What 'Outturn' actually meant? It was explained as a way of looking backwards to see how an area had performed.
- It was within the gift of the Group to ask officers why performance in relation to corporate buildings and commercial premises was under achieving.
- It was requested that the Group receive a list of commercial premises and where they were.
- Whilst there had not been any capital expenditure in relation to J28, a significant amount of officer time had been spent doing feasibility studies and trying to secure external funding for its progression, this was why costs were showing.

It was **AGREED** that a meeting be set up to allow information relating to income and expenditure in the Economy & Assets area to be relayed to the Group by the Accountants so as to improve their knowledge in this area.

Note: * Summary information previously circulated.

12 SPF/REPF YEAR 2 OVERVIEW (AND Y3 DELIVERY PLAN) (01:19:00)

The Group received a presentation, and **NOTED**, an update from the Economic Development Team Leader providing an overview of the Shared prosperity Fund (SPF) and Rural England Prosperity Fund (REPF) Year 2 and the Year 3 Delivery Plan.

This included the following summary information:

Love Your Town Centre

'Love Your Town Centre' was a flexible funding mechanism offering small grants through a competitive bidding process with four strands aimed at improving the town centre and increasing the vibrancy and vitality of our three main markets towns: Crediton, Cullompton and Tiverton. This included:

- a) Shopfront Enhancement Schemes.
- b) Vibrant Town Centre Scheme.
- c) Vacant Shop and Business Growth Scheme (Year 2 onwards).
- d) Digital High Streets Scheme (Year 2 onwards).
- e) For year two, we also contributed towards the Cullompton Heritage Action Zone public realm enhancement project.

The Cullompton Scheme had funding from GED to support delivery of the HAZ shopfront scheme. The team intends to use the underspend returned to us towards a new shopfront scheme that aligns with the Tiverton and Crediton schemes and it had already received two enquiries.

Vibrant Town Centres

This had been a popular scheme and helped to support 68 events and activities in our town centres.

In addition to the events supported and grants offered outputs, the scheme also supported 10 volunteering opportunities.

The scheme continued this year with the first round already complete and more events and activities funded including the Tiverton Literary Festival, Crediton's Big Boniface Bash and an arty party in Cullompton amongst others. The next round was in the autumn, which would complete the programme for this year.

Across the LYTC scheme, through engagement with the team, we have achieved additional outputs of 15 businesses receiving non-financial support (including signposting, advice and guidance) and supported 12 businesses who were taking on empty units. 9 commercial properties were improved within year 2 and the remaining applicants are on schedule to complete their improvements this year.

This year, all four schemes would continue with open applications for shopfront, digital high street and business growth.

Field to Fork

This focused on promoting direct supply, 'buy local' campaigns and linking local food producers and businesses.

There are three key strands to this project:

- Buy Local Campaigns
- Networking Support
- Showcasing Events

The 'Meet the Producer' project supported 14 of our producers and their food retailers as presented at the last PDG. The Team would continue this project this year focusing on food tourism businesses.

Under networking support, the team funded free membership (for 12 months) for local food businesses with Food Drink Devon (FDD). FDD was a Community Interest Company, membership organisation was made up of hospitality, retail, food and drink producers and support businesses from the County. Their aim was to support and promote members and raise Devon's culinary profile as a whole.

Off the back of the Membership scheme, we also worked with FDD on 'Meet the Expert' networking events including an event in Westpoint towards the end of the financial year.

In addition to businesses supported, Field to Fork had also achieved a reach (which means engagement) of 39,898.

This year the team had an expression of interest for a grant to a local producer to host a Taste Mid Devon event. This was now in application stage and more information would be shared at the next PDG.

The team were continuing to work with Mid Devon Show this year to provide free space for Mid Devon producers attending for the first time. Six producers had already booked and a number of other businesses had expressed an interest.

At this year's show, the team would have a Taste Mid Devon tent bringing producers together. The team would also have a stand in the tent promoting the Farm Shop Trail and a special swan guest with them.

Visitor Economy

Visitor Economy focuses on linking to outputs around promoting Mid Devon as a tourism destination and supporting leisure and tourism businesses. There are three main themes being:

- Promoting Mid Devon
- Tourism Events
- Campaigns and Competitions

New for this year: Using REPF funding, the team also have a project to create some "welcome to Mid Devon" signage subject to owner consent at gateway locations.

Much of year two was spent on planning and preparing for the Swan Trail and Walking Festival.

The Search Engine Optimisation enhancement project took place early in year two making improvements to the visibility of the Visit Mid Devon website in results from online search engines. As a result, this has achieved an increased number of web searches for a place of 259,627 in year two.

The campaigns and competitions were run via the Visit Mid Devon Facebook page, promoting a number of our leisure and tourism businesses as well as Mid Devon as a destination.

In total, 47 businesses and organisations (not including duplicates across campaigns) were featured across different promotional activities.

Other Projects

These are mostly the projects the Team were not delivering directly themselves but were working in partnership with external organisations to deliver.

This included:

- Business Support
- People and Skills
- Business Growth and Innovation
- Flexible Workspace

People and Skills

The team awarded a grant to the Apricot Centre in January for provision of regenerative farming training to Mid Devon farmers. An update was expected from them about take-up and delivery at the end of this quarter.

New this year would be the introduction of an Employment and Skills Hub project coordinated by Devon County Council. Many of the Devon authorities had contributed SPF towards this service. This would involve an Advisor based in Mid Devon two days a week offering 1:1 advice, guidance and skills coordination to help economically inactive people and young people access employment.

Business Growth and Innovation

Incorporating grant funding to Petroc College towards the creation of a business innovation centre (COTIE @ Tiverton) and a programme of business innovation outreach activities as outlined in Petroc's presentation earlier this evening.

Flexible Workspace

There was an amount of REPF and SPF funding for the creation of flexible workspace in year 3 of the delivery programme. The team commissioned a feasibility study in year 2 looking at the Market Centre as a potential location and the study confirmed there was an appetite from the local business community – homeworkers and self-employed – for a site in the town centre. Year 3 would focus on the delivery of this project.

Prosperity Programme

The prosperity programme was the Council's main grants scheme to support businesses with projects that facilitate growth. This used the bulk of the REPF funding and contributions from SPF.

Over the first year of REPF: 14 businesses were offered grant funding, with one declining the grant offer (with a further two businesses offered funding from SPF at the tail end of Yr 1).

The Economic Development Team Leader was congratulated on her presentation and the successful projects which had been referred to.

Discussion took place with regard to:

- The well deserved appreciation by the Group of the hard working Economic Development Team.
- A leaflet listing all available grants could be circulated.
- It was confirmed that there was no minimum grant request for the Shopfront Scheme, although the paperwork needed to be provided up front.
- The team were easily able to access advice from colleagues in Planning to assist with enquiries.
- With regard to the Shopfront Enhancement Scheme businesses were encouraged to come forward.
- On occasions the paperwork side of things was viewed as bureaucratic, however, it was explained that the Council needed to be compliant with procurement obligations. However, businesses having difficulties with the paperwork or procurement elements were encouraged to speak to the team directly.

13 **ECONOMIC DEVELOPMENT TEAM UPDATE (01:46:00)**

The Group received, and **NOTED**, a report * from the Director of Place & Economy providing an update on activities carried out by the Growth, Economy and Delivery Team since the last committee meeting.

The contents of the report were outlined with particular reference to the following:

- There had been an increase year on year of vacancy rates, however, all three town centres had vacancy levels below the national average between quarters 3 and 4.
- The new Green Enterprise Grants Scheme launched for applications in April but was now closed. At the time of the report 14 businesses had requested the application, although one was ineligible as it was out-of-area.
- The bid for a Local Visitor Economy Partnership (LVEP) was successfully approved by Visit England. Devon County Council were acting as the accountable body for the LVEP and were in the process of setting up a steering group. It was likely it would take around 12 months for the LVEP to get up and running, therefore the Economic Development Team would continue to progress the review of the Destination Management Plan (DMP) with the intention of linking this into the LVEP's Destination Plan once published. As part of the DMP research, the team had commissioned a visitor survey which was being conducted over the May and Summer school holiday periods; the results of this would be fed back to Members later in the year.

Discussion took place with regard to:

- The demise of the Tourist Information Centres several years ago and whether the District Council could do anything to help? It was explained that no funding was available at the moment but officers were in the process of commencing work on a Destination Management Plan and Members would have the opportunity to comment on this as it was developed.
- There was currently a lack of clarity as to what would happen once the SPF and REPF funding programmes have ended. Officers would continue to

pursue potential grant funding opportunities as, and when, they became available.

Note: * Report previously circulated.

14 **WORK PROGRAMMING FOR 2024 / 2025 (02:00:00)**

The Group had before it the draft work programme * for the Economy & Assets Policy Development Group.

Throughout the meeting various requests had been made for the Group to receive information or hold further discussion on the following areas:

- A better financial understanding of the Economy & Assets area.
- To receive information with regard to the commercial assets held by the Council, how much they were worth, where they were and what could be done with them.
- Regular and proactive discussion on Incubator Space for Business Start Ups, to include the plans for a Hub at the Pannier Market.
- Updates in relation to J27 and J28 when appropriate.
- Regular on-going updates in relation to the work of the Economic Development Team and associated activities.
- A presentation from a representative of 'Food & Drink Devon'.
- 'Start Up' case studies.

It was **AGREED** to add these areas into the work programme for 2024/2025.

Note: * Draft work programme previously circulated.

15 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

The items already listed in the work programme for the next meeting were **NOTED**. It was also requested that the following be on the agenda:

- Commercial Assets – what were they, how much were they worth and what could be done with them?
- An update from Petroc regarding the 'COTIE' project and the presentation of a 'Start Up' case study.

(The meeting ended at 7.32 pm)

CHAIRMAN

MINUTES of a **MEETING** of the **HOMES POLICY DEVELOPMENT GROUP** held on 11 June 2024 at 2.15 pm

Present

Councillors

S Robinson (Chairman)
C Adcock (Vice Chairman), J Cairney, C Connor, A Glover,
F W Letch, N Letch and H Tuffin

Also Present

Councillors

D Broom, S Clist and J Lock

Present

Officers

Stephen Walford (Chief Executive), Richard Marsh (Director of Place & Economy), Simon Newcombe (Head of Housing & Health), Tanya Wenham (Operations Manager for Public Health and Housing Options), Sam Barnett (Housing Initiatives Officer), Laura Woon (Democratic Services Manager) and Sarah Lees (Democratic Services Officer)

Councillors

Present Virtually

J Buczkowski and L Knight

Officers

Present Virtually

Dr Stephen Carr and C Oliphant

1 Election of Chairman

RESOLVED that Cllr S Robinson be elected Chairman of the Homes Policy Development Group for the municipal year 2024/2025.

2 Election of Vice Chairman

RESOLVED that Cllr C Adcock be elected Vice Chairman of the Homes Policy Development Group for the municipal year 2024/2025.

3 Start time of Meetings

It was **AGREED** that the start time for meetings for the remainder of the municipal year continue to be at 2.15pm on Tuesday afternoons.

4 Apologies and Substitute Members

There were no apologies for absence.

5 **Public Question Time**

There were no members of the public present and none had registered to ask a question in advance.

6 **Declaration of Interests under the Code of Conduct**

No interests were declared under this item.

7 **Minutes**

The minutes of the meeting held on 19th March 2024 were approved as a correct record of the meeting and **SIGNED** by the Chairman.

8 **Chairman's Announcements**

The Chairman had the following announcements to make:

- She thanked the Group for electing her as Chairman.
- She hoped that the Homes Policy Development Group would be proactive in recommending Homes policies in the forthcoming year.
- The Members of the Homes PDG were engaged and enthusiastic and she hoped that Members and officers would be able to trust each other in the development of ideas and policy going forwards so that current and future tenants could be appropriately supported to best effect.

9 **Draft Corporate Plan 2024-28 (00:09:00)**

The Group had before it a report * from the Chief Executive presenting the draft Corporate Plan for 2024-2028 and inviting feedback before recommending the Corporate Plan back to Cabinet.

The contents of the report were outlined by the Corporate Performance and Improvement Manager and discussion took place regarding:

- What name will the new Corporate Plan would be given? This was still to be decided by the Cabinet. A title was not a requirement and the Cabinet may simply choose to leave it as the 'Corporate Plan 2024-2028'.
- This was 'the' key document for the Council providing a summary of its strategic objectives and ambitions. Detailed reports would provide regular analysis of performance against each of the objectives providing Members with regular opportunities to assess whether the Corporate Plan was achieving its aims.
- All PDG's were being asked to provide feedback so that the new Corporate Plan was in the best state it could be before being approved by full Council.
- There was a strong focus in the Homes section of the Corporate Plan on maintenance and the safety of properties, these were key issues for tenants.
- A performance measure related to waiting lists and homelessness pressures was suggested. These were key areas that needed regular monitoring.

RECOMMENDED to the Cabinet that the draft Corporate Plan for 2024 – 2028 be approved.

(Proposed by Cllr A Glover and seconded by Cllr C Connor)

Note: * Report previously circulated.

Reason for the decision

Setting out the Council's aims and objectives through a Corporate Plan helps the Council demonstrate its performance in relation to Value for Money considerations.

10 **Performance Dashboard (00:25:00)**

The Group received, and **NOTED**, information * showing performance data for quarter 4 Mid Devon Housing under both the General Fund and Housing Revenue Account areas.

This included the following summary in relation to the red and amber RAG ratings:

- Private Sector housing service requests response rate was slightly behind target at 95%, though an improving trend was noted.
- Temporary accommodation costs was showing an overspend. It was explained that this is offset by additional homelessness support and Homes for Ukraine grant.
- Complaints responded to within the complaints handling code timescales was underperforming, but performance had increased steadily throughout the year but would be discussed in detail later on in the agenda.
- Mid Devon Homes delivery of social housing was behind target. It was highlighted that new properties are about to become part of the housing stock, and recent planning approvals ensure a pipeline for the future.
- Market delivery of affordable homes was behind target.
- For two indicators relating to capital projects underperformance was noted. It was explained that this relates to delay in seeking planning permission and starting works on the planned development programme. Budget has been carried forward.
- Any changes to performance dashboard given work on a new Corporate Plan would be reflected in the performance data for quarter 1 2024/2025.

Consideration was given to the following:

- The direction of travel for the delivery of new homes was seen as positive.
- The Performance Dashboards were felt to be a useful tool by officers especially as they became more developed and contained more data for analysis.
- Concern was expressed regarding temporary accommodation costs. However, it was explained that these were high in quarter 4 as a result of recharges to the Housing Revenue Account.
- Some targets had gone from red to green. The reason for this was explained as being due to the fact that performance against an annual target was sometimes not known until the end of the financial year.

Note: * Performance Dashboard previously circulated.

11 **Local Authority Housing Fund (LAHF) update and approach to allocating homes briefing (00:40:00)**

The Operations Manager for Public Health and Housing Options provided the Group with a briefing and presentation regarding the Local Authority Housing Fund (LAHF) and the Homes for Ukraine Scheme.

The following summary information was provided in relation to:

- Homes for Ukraine update
- An overview of the Local Authority Housing Fund (LAHF)
- MDDC approach
- Project Delivery
- Allocations process and support
- Case study
- LAHF - Round 3

Discussion took place regarding:

- It was confirmed that the houses referred to in the presentation were purchased by and held within the General Fund. They sat outside of the HRA. Consequently, it was also confirmed that they were not eligible for 'Right to Buy' and will be managed under accommodation licences not secure tenures.
- The LAHF was a funding opportunity made available to local authorities to draw down if they expressed an interest and could meet the grant funding terms. The Cabinet had felt that this was the right thing to do, one reason being it would help to reduce temporary accommodation costs.
- Team Devon had agreed that some of the money from wider Homes for Ukraine funding could be used to fund each new 'guest' meaning less needed to come out of the General Fund.
- Due to the rural nature of Mid Devon and it not being as 'diverse' as some other communities some 'guests' and their families had found it difficult to integrate especially if there were not other people of the same faith in the community in which they lived.

The Group thanked the officers for the interesting and informative presentation.

12 **Income Management Policy (01:05:00)**

The Group had before it a report * from the Head of Housing and Health setting out the principles and the overall approach that Mid Devon Housing takes to collecting rent, service charges and other payments, prevent arrears, manage arrears and ensure that effective and appropriate action is taken to sustain tenancies and maximise income / reduce debt.

The policy was in need of updating and the following summary was provided:

- Officers worked proactively with tenants experiencing financial difficulty to prevent debt becoming bigger where this could be achieved. However, many were experiencing the effects of the cost of living crisis and housing rent increases.

- Despite this the rent collection rate was 98% which was an extremely positive result given the current economic position.
- It had been possible to achieve this position with only 7 evictions overall.
- It was a key focus of the service to sustain people within their tenancies for as long as possible.

Discussion took place regarding:

- It was confirmed that when tenants contact MDH to express their dissatisfaction with something in the income management process then MDH would always have informal discussion to see if things could be put right within quickly, however any complaint was still registered within 5-days so it could be actioned properly.
- The debt recovery process has several stages each with its own timeline, however there was flexibility within the policy approach so MDH can pause at any stage if there was positive engagement from the tenant. As such, each case was dealt with on a case by case basis and in reality has its own timeframe.
- The assistance of local Ward Members was encouraged if it could be found to resolve a particular issue.
- Eviction was an absolute last resort and it was a difficult balancing act weighing up the needs of the HRA in terms of people paying rent versus creating a new homelessness pressure.

RECOMMENDED to the Cabinet that the updated Income Management Policy and Equality Impact Assessment contained in annexes A and B respectively be approved.

(Proposed by Cllr A Glover and seconded by Cllr H Tuffin)

Reason for the Decision

Rent collected was paid into the Housing Revenue Account for dwellings and garages/garage ground rent plots (GGRP) and car parking spaces. It was therefore important to maintain the revenue stream. However, as Council housing is designed to help those in housing need, there were many vulnerable people on low incomes living in Council properties. As a result of this consideration must be given to individual circumstances when making decisions about tenancy enforcement action.

The MDH tenancy agreement contained a clause which stated that tenants were responsible for paying their rent and other charges on time. Rent was due on a Monday. The Housing Service offers tenants many different methods of payment and also accepted payments on a weekly, fortnightly or monthly basis as long as rent was paid regularly.

Having a clearly defined policy ensures consistency of approach and ensures that no tenant or resident was treated any more fairly or unfairly than any other.

Note: * Report previously circulated.

13 **Amendments to Mid Devon Housing (MDH) Home Safety Policy 01:17:00)**

The Group had before it a report * from the Head of Housing and Health outlining some amendments needed to the Mid Devon Housing Home Safety Policy.

Minor changes were essentially due to changes in the legislation, fire risk and changes to job titles and were listed at sections 1.6, 1.10 and 1.15.

A brief discussion took place with regard to:

- Bioethanol heaters were particularly hazardous and generally not insulated very well creating a fire risk.
- It was confirmed that paraffin heaters were already considered within the policy.

RECOMMENDED to the Cabinet that the amended Home Safety Policy be amended as set out in the report.

(Proposed by Cllr F Letch and seconded by Cllr J Cairney)

Reason for the decision

The policy ensured that MDH fully complied with its statutory obligations and that the safety of its residents was safeguarded.

Note: * Report previously circulated.

14 **Delegated Decisions for Mid Devon Housing (MDH) policies with minor amendments (01:25:00)**

The Group had before it a report * from the Head of Housing and Health summarising the need for delegated authority to be given to himself in conjunction with the Cabinet Member for Housing & Property Services to make minor changes to current and new housing policies.

It was explained that updates would be quite minor whereas at the moment every single policy had to be brought before the Policy Development Group. Going forwards the Group would need to focus on significant policy updates only.

The Chairman stated that the Homes PDG had a very hardworking membership who wanted to be proactive and helpful in the best way possible.

RECOMMENDED to the Cabinet that:

- a) The Head of Housing and Health is given delegated authority to make minor amendments to current MDH Policies as listed in Annex A in consultation with the Cabinet Member for Housing & Property Services) as required by legislative changes, formal guidance or local operational considerations.
- b) The Head of Housing and Health is given delegated authority to make minor amendments to new MDH Policies as listed in Annex A or developed in due course following first adoption, in consultation with the Cabinet Member for

Housing & Property Services) as required by legislative changes, formal guidance or local operational considerations.
(Proposed by Cllr C Adcock and seconded by Cllr A Glover)

Reason for the decision

MDH must ensure that its published policies are up to date and compliant to current legislation. This included the ability to swiftly make changes as required by legislative changes, formal guidance or local operational considerations.

Delays to implementing legally required changes posed a risk to the Council.

Note: * Report previously circulated.

15 **Final Report of the Tenure Reform Working Group (01:29:00)**

The Group were presented with a report * from the Head of Housing and Health. The Homes PDG had tasked the Tenure Reform Working Group to investigate the continued use of Flexible Tenancies for all properties and whether this type of tenure was beneficial for Mid Devon Housing (MDH) and tenants. The Working Group were asked to consider whether a change to the current tenure offerings required updating and if so what types of tenure should be offered to tenants in the future.

The Chairman of the Working Group provided a summary of their work and presented their findings:

- The Working Group had given thorough thought and spent a lot of time undertaking the instructions of the PDG.
- They had spoken to tenants to find out what they thought about Flexible Tenancies.
- They had also looked into using more blended approaches.
- They had concluded that there was quite an administrative burden to operating Flexible Tenancies requiring significant officer resource and costs to the Council.
- Flexible Tenancies had been introduced in 2013 before the Grenfell disaster and many local authorities were now moving away from them.
- Tenants had commented that they found the tenancy review process very stressful, particularly those tenants who were vulnerable.
- There was also evidence that due to the sometimes temporary nature of the tenancy not as much care was sometimes taken of the properties.

RECOMMENDED to that Cabinet that:

- a) The use of flexible tenancies be halted.
- b) All current flexible tenancies are moved to secure tenancies.

(Proposed by Cllr C Connor and seconded by Cllr J Cairney)

It was also **AGREED** that a Working Group be established to look at ways in which Mid Devon Housing could incentivise tenants to downsize to smaller homes when required.

The Working Group would comprise of the following Members: Cllr C Connor, Cllr A Glover and Cllr H Tuffin.

Reason for the decision

It was good practice to review tenancy agreements on a regular basis to take account of changes to legislation, regulatory requirements, policy and good practice. Registered Providers also needed to ensure that those responsible for housing management could rely on a robust tenancy agreement which could be used in support of efficient and effective management of tenancies and the housing stock.

Note: (i) * Report previously circulated.

(ii) Cllr N Letch requested that her vote against the recommendations to the Cabinet be recorded.

16 **Mid Devon Housing (MDH) Tenure Review and Associated Review of Tenancy Conditions: Project Plan (01:39:00)**

The Group had before it a report * from the Head of Housing and Health seeking approval to update the project plan relating to a review of the standard MDH tenancy agreement.

The following was highlighted within the report:

- Approval was sought to update the project plan relating to a review of the standard MDH tenancy agreement. The project plan also related to the various forms of tenure currently in use at MDH. In addition, the project encompassed a review of the tenancy management policy which required updating, and which would have to be amended accordingly should tenure reform be agreed. The report contained a recommendation that the project plan be extended to facilitate detailed consultation with tenants, and other stakeholders, in line with legislative and regulatory requirements, and good practice.
- The project plan and its timeline had been dependent on the work of the PDG Tenure Reform Working Group including the production of its final report as set out at this meeting. Due to the Member Working Group meeting once more than originally planned, the report from the Working Group to the PDG on this project was delayed from the March meeting to this one. More time was therefore now needed to enable appropriate consultation with other stakeholders, including tenants, to take place and the project plan has been amended accordingly.

The Chairman requested that an update be provided to the next meeting in September.

It was **AGREED** that the tenure review project plan be amended as set out in the report.

Note: * Report previously circulated.

17 **Mid Devon Housing Service Delivery Report for Q4 and Outturn for 2023/2024 (01:42:00)**

The Group had before it, and **NOTED**, a report * from the Head of Housing and Health providing a quarterly update to Members on activity undertaken by Mid Devon Housing (MDH) including some relating to enforcement.

The following was highlighted within the report:

- The report presented a full set of performance and Tenant Satisfaction Measures (TSM) data.
- For the first time it also presented the outcome of the TSM perception surveys.
- Overall there had been a very strong performance in the MDH area.
- Performance was at or above target on repairs.
- Debt levels were very low.
- Voids remained under pressure due to high turnover and high damage levels, however 97% of properties in the housing stock were occupied at any one time.
- There was a sufficient number of respondees to the TSM perception surveys to meet the requirements of the Regulator and were enough to be representative.
- Importantly, at the moment, there was nothing to compare this data to as the Regulator had not published any national bench marking.
- Mid Devon was the first local authority in Devon to put their full TSM data into the public domain.
- Reference was made to the statistical data within the report but it was explained that this data needed unpicking. It certainly suggested some areas for improvement and officers would be working up a plan for the future.
- The Regulator would be placing a lot of emphasis on TSM's going forwards, the sector was consumer driven with all data and outcomes being inspected.

Consideration was given to:

- The importance of early intervention to ensure tenants stayed in their properties as long as possible despite financial difficulties.
- What would happen with a possible change in Government at the next General Election? It was explained that many recent changes to the housing sector were now on the statute book and unlikely to be reversed. The Regulatory framework was likely to remain part of the housing landscape going forwards. This was not something to be feared but to be embraced.
- More proactive work would be undertaken to ascertain why it was some tenants did not feel safe in their homes.
- There was a huge challenge over the interpretation of the responses as the questions were prescribed by the Regulator. It was felt that everybody interpreted questions differently. This would be a work in progress.
- The monthly officer meetings and whether Members had a role to play in them? It was considered that this was a safe place for officers to discuss issues in their areas alone and that much of this was operational in any case.

Note: * Report previously circulated.

18 Mid Devon Housing Complaints Handling Report 2023-24 (02:15:00)

The Group had before it, and **NOTED**, a report * from the Head of Housing and Health setting out how complaints were handled during 2023 – 2024 and other pertinent information in relation to this.

The following was highlighted within the report:

- The Government and Regulator wanted to know how well each Registered Provider was doing and so was proactively encouraging complaints to come forward. The key things to remember were that complaints were genuinely an opportunity to learn and improve and were often the only way to facilitate this learning process.
- Data showed that more complaints were dealt with now at the first stage of reporting and over 50% of complaints were not upheld. Fewer complaints were going through to stage two.
- Some complaints were frivolous and / or non-valid.
- To put it into context, 93% of tenants did not complain, so we were only talking about 7% of tenants overall who had made a complaint.
- The challenge was to determine what could be done better and what was not working.
- Better communications would be key moving forwards.
- Some areas received no complaints such as disabled adaptations and emergency repairs.

Discussion took place regarding:

- Where possible, references to 'quickly' within the report needed to specify defined timescales.
- The need for people to be able to engage with the Council in as many different ways as possible so as to improve communication.
- Ward members had a role to play.

Note: * Report previously circulated.

19 Work Programme for 2024/2025 (02:35:00)

The Group had before it, and **NOTED**, the current work programme for the Homes Policy Development Group for 2024 / 2025.

Members were asked to consider whether there were other areas that they wanted to focus on in addition to those already listed in the work programme.

The following was discussed and **AGREED**:

- There would be a new policy coming forwards in March 2025 to better support tenants in relation to Safeguarding matters
- The Asset Management Strategy would be coming forward at some stage in the near future and could consider issues such as renewable energy as a part of that. It would need to have a relevance to the Homes PDG however as this sort of discussion may be better placed in another PDG.

- As a result of the Safer Tenants Bill and the outcomes of the TSM's there would be a good deal of work to be done and a role for the PDG to play in making tenants feel safer in their homes.
- Whether it was possible to look at how different types of property were allocated.
- An update was requested from the new Working Group looking at ways to incentivise tenants to downsize to smaller properties for the next meeting.

Note: * Work Programme previously circulated.

20 **Identification of items for the next meeting**

No additional items were identified for the next meeting other than those already listed in the work programme and the items discussed under the previous agenda item.

(The meeting ended at 5.02 pm)

CHAIRMAN

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MINUTES of a MEETING of the PLANNING, ENVIRONMENT & SUSTAINABILITY POLICY DEVELOPMENT GROUP held on 18 June 2024 at 5.30 pm

Present

Councillors

B Fish (Chairman)
G Czapiewski, C Harrower, G Cochran
(Vice-Chair), C Connor and L Knight

**Also Present
Councillor(s)**

N Bradshaw, D Broom, S Keable, S Robinson, J Wright

**Also Present
Officer(s):**

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place & Economy), Jason Ball (Climate and Sustainability Specialist), David Parker (Democratic Services Officer) and Angie Howell (Democratic Services Officer).

**Councillors
Online**

C Adcock, E Buczkowski, J Buczkowski, J Lock, L Taylor
and G Westcott

Officer Online

Stephen Carr (Corporate Performance and Improvement
Manager)

1 ELECTION OF CHAIRMAN

RESOLVED that Cllr B Fish be elected Chairman of the Planning, Environment and Sustainability Policy Development Group for the municipal year 2024/2025.

2 ELECTION OF VICE-CHAIRMAN

RESOLVED that Cllr G Cochran be elected Vice-Chairman of the Planning, Environment and Sustainability Policy Development Group for the municipal year 2024/2025.

3 START TIME OF MEETINGS

It was **AGREED** that the start time for meetings for the remainder of the municipal year continue to be at 5.30pm.

4 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies for absence.

5 PUBLIC QUESTION TIME

There were no members of the public present and none had registered to ask a question in advance

6 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT

No interests were declared under this item.

7 MINUTES OF THE PREVIOUS MEETING

The minutes of the Environment Policy Development Group meeting held on 12th March 2024 were approved as a correct record of the meeting and **SIGNED** by the Chairman.

8 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had the following announcements to make:

- He thanked the Group for electing him as Chairman.
- He read the Terms of Reference and Thematic areas for the Policy Development Group and advised Members they can viewed in the Constitution.

9 REPORT ON PLANNING MATTERS TO BE CONSIDERED AT THE PLANNING, ENVIRONMENT AND SUSTAINABILITY PDG AND AT OTHER COMMITTEES

The Group had before it and **NOTED** a report * from the Director of Place and Economy regarding Planning Matters to be considered at the Planning, Environment and Sustainability PDG. The following was highlighted within the report:-

- There was a strong interface between the Planning, Environment and Sustainability PDG and the work of other Committee's and Groups within the Council, namely the Planning Committee, Planning Policy Advisory Group (PPAG) and the Building Control Joint Committee (joint with North Devon).
- There were two recommendations within the report. Members noted the report and the PDG approved the production of a Summary Report which would seek to summarise planning matters into a report to feedback to the PDG at appropriate points in time. The report would also include key performance indicators.

Discussion took place with regards to:-

- The Building Control Joint Committee and the line of communication between other Committees. It was explained that the Building Control Joint Committee was the initial decision maker but that recommendations fed through to Cabinet and at times Full Council.
- That all Members were welcome to attend PPAG meetings and participate in discussions to help shape the production of the new Local Plan.

It was **AGREED** that a Planning Summary Report be presented to the PDG at the appropriate times.

(Proposed by the Chairman)

Note: * Report previously circulated.

Reason for the decision

To provide clarity and transparency, efficient decision making and ensure the best use of limited resources.

10 PERFORMANCE DASHBOARD QUARTER 4

The Group were presented with the Performance Dashboard for quarter 4 showing performance against target in 2023-24 and the General Fund Revenue Account Outturn Summary for 2023-24. The following was highlighted within the report:-

- The Performance Dashboard highlighted measures for what was then the Environment PDG and as such the measures did not exactly align to the new PDG.
- The Dashboard would be reviewed by Officers due to the new Corporate Plan and PDG structure. Any changes would then be reflected in the new Dashboard for Quarter 1.
- The Outturn report, currently showed figures against the old Environment PDG, focussed on Waste. From Q1 onwards this data would not be shown for this PDG.

Discussion took place regarding:

- Whether information could be provided regarding the corporate risk on climate change. The Corporate Performance and Improvement Manager would forward this information to all members of the PDG.

Note: * Performance Dashboard previously circulated.

11 CABINET MEMBER FOR ENVIRONMENT AND CLIMATE CHANGE UPDATE

The Group had before it, and **NOTED** a report* from the Cabinet Member for Environment and Climate Change with an update on the Council's Climate and Sustainability Programme, and progress on its response to the Climate Emergency. This included the following:-

- There had been an exciting development on Biodiversity Net Gain as the Planning Committee approved the signing off of Section 106 agreements for the development of 2 Habitat Banks in Mid Devon which would help developers unable to achieve on-site gains at 10% or above.
- Congratulations to the Economy Team who had secured Shared Prosperity Funding towards the new flexible workspace at Tiverton town centre, set to be transformed into a vibrant co-working hub and other grant funding from the LEP to support investment by businesses in to green initiatives aimed at reducing carbon emissions and improving efficiency.
- Net Zero Advisory Group (NZAG) had identified priority areas of action, community engagement, partnership and teamwork.

- Following the State of District Debate steps have been taken to increase capacity and speed towards meeting the Council's Net Zero targets by encouraging Councillors to volunteer as champions for each theme.
- All parties were welcome to attend NZAG meetings.
- Cllr Bradshaw also expressed thanks to Jason Ball, Climate and Sustainability Specialist for all of his hard work.

Discussion took place with regard to:-

- Community engagement and the importance of listening to communities.
- How progress was measured and reported back to Members and the public.

Note: * Report previously circulated.

12 MID DEVON DISTRICT COUNCIL CORPORATE PLAN

The Group had before it a report * from the Chief Executive presenting the draft Corporate Plan for 2024-2028 and inviting feedback before recommending the Corporate Plan back to Cabinet.

The contents of the report were outlined by the Corporate Performance and Improvement Manager and the following was highlighted within the report:-

- The Corporate Plan had been developed over the past 6 months and had been presented to Cabinet on 4th June.
- It provided a summary of the Council's strategic objectives and ambitions and highlighted the key areas for each Policy Development Group.
- The name of the Corporate Plan was still to be decided and the Cabinet may choose to leave it as the 'Corporate Plan 2024-2028'.
- All PDG's were being asked to provide feedback so that the new Corporate Plan was in the best state it could be before being approved by full Council.
- Comments from Members can be forwarded to the Corporate Performance and Improvement Manager outside of this meeting.

Discussion took place with regards to:-

- Electric car points on sites throughout Mid-Devon and whether the aims were realistic.
- The Medium Term Financial Plan and the funding gap.
- Fly tipping and whether the Corporate Plan should clarify that this related to public land, not private land.

The PDG wished for their comments regarding fly tipping be considered at Cabinet.

RECOMMENDED to the Cabinet that the draft Corporate Plan for 2024 – 2028 be approved

(Proposed by Cllr Guy Cochran and seconded by Cllr C Harrower)

Note: * Report previously circulated.

Reason for the decision

Setting out the Council's aims and objectives through a Corporate Plan helped the Council demonstrate its performance in relation to Value for Money considerations.

13 **WORK PROGRAMME**

The Group had before it the draft Work Programme * for the Planning, Environment and Sustainability Policy Development Group.

Discussion took place regarding:

- Including the Planning Summary Report.
- To also incorporate Motion for the Oceans to ensure a high profile is maintained and to invite South West Water to a future meeting.

It was **AGREED** to add the Planning Summary Report and Motion of Oceans into the Work Programme for 2024/2025:

Note: * Draft work programme previously circulated.

(The meeting ended at 18:32)

CHAIRMAN

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MINUTES of a MEETING of the SERVICE DELIVERY & CONTINUOUS IMPROVEMENT POLICY DEVELOPMENT GROUP held on 24 June 2024 at 5.30 pm

Present

Councillors

M Fletcher (Chairman)
M D Binks, C Connor, M Farrell, B Fish, A Glover,
C Harrower (Vice Chairman), M Jenkins, J Poynton and
Matthew Page

Also Present

Councillors

D Broom, G Czapiewski, F Letch MBE, J Lock, S
Robinson, L Taylor, J Wright and D Wulff

Present

Officers

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy
Chief Executive (S151)), Darren Beer (Operations
Manager for Street Scene), Luke Howard (Environment
and Enforcement Manager), Simon Bruford (Operations
Manager Street Scene Services), Jan Moreland
(Accountant), Laura Woon (Democratic Services Manager)
and Sarah Lees (Democratic Services Officer)

Councillors

Online

J Buczkowski

Officers

Online

D Emery and L Lewis

1 Election of Chair

RESOLVED that Cllr M Fletcher be elected Chair of the Service Delivery and Continuous Improvement Policy Development Group for the municipal year 2024 – 2025.

2 Election of Vice Chair

RESOLVED that Cllr C Harrower be elected Vice Chair of the Service Delivery and Continuous Improvement Policy Development Group for the municipal year 2024 – 2025.

3 **Start time of Meetings**

It was **AGREED** that meetings of the Service Delivery and Continuous Improvement Policy Development Group be held at 5.30pm on Monday evenings for the remainder of the municipal year.

4 **Apologies and Substitute Members**

There were no apologies for absence.

5 **Public Question Time**

There were no members of the public present and none had registered to ask a question in advance.

6 **Declaration of Interests under the Code of Conduct**

No interests were declared under this item.

7 **Chairman's Announcements**

The Chairman had the following announcements to make:

- a) He thanked the Group for electing him as Chair.
- b) He stated that the new Policy Development Group provided an exciting opportunity to work for the people of Mid Devon to address service improvement wherever appropriate.
- c) He stated that the new PDG had the following thematic areas under its umbrella:

Open Spaces and Play areas

Ground Maintenance

Cemeteries

Waste Collection and Recycling

Street Cleaning

Environmental Enforcement(includes abandon vehicles, animal control, fly tipping)

Clocks and Monuments

Leisure

Car Parking

Customer Service

Complaints

Trade Waste

Clinical Waste

8 **Draft Corporate Plan 2024 - 2028 (00:10:00)**

The Group had before it a report * from the Chief Executive, Head of People, Performance and Waste and Corporate Performance and Improvement Manager considering the draft Corporate Plan for 2024-28. The Group were invited to provide feedback on the document to recommended back to the Cabinet before the final draft was presented to full Council for approval.

The following was highlighted in the report:

- The draft document had been developed by officers and Members over the past 6 months and set out the draft aims and objectives of the Council from 2024 – 2028.
- Draft performance measures and targets were set out within the report. It was explained that these metrics were still in development and comments were invited.

Consideration was given to:

- Concern was expressed that the target for satisfaction with the overall repairs service and home safety was set at 70% and not 100%. It was explained that there was a challenge in understanding the base line approval rating, it was about trying to find the right balance at a comfortable level. Targets would be as ambitious and as relevant as possible. However, was trying to achieve 100% in all areas the best way to spend the Council's limited resources?
- The Council also needed to look at the national picture when setting its targets. The targets were aspirational set against increasing cost pressures to the Council.
- Regarding leisure memberships, a suggestion was made that the positive and negative costs per member be identified. It was explained that the current overarching draft targets showed that the Council was trending in the right direction.
- There needed to be a joined up approach with town and parish councils in setting some of these metrics.
- Concern was expressed that under the Medium Term Financial plan (MTFP) a table had been inserted using 8% as the inflation rate, where as it is currently at 2%. It was explained that the graph had been constructed in October 2023 when the inflation rate was 8%. This had been used as the forecasted rate. Nobody knew what the inflation rate would be after the General Election. This was the best guess and a snap shot taken at the time of constructing the graph. Inflation rates were not static and it was not possible to constantly change the graph to reflect this.

RECOMMENDED to the Cabinet that the draft Corporate Plan 2024-28 be approved subject to consideration of the comments of the Group.

(Proposed by the Chair)

Reason for the decision

Setting out the Council's aims and objectives through a Corporate Plan helped the Council demonstrate its performance in relation to Value for Money considerations.

Note: * Report previously circulated.

9 Performance Dashboards for Quarter 4 (00:37:00)

The Group had before it, and **NOTED**, summary performance information * via Dashboards, covering the service areas falling under the umbrella of this PDG.

It was explained that because this was a new PDG, Dashboards had been included that covered various service areas for the last quarter of 2023/2024. This was not entirely appropriate or helpful at this stage of the newly established Group and it was suggested that a new Dashboard be worked up representing the services now falling under the overall remit of the new Group. This was **AGREED** and was requested to be presented at the next meeting.

Note: * Dashboards previously circulated.

10 **Future Waste and Recycling Options (00:55:00)**

The Group had before it a report * from the Operations Manager for Street Scene and Open Spaces and the Head of People, Performance and Waste setting out options regarding the provision of the Waste and Recycling service to the residents of Mid Devon.

The contents of the report were outlined with particular reference to the following:

- The raft of Government legislation on the horizon which the Council would need to comply with.
- The Group were asked to comment on what areas it wanted officers to focus on and eventually to recommend to the Cabinet.

Discussion took place with regard to:

- The aspiration of being able to recycle soft plastics.
- Possible trials of re-useable nappies.
- The practicalities involved in residents wanting to recycle pots and pans. A suggestion that Mid Devon could be pioneers in trialling something new regarding this and the recycling of Waste Electrical and Electronic Equipment recycling (WEE).
- The Waste and Recycling team were already doing a great job for the residents of Mid Devon and their feedback supported this view.
- It took many hundreds of years for a nappy (or other sanitary products) to biodegrade. Some countries in Europe had found a way to recycle used nappies and incorporate the incinerated by-product into asphalt used to repair roads. Further investigations were needed and the Group were keen that this be treated as a priority in addition to the pots and pans recycling.
- The overall ambition was to increase recycling wherever possible and as much as possible.
- Officers needed to bring a report back to the Group, regarding the priority areas the Group had identified, showing costs, logistics, practicalities, possible trials, what other authorities were doing both nationally and internationally.
- There was still considerable work to be done on encouraging more recycling of food waste.
- Black bags still contained too much waste that could have been recycled.
- Whilst the priority areas had been identified, it would be worth investigating the other suggested areas within the report to ascertain whether some could be achieved quickly and cheaply, for example, education around using instant coffee from a recyclable jar rather than using coffee pods.

RECOMMENDED to the Cabinet that the financial and practical feasibility of the following areas be further investigated to ascertain whether they could be introduced as practices within the District:

- Nappy waste collections
- Collecting unwanted metal pots and pans

(Proposed by the Chair)

Reason for the decision

It should be noted that an increase in recycling tonnages for each material would increase our recycling credits for that material. This increase also had an effect on the income received from each product. At present this was difficult to determine due to the constant variations in market values. Shared savings through the DCC Shared Savings Scheme would potentially increase as the Council decreased waste and increased recycling.

An increase in recycling would further enable the Council to reduce its carbon footprint and hit its carbon net zero commitment. Recycling was one of the most 'mainstream' concepts of addressing overarching sustainability goals, therefore it was vital to make sure that the Council was maximising the effectiveness of both its scheme design, but also its operational implementation.

Note: * Report previously circulated.

11 Public Spaces Protection Order - Dog Control (01:06:00)

The Group had before it a report * from the Environment and Enforcement Manager and the Head of People, Performance and Waste seeking an extension to the period that the Mid Devon (Public Spaces Protection) (Dog Control) Order 2021 was in force for in addition to its variation.

The contents of the report were outlined with particular reference to the following:

- The report reviewed the decision taken on 7 October 2021 regarding the Council's Dog Control Public Spaces Protection Order.
- It also took into consideration amendments requested by town and parish councils.

RECOMMENDED to the Cabinet that:

- a) On being satisfied that the statutory grounds for extending and varying the Mid Devon (Public Spaces Protection) (Dog Control) Order 2021 ("the Dog Control PSPO ") are met, as detailed in the Report, to allow Officers to commence statutory consultation for the following:
 - i. To extend the period the Dog Control PSPO was in force by a further period of three years
 - ii. To vary the Dog Control PSPO by:
 - Designating the Playing Area known as Jacks Acre in Cheriton Fitzpaine (as shown on the plan at Appendix 1) as an area where dogs were not allowed;

- Designating the Playing Field at the top of Wood Lane Morchard Bishop as an area where dogs must be on a lead (as shown on the plan at Appendix 2);
 - Removing from the Dog Control PSPO the existing plan of the Recreation Ground at Oakford as an area where dogs are not allowed and replacing it with a plan of a new Play Area at the said Recreation Ground to be subject to the prohibition of no dogs allowed (a plan of the new Play Area is shown at Appendix 3); and
 - Removing from the Dog Control PSPO the existing plan of the Play Area Amory Park Tiverton as an area where dogs were not allowed and replacing it with a plan of a new Play Area at the said Amory Park to be subjected to the prohibition of no dogs allowed (a plan of the new Play Area was shown at Appendix 4).
- b) Delegated Authority be granted to the Director of Legal, HR & Governance (Monitoring Officer) to draft the Orders extending and varying the Dog Control PSPO to go out to consultation.
- c) In the event that there were no material objections to the extension and variation as determined by the Operations Manager for Street Scene and Open Spaces, in consultation with the Cabinet Member for the Environment, to grant delegated authority to the Director of Legal, HR & Governance (Monitoring Officer) to make the Orders extending and varying the Dog Control PSPO as recommended in the Report.
- d) In the event that the Operations Manager for Street Scene and Open Spaces, in consultation with the Cabinet Member for the Environment, determine that objections by the owners of any land which was subject to the Dog Control PSPO should be upheld, to then grant delegated authority to the Director of Legal, HR & Governance (Monitoring Officer) to vary the Dog Control PSPO by removing any land for which an objection(s) had been upheld.

(Proposed by the Chair)

Reason for the decision

The Dog Control PSPO was designed to curb anti-social behaviour arising from irresponsible control of dogs and dog fouling. The Dog Control PSPO would expire on the 7 October 2024 unless it was extended beforehand.

Note: * Report previously circulated.

12 Formal Review of Bin-It 123 (01:10:00)

The Group had before it, and **NOTED**, a report * from the Operations Manager for Street Scene and Open Spaces and the Head of People, Performance and Waste outlining the effectiveness and progress of the Council's waste and recycling scheme known as the Bin-It 123 scheme, as implemented on 10 October 2022.

The following was highlighted within the report:

- Bin-It 123 had been a huge success, however, there was still a lot more to do in terms of recycling more and producing less residual waste.

- The report showed a good set of results. There had been a reduction of residual tonnage. Currently Mid Devon were in the top 10% nationally and the Council had been recognised for achieving considerable improvements.
- Instances of side waste had reduced from 4000 to approximately 200 and there was a compliance rate of just over 90%. Despite this there was still a lot of recycling in residual waste as had been evidenced in recent depot open days. Town and parish council representatives were encouraged to attend more open days planned in the near future.
- New statutory guidance was awaited following the General Election.
- Food waste was still an issue across the county in terms of needing to do more of it.
- More recycling meant more income to the Council.

Discussion took place regarding:

- Cullompton High Street looked untidy on bin collection days, could anything be done to target hotspots where this happened? Were there communal schemes that could be established?
- It would be interesting to know what the authorities in the top 10% were doing differently to the Council.
- Concern was expressed that a large amount of food waste was not being picked up and a suggestion was made that residents be given smaller caddy bins to store food waste, especially those that had very small kitchens or limited storage facilities. This would need investigation and the costs worked out. Small caddy bins had been issued to residents some 10 years ago. It may be that some residents still had these. Perhaps a flyer could be sent out asking if people still had these and if they didn't and wanted one to contact the Council?
- There was huge potential to build on the momentum of recycling food waste with more education.
- To do weekly collections would cost the Council an additional £1.6m. If all residents recycled in the way that they should it would give the Council an additional £800k in income.
- A difficult balance needed to be struck between proactive enforcement and greater education.
- The more the Council could get information out there the better and working collaboratively with town and parish council's would be vital in achieving this.
- Primary school visits had been undertaken with a view to educating the next generation. There was a suggestion that pre-school visits also be undertaken as even young children could get involved and understood what cardboard and plastic was.
- It was also suggested that perhaps a competition be held to name waste vehicles. It was agreed that these ideas could be explored further.

Note: * Report previously circulated.

13 **Annual Environmental Enforcement Report (01:42:00)**

The Group had before it, and **NOTED**, a report * from the Environment and Enforcement Manager and the Head of People, Performance and Waste providing an overview and review of the Environment and Enforcement service for the 2023/24

financial year and the improvements that had been made during this period. The report provided a top line review of this service and showed that there had been a decrease in fly tipping.

Discussion took place with regard to whether anything could be done with CCTV at hot spot areas suffering fly tipping? It was explained that one requirement was that the problem needed to be continuous. Feedback from Members was a vital part of this process as they were the 'eyes' and 'ears' out in the community and therefore Members were encouraged to get in touch whenever incidents of fly tipping became apparent.

Note: * Report previously circulated.

14 **Access to Information - Exclusion of the Press and Public**

The Chair indicated that discussion with regard to the following item, required the Policy Development Group to pass the following resolution to exclude the press and public having reflected on Article 12 12.02 (d) (a presumption in favour of openness) of the Constitution. This decision was required because consideration of this matter in public would disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Policy Development Group decided, in all circumstances of the case, the public interest in maintaining the exemption interest in disclosing the information, outweighed the public interest in disclosing the information.

RESOLVED:

That, in accordance with Part I of Schedule 12A to the Local Government Act 1972, the press and public be excluded from the meeting for item 15, for the reason set out below:

Information under paragraph 3 (contains information relating to the financial or business affairs of any particular person including the authority holding that information).

(Proposed by the Chair)

15 **Extending the Fleet Contract with Specialist Fleet Services**

The Group had before it a report * from the Operations Manager for Street Scene and Open Spaces and the Head of People, Performance and Waste considering the extension of the Council's current contract regarding its fleet provision with Specialist Fleet Services Limited (SFS).

The contents of the report were outlined with particular reference to the following:

- Vehicles were a crucial part of the entire waste operation. They were large complex vehicles.
- A contract with SFS had been in place since 2019 and had been agreed for 7 years. The Council needed to plan ahead and work needed to be done now to think about what happens after 2026. The report therefore sought an extension to the contract of a further 7 years taking it to 2033.
- A summary of the 'pro's' and 'con's' regarding the recommendation to extend the contract with SFS as provided at section 2.7 of the report. The company's

extremely good position within the supply and purchase chain as well as the excellent relationship that existed between them and the Council was emphasised.

- Quarterly meetings were held with them in an atmosphere of openness and honesty.

At this point in the meeting, the Group agreed to continue the discussion under Part II arrangements as it wanted to discuss confidential matters.

Returning to open session, it was:

RECOMMENDED to the Cabinet that it considers what additional supplier benchmarking or other market testing information might be made available to help inform a decision regarding the fleet contract.

Following this, it was **FURTHER RECOMMENDED** that:

- a) The decision to extend the contract with SFS (Specialist Fleet Services Limited) for a further seven year period to cover 2026-2033 at the earliest possible opportunity be approved.
- b) Lease borrowing in the Capital Programme be included.
- c) The negotiation of the removal of the indexation rate from the master contract for all new vehicles as soon as possible and replace it with a fixed rate for the term of the individual contract be authorised.

(Proposed by the Chair)

Reason for the decision

The current contract provided for lease and maintenance contracts until June 2026, thereafter lease only for the remainder of the individual vehicle contract term. This exposes the authority to an increased financial risk in terms of the significantly increased costs associated with maintaining an aging fleet.

Note: (i) * Report previously circulated
(ii) Cllr M Binks requested that his vote against the decision be recorded.

16 **Work Programme - 2024/2025**

The Group had before it, and **NOTED**, the current draft Work Programme * for 2024 – 2025.

It was **AGREED** that the following items be included in the work programme for consideration at an appropriate time:

- The possibility of recycling blister packs.
- A feasibility study into the provision of big bins for house clearances.
- Costing exercise for providing smaller kitchen caddies for kitchen waste.
- Leisure Service surveys, ensure that the Group receive regular reports on satisfaction levels and constructive feedback from users.

- Refillable water stations, were these possible?
- Employee satisfaction surveys.
- Education events at all school on recycling.
- 'Let's Talk Mid Devon' – Group to gain a better understanding of public engagement and their experience, address any specific feedback
- Examine sickness rates and how this is dealt with following receipt of the 6 monthly Establishment Report.

Note: * Draft Work Programme previously circulated.

17 Identification of items for the next meeting

In addition to the items already listed, the following was requested to be on the agenda for the next meeting:

- A further report on 'Future Waste and Recycling Options' with a focus on nappy waste collections and collecting unwanted pots and pans.
- A costed exercise on the provision of small kitchen caddies (if it had not been included for consideration in the report above).

(The meeting ended at 20:10pm)

CHAIRMAN

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 10 April 2024 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
S J Clist, G Cochran (Vice Chairman),
F J Colthorpe, G Duchesne, B Holdman,
M Jenkins, F W Letch, N Letch and
S Robinson

Also Present

Councillor(s)

C Adcock, D Broom, R Gilmour, C Harrower, S Keable and
G Westcott

Also Present

Officer(s):

Richard Marsh (Director of Place & Economy), Angharad Williams (Development Management Manager), Philip Langdon (Solicitor), Adrian Devereaux (Area Team Leader), Christie McCombe (Area Planning Officer), Yvonne Dale (Planning Officer), Tina Maryan (Area Planning Officer), Sarah Lees (Democratic Services Officer) and Angie Howell (Democratic Services Officer)

Brian Hensley (Devon County Council Highway Authority),

Councillors

Online

E Buczkowski, M Farrell, A Glover and D Wulff

Officers Online

John Millar (Area Team Leader)

93 **APOLOGIES AND SUBSTITUTE MEMBERS (04:26)**

Apologies were received from Cllr M Farrell however he attended online.

94 **PUBLIC QUESTION TIME (04:40)**

Paul Elstone (Application 23/00126/FULL) - Chairman read out.

Question 1

In respect of Paragraph 3.4 Page 87 and Paragraph 3.6 of your bundle.

The statements made in the officer report appear very substantially incorrect.

That the new Zed Pods modules will be far bigger than the existing footprint. The modular building will be over 50% wider this including the balcony's extending to the front of the property and the stair tower at the rear.

That the modular home will extend forward by about 3 meters in respect of the existing building line.

Why are Planning Officers supporting a building design where the massing is substantially insensitive to the local area and therefore not compliant with the principles of Policy DM1?

Question 2

On examining the drawings provided by Zed Pods it is noticed that the 2 bedroom 4 person properties have an internal floor space area of only 66.9 m². This despite to be compliant with the National Housing Standard they should have a gross internal floor area of 70m². That even when an allowance is made for the internal separation walls that the floor space does not meet the standard.

Specifically the Living Dining and Kitchen Area has a floor space of 30.5 m².

Bedroom 1 = 11.5m²

Bedroom 2 = 11.5 m²

WC = 4.1 m²

Entrance Lobby (Room) = 8 m²

Storage = 1.3 m

Total 66.9 m² or around 3.1 m² less than the National Space Standard or DM 1 requires.

Will MDDC Officers obtain and make available the drawings showing the exact internal wall to wall measurements of each of the dwellings. This to fully confirm full compliance with National Floor Space Standards?

Question 3

It is noted that the design of the 1st floor one-bedroom properties have bedroom windows that have direct access from a communal landing. This resulting in both substantial privacy (visual and noise) and security issues for the residents.

Does this Committee accept that this floor plan design warrants substantial redesign and for the welfare of its residents. That the current floor space design is not conducive to good or healthy living standards and therefore is unacceptable and by any reasonable measure?

Question 4

Why is the applicant only providing 9 parking spaces and when the policy requires it to be 14 spaces?

Why should the applicant on behalf of MDDC once again be given a DM 5 car space provision dispensation? A dispensation that would permit others developers easily to do so as the benchmark has been set?

Question 5

A recent Government Report and coupled with well publicised Chief Fire Officer repeat concerns has identified potential fire risk to Category 1 modular homes and which ZED PODS are. Fire risk with the potential of rapid and complete burn down.

Has MDDC commissioned a fully independent and expert report into ZED POD modular home fire safety this including the preparation of any risk mitigation plan. If not, why not?

Peter Drew (Application 23/01351/MFUL)

Question 1

I support the principle of grid scale battery storage as an appropriate response to the climate emergency but I remain unconvinced this is the right site for this development. Specifically my concern relates to the scale of the substation in the context of the dismissed appeal on this site.

Question 2

In my view the Applicant's approach to the substation has been misleading. It was not shown on any of the material that formed part of the pre-application consultation. The Committee Report claims that the submitted drawing shows the structure would be a maximum of 13 m high, but that claim is incorrect. At the stated scale of the drawing, which is 1:1000, the structure measures 23 m high.

Question 3

It might be that there is an internal contradiction on the face of drawing No 10 Rev 2 between the annotation and the scale. In other words it might be that the plan is actually drawn to a scale of 1:500, but if that is true then it beggars belief that such an error can exist on the only drawing showing the height of the highest structure proposed and not be noticed at registration or during the long gestation of this planning application. You would therefore be unwise to grant planning permission today on the basis of such a fundamentally contradictory drawing.

Question 4

Even if the highest structure is 13 m tall, rather than 23 m, I still have concerns about its visual impact. The LVIA falsely claims that my property is outside the zone of theoretical visibility but from my bedroom windows and balcony I have a clear view up the valley that takes in the pylons, Burlescombe Church all well beyond the application site. The claim that I would not see a new structure well over 40 feet high to the south east of a line to the church is nonsense and perhaps fails to account for my windows being up to 6 m above ground level. To be clear I am not objecting because I would see it from home but I am saying the LVIA is not fit for purpose because I can testify to the fact that it underestimates the visual impact of the proposal. My opinion that the LVIA is unsatisfactory is confirmed by the fact that the photomontages that have been submitted fail to show the highest structure which would, by way of example, be visible above and at certain times of year between the trees when seen from the path next to the canal, which is a conservation area and a popular and attractive leisure walk.

Question 5

The Committee Report claims that this proposal can be distinguished from the scheme dismissed at appeal on the basis that it would have had a “moderate to high impact”. That again is incorrect. The LVIA undertaken by Aecom said the appeal scheme would have a “moderate adverse effect on landscape character yet no significant effects on visual amenity [and] once the proposed mitigation planting has become established, the predicted landscape effects would be reduced to minor adverse or negligible level”. So, in other words, the level of harm identified by 2 landscape architects applying the standard GLVA guidelines is greater for the current proposal, particularly in terms of visual effects, than for that which was dismissed on appeal by the Secretary of State in 2018. Against the background that the Applicant failed to even mention the dismissed appeal at any stage of its voluminous submission, in what appears to be a flagrant attempt to mislead, and so has never offered any reasons to depart from its position, the Planning Officer has completely misunderstood and/or misrepresented the position in the Committee Report. If you were to decide to grant planning permission today on the basis of this incorrect advice then your decision would be challengeable.

Question 6

I have found no clear analysis as to how the application site was identified. The only rationale appears to be that the site is close to the motorway and so it would be easy from a logistical point of view to get the containers onto the land but whilst that might be convenient for the Applicant that does not mean it is a good location in landscape terms.

There appears to be no analysis of alternative sites. In particular I note that East Devon District Council only last month granted planning permission for a similar scale battery energy storage scheme [BESS]. In its press release following that decision the applicant, a company called Statera Energy, said “Increasing BESS capacity close to National Grid’s strategic substations is critically important to the decarbonisation of the UK’s electricity system”. I agree and in my view that is the key. As I understand it there are existing substations at Burlescombe, to the west of Willand, which is called Tiverton Junction Substation, and to the south of Tiverton just a few hundred metres from the Council Offices. Why haven’t these sites been considered because, to be clear, I positively support the delivery of BESS and, subject to landscaping, do not perceive them to be harmful to the landscape, but it is the scale of the proposed substation that is the problem.

Question 7

I would like to finish by quoting from the dismissed appeal. The Secretary of State found that this site was “the ‘gateway’ into Devon...being directly adjacent to and visible from the A361...as well as being visible in longer views from the M5 and from the railway line”. In that context it was concluded that “the proposal would result in significant harm to the character and appearance of the area in which it is located and that this could not be avoided or minimised to acceptable levels within a reasonable period”. Given the proposed development would be two and a half times the height of what was previously found to be unacceptable on this site and that a structure 13 m high could not be ameliorated by landscaping, this scheme is materially worse - as borne out by the Applicant’s own LVIA working to standard guidelines - and should be refused for this reason.

Darren Manley (Application 23/00511/FULL) - Chairman read out.

Question 1

Are you aware that if this development goes ahead you would potentially lose 20-25 parking spaces (this includes the current car park and garages with some having additional parking at the front of their garages) You are going to create 16 new parking spaces. Which would mean a loss of around 9 parking spaces. Currently most evenings every parking space is occupied. This would create huge problems, especially as some people work shifts and in the morning after a 12 hour shift the last thing people want to be doing is looking for a parking space after work.

Question 2

If you build 5 new dwellings, assuming each would have at least one vehicle, where would the additional parking be? Probably along the roads which are already crowded.

Question 3

And where will the elderly residents that currently park in the carpark near the garages park their vehicles? Especially with some having limited mobility.

Question 4

Emergency vehicles, recycle/refuse collections deliveries etc would struggle to get past these vehicles. Are you aware that this would be a huge problem in an emergency?

Question 5

Also where is the current local infrastructure investment of doctors, schools, public transport etc?

Philip Marshall (Application 23/00511/FULL)

Question 1

I would like to ask if a resident impact statement has been completed. Taking in to account the following:

- (a) The land drains in the carpark aren't fit for purposes, are totally silted up and the carpark floods with the slightest bit of rain. This has been exasperated by people concreting their gardens to accommodate what they had previously stored in their garages. Which we were lied to about. You said in the Zoom meeting only 2 were occupied. I personally know of 3 people who rented a garage and are in the process of moving out. I have been informed it is possible as many as 10. You denied this multiple time during the meeting.
- (b) The new car parking spaces all require cars to reverse out over the pavement and will need turn on them to get out, making access from our cul-de-sac more dangerous as the road is too narrow to turn on and the cars will need to use the pavement for passing and turning.

- (c) Access in and out of Eastlands is really restricted as cars park on one side of the road leaving only enough room for one vehicle to pass. The dropped pavement in front of the garages was the only place to pull in and allow vehicles to pass with the new building plans and carpark arrangement this will be impossible creating bottle necks. Making it nearly impossible to get in and out of the close when a delivery or recycling lorry is present. Cars will have to pull on to the pavement making them dangerous to use for the residents especially children. The roads into Eastlands really need widening if you're going to add more families into the cul-de-sac and reduce the overall number of car parking spaces.
- (d) As the roads are so narrow and in an awful condition the presence of workers and building delivery lorries is going to add to the traffic congestion and wear and tear to the road during the building construction period. Will working people be compensated for any loss of earnings caused by these delays and will the roads be brought up to a suitable standard before works commence, including widening to improve access.
- (e) If you insist on proceeding with these plans without proper consultation of the residents which hasn't happened up to now, we will have no other option than to block access to the site and considering the access problems we already have in Eastlands and how you are going to make them even worse it won't be too hard to do with some nonviolent direct action. I can promise you most of the residents support this and it will happen. We will not have these plans forced upon us with no changes to accommodate the residents and to make it safe for residents especially children to travel to and from the cul-de-sac.

Tilly Cooling (Application 23/00511/FULL) - Chairman read out.

Question 1

Parking is currently an issue for residents in Eastlands currently as there aren't enough spaces. The residents have been asking for years for the green triangle to be made into extra parking but have been ignored. What is going to be done in order to fix this problem as it will just worsen with the increase in houses and no increase to parking facilities?

Question 2

The main concern for residents is the extra pressure on sewage, water and electric. We have issues with drainage and bad roads there are so many potholes that need sorting. The excess weight of plant vehicles are likely to make the road surfaces even worse during the process of building the development. Are these issues going to be addressed?

Question 3

The Council should be more concerned in the upkeep of the current properties they have already rather than adding to it. There are a number of outstanding repair jobs which myself and other residents have been waiting months and years for which just keep getting pushed back. We have been left in the darkness to when these are going to be done. Will we have to wait even longer for these repairs to take place?

Question 4

Is the new development going to be for local residents or current residents who need to downsize? Or do they intend to bring in people from outside of the Culmbridge area.

Question 5

Is the school, preschool and the doctors going to receive more funding and resources to keep up with the increase in children if the Council intend to put in families. The doctors and the schools are currently extending their limits and can't take on anymore without changes being made.

Sophia Sendra (Application 23/00511/FULL)

Question 1

Since the first hand-delivered letter in December '22, all notifications, consultations and contact has been extremely limited and restricted to internet users only. This has excluded all the residents who are most affected by the proposal, the residents of the bungalows and houses immediately surrounding the site. The majority of those residents are not internet users and are unaware of when to expect the build to start, fearing how and when life will change for them.

Question 2

The letter notifying of this meeting was sent as an attachment to an email, only 2 of us have received it. We took it upon ourselves to take photocopies and hand deliver it to all the residents of Eastlands.

The garage tenants have received 2 separate 'Notice to Quit' letters, both with different deadline dates and an application form to apply for a garage in a neighbouring village which included the plots in Eastlands. They also received an invoice for next year's rent after receiving the first Notice To Quit.

Question 3

You are planning to remove 21 parking spaces and create 16 new ones. 5 houses will introduce approximately 10 more cars. This leaves a clear shortfall. There is much concern from residents and Hemyock Parish Council about the proposed configuration of the new parking area. There are obvious safety issues and it would be prudent to discuss this with the residents and to rethink the configuration based on our knowledge of daily life in Eastlands with safety as a priority.

Question 4

Administration and communication between Council departments and with the residents of Eastlands has been shockingly inept.

All concerns, comments and recommendations submitted last December by the residents and Hemyock Parish Council were disregarded. The limited contact relating to this proposal feels like nothing more than a box-ticking exercise.

Question 5

Can you explain why every single concern and suggestion has been ignored and will you consider reviewing your approach to this proposal by listening to and interacting with the residents instead of building a wall of resistance?

Mark Stewart (Application 23/1870/MOUT)

Question 1

Is the proposed development in conflict with policies DM18 (Rural Development) and DM22 (Tourism and Leisure Development) and the findings of the Mid Devon Tourism Study?

Question 2

Does the business plan for the proposed development include a robust and detailed financial summary with breakeven points and profit goals within 5 years as per the requirements set out by Mid Devon District Council?

Question 3

Would the planning committee care to answer on the following, the detailed plans of type 1 & 2 Safari tents clearly show baths, showers, toilets and sinks, none of the tents or cabins are offering gutters, downpipes, rainwater collection or soakaways in any respect.

Question 4

The climate emergency planning checklist submitted in the planning application, argues that the applicant does not require any of the following, rainwater collection, greywater recycling, water efficacy design, soakaways etc

Question 5

The installation details of PTSP is not sufficiently detailed, but the understanding is that there will be one per tent/cabin, equally the processors do not have to have soil permeability and percolation tests and will be discharging into the ground.

Question 6

As no other flood mitigating factors have been proposed by the applicant to reduce the transit time of waste water and rainwater entering the watercourses and considering the site is bounded by flood zones 2 and 3, the proposed development along with global warming and increased rainfall puts more strain on the watercourses and increases the flood risk, the proposal is therefore unsuitable and in conflict with policy S9 (c) (Environment).

Dr Julie Meeson (Application 23/1870/MOUT)

Question 1

I would like to ask the committee how they consider the application complies with pollution policy DM4 when the following details are considered?

Although the officer's report sets condition #7 preventing '*amplified, live, or recorded music except within the lodge building*', other significant noise will be generated by the 88 people plus day visitors (according to the applicant's 'Marketing Strategy'), as they use the outdoor swimming pool, eating and drinking areas and other outdoor activities; additional noise will also arise from staff and site maintenance services.

The topography of the valley together with the overall quiet nature of this countryside means noise travels a long way. I can hear 2 workers chatting as they work at the pheasant rearing area several fields away, so I am sure the noise from 88+ guests enjoying themselves eating and drinking until late at night and revelling in the outdoor pool will be objectionable to residents and negatively affect wildlife. Residents already suffer noise late into the night from the existing Loyton's facility when they hold commercial events such as parties and weddings, but the sporadic nature of these means' complaints are not raised.

Question 2

Light pollution is also a significant concern in this application – with the officer's report condition #8 requiring 'an additional lighting design strategy before installing any lighting'. As there is already a 'lighting strategy plan' in the application I ask the Committee whether this plan will be used to satisfy condition 8?

The reason I ask is because the lighting proposed in this plan is excessive: for Phase 1 alone approximately 1000m of paths and tracks will be lit, tent decks will have lights facing the sky and the car park area will be lit. Using the specifications in the current plan this could result in up to 115 lights at 600 lumens on paths / tracks and 20 lights in the car park at 810 lumens.

The impact of this level of lighting (even if motion triggered), on wildlife and residents' conflicts with policy DM4 by virtue having a negative *impact on the natural environment and general amenity*.

Question 3

Finally, each of the 25 dwellings will have a log burner fitted – thus contributing to increased particulate matter and smoke pollution. Depending on wind direction and other atmospheric conditions the pollution from wood burners could settle in the valley and impact clean air.

Victoria Killearn (Application 23/1870/MOUT)

Question 1

Would the committee take a moment to comment on why this development needs to be scattered over 20 hectares quality agricultural land when it could be accommodated closer to the proposed amenities thereby lessening the impact on the environment and lessen the loss of farmland. (MDLP S9). This policy recommends and I quote "Preserving the quality and productivity of the best and most versatile agricultural land whenever possible". Would they not consider this application contravenes this clear advice of Mid Devon?

Question 2

Has the committee taken in that one sixth of Loyton Farm will be lost to this holiday complex. The farm covers approximately 300 acres. A good proportion is wooded. Most of the valley will no longer be farmed and that such changes of use are all threats to the quality of Middevon. Would they agree that this site should not be considered suitable for allocation to commercial development?

Question 3

I implore the committee to take seriously the adverse impact on the quality of life of close neighbours. There will be inevitable noise, night light, and odours from 88 guests trying to keep warm in a wet Devon valley. And when they are sitting outside in the evening every sound they make will amplify outwards and upwards as if in an amphitheatre.

Dogs can so easily be carriers of Neospora Caninum causing early abortion in cattle. I need hardly remind you all of just how many sheep and lambs are killed by walkers' dogs each year. Also red and roe deer suffer heartbreaking injuries from being brought down by dogs.

Question 4

Would the planning committee consider it sensible, if this application is passed, that a planning condition is added to ban dogs from the safari accommodation?

Question 5

And finally is the committee aware that it is incorrect - as stated in the application - that local residents and neighbours were involved in the early conception of the application?

Some Councillors were contacted but this did not include ordinary residents.

It is recommended as stated in the Community Involvement statement SC1/7, 10 and 11 that this should happen and it did not. Only a few were invited to look around the site in February 2024, 2 months after it was submitted to you. The closest and most worried neighbours were not invited. I stress NOT INVITED. I have never known this parish so disturbed and unhappy.

Lars Hesslegren (Application 23/1870/MOUT)

Question 1

Since your policy states (DM1) "Designs ... must be of high quality ... well integrated with surrounding buildings, streets and landscapes" So why should the proposal which claims to be tents but which are in fact small dwellings – complete with bathrooms and kitchens be considered appropriate? Their appearance is completely out of context with local buildings – instead of an approach involving local materials.

Question 2

Since your policy (DM18) says "Rural employment development ... permission will be granted for new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location." So why build 10 tents which are in fact a set of luxury dwellings set in a park? Each tent is located well away from its neighbours so this is not a village arrangement which would be more appropriate especially if these so-called tents became permanent dwellings as they easily could. The tent roofs combined with wood burners seem inappropriate in an age of new heating technologies. The walls and windows are modern but the roof and heating technologies are inappropriate and against government policy.

Question 3

Since your policy (S14) says “Countryside Development outside the settlements will preserve ... and enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.” Why build a development that is completely unrelated to the scale of the existing Morebath village? This is a luxury Butlins development with no interaction with the local society and the design layout reflects that segregated approach. It is clear no interaction with the locals is anticipated or desired.

The layout is very dispersed – each so-called tent is on average 70 m apart, although there is a group of 4 closer together. The total length of gravelled track – intended for bicycles and ATVs but realistically will be used by cars – is 951m, nearly 1 km. It is laid out so that the walk to the central marquee is very circuitous.

Question 4

Since your policy (DM22) says “a Tourism and leisure development ... will be supported within or adjacent to defined settlements. ... it must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network.” How would this development unrelated to the existing village of Morebath be a justified countryside location? It is not part in any way of the small village and the traffic impact – including agriculture - is likely to be severe.

In addition it would imply a great deal of car excursions to Exmoor, adding the strain on the local lanes. The impact on the neighbourhood would be very damaging – this is a luxury development where the locals would not be involved.

Matt Brammer (Application 23/1870/MOUT)

Question 1

The committee will no doubt be aware that Planning policy S1(K) details the need for developments conserving and enhancing the natural environment by protecting and enhancing valued landscapes. Given this wording, how could this planning application possibly be accepted? In particular, could the committee comment on how the addition of 25 structures, plus hard access trackways damaging protected habitats, plus lighting, plus vehicles, plus wood burners, plus supporting maintenance activities by staff, contractors and suppliers, could be described as conserving and enhancing an area which is currently open farmland and woodland?

Question 2

I would also like to ask the committee if they feel this application can be granted, given the concept of minimising impacts on biodiversity and geodiversity as described in planning policy S1(L)? Whilst Devon County Council’s own principle ecologist has raised multiple concerns, I ask this with particular concern regarding the impact of human disturbance on wildlife and also the effect of light pollution on wildlife. The effect of cutting trees down can be partly mitigated by planting more trees, and moving hedges can be mitigated by re-planting elsewhere, but I do not see how it is possible to mitigate against wildlife departing an area of quiet countryside if something near 100 campers were to move in on a year-round basis. Light pollution is known to have negative effects on amphibians, birds, mammals, insects and plants, and multiple scientific papers have been published on the subject. The blurring of the boundary between day and night disrupts the natural patterns of sleeping, hunting, eating and mating for many species, potentially changing the balance of species within an area.

Bats in particular associate light with danger and avoid entering or crossing lit areas making lighting a barrier on wildlife corridors and routes used by bats travelling to feed. On our own property we have a significant population of glow worms, a species which is currently in decline. Female glow worms use light emitted from their abdomen to attract a mate, as such they are a species particularly sensitive to light pollution as the males can be attracted to alternative light sources. The lighting plan included with the application shows trackways to be lit with between 100 and 220 lights in total, each equivalent to a 40watt incandescent bulb. In addition to this the proposed cabins have decking lights and interior lighting.

Question 3

Given the potential for harm, does the committee consider the addition of hundreds of light sources to an area of almost entirely dark countryside, to be in line with the principle of minimising impacts on biodiversity and geodiversity outlined by policy S(1)L?

Sherrie Tuhy (Application 23/1870/MOUT)

Question 1

I would like to ask the committee why the applicant's proposal is supported by a transport statement and travel plan only. NOT a travel assessment as may be required under highways policy DM3? This document was produced for the applicant and is paid for by the same.

Also it is clearly stated that this transport statement is produced in SUPPORT of the application. Perhaps the committee could answer why the transport statement was NOT an independent document and as a result it could be argued to present a POSITIVE TWIST to make any prospective reader of the statement agree the road network is easily able to take the additional load. The local objectors did offer a fully independent traffic assessment but were told that this would be inadmissible

I am here to offer some questions for the planning committee to answer which show up in the travel plan submitted by the applicant

First the document submitted uses data based on incorrect assumptions. The shoot traffic will decline as the holiday traffic increases due to the decline of the shoot business thus there will be little or no increase in total road usage. Documents submitted recently say the shoot will continue indefinitely.

The majority of traffic will arrive and leave via Hukeley Bridge.

Some traffic will turn right when leaving and pass through CLAYPITS..... A TIGHT AWKWARD ROAD Blatant omissions in the transport statement and the failure to consider or mention

The Morebath cricket club,
the hunt and hunt followers.,
the roads being unlit...
the roads being narrow ...
the roads being single vehicle width,

claypits is not mentioned at all.
no mention of the pothole problem
the roads have deep drainage ditches on either side.
the use of the roads by local farm traffic and animals

All very conveniently left out of the transport statement

The bus service is one bus out and one bus back a day.....

Car sharing does not really happen

This proposal will bring a massive increase in traffic generation on roads that are windy with limited visibility. Hukeley bridge B3227 has already been severely damaged on more than one occasion and required repair on more than one occasion because of vehicles hitting it due to the tight turn to the right. The proposal is contrary to the local plan policy DM3 (Transport) (which observes the requirement for a transport assessment) and conflicts with DM18a rural employment development by creating an unacceptable impact on the local road network. And DM22 (Tourism and Leisure) which seeks to avoid unacceptable traffic impacts on the local roads network.

95 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (46:43)**

Members were reminded of the need to declare any interests where appropriate.

- Cllr S Clist referred to Plan List 1 Application No 23/1870/MOUT and Plan List 2 Application No. 23/00511/FULL and declared that he had an Other Registerable Interest but he had not been involved with this application.
- Cllr B Holdman referred to Plan List 3 23/00126/FULL and declared that he had an Other Registerable Interest as he had been contacted with regard to this application.
- Cllr P Colthorpe referred to Plan List 1 Application 23/1870/MOUT and declared that from 2003-2011 and then 2009-2022 she represented the area in Lloyton first as District Councillor and then as County Councillor for Tiverton West. Over that period of time she had contact with the family from time to time.

96 **MINUTES OF THE PREVIOUS MEETING (48:20)**

The minutes of the previous meeting held 13 March 2024 were agreed as a true record and duly signed by the Chairman.

97 **CHAIRMAN'S ANNOUNCEMENTS (48:42)**

The Chairman made the following announcements:-

There had been some changes within the Planning Team with some staff leaving and some new starters.

- Yvonne Dale would be leaving Mid Devon District Council in May and Shane Burgess, Principal Planning Officer would be leaving on Friday 12 April. Replacements would be advertised.

The Chairman thanked the officers for their time with Mid Devon District Council and wished them well for their future.

- The Chairman also welcomed two new starters - Elaine Barry, Planning Obligations Monitoring Officer who had replaced Jo Williams. Emma Armes, Planning Support Officer was also a new starter.

98 WITHDRAWALS FROM THE AGENDA (49:45)

There were no withdrawals from the Plans List.

99 THE PLANS LIST (49:54)

The Committee considered the applications on the *Plans List

Note: *List previously circulated and attached to the minutes.

- a) 23/01870/MOUT - Hybrid application for a change of use of land to allow the siting of 10 safari tents; conversion of existing barns to provide space for administration, grounds keeping, housekeeping facilities and visitors reception; extension to existing marquee; creation of vehicular access ways; the construction of 24 car parking spaces and natural swimming pool and associated landscaping; and Outline application (All Matters Reserved) for a change of use of land to allow the siting of up to 15 safari tents and cabins; demolition of existing barn and construction of wellness centre; improvements to existing vehicular access and the provision of car parking; the creation of track ways and associated access and landscaping works at Loyton LLP, Loyton Lodge, Morebath.**

The Area Planning Officer advised the Committee of the following update:-

- a) One of the wood burning stoves had been removed.
- b) The spring bat survey had been completed and was available to view on the planning portal. The spring survey had placed detectors in the area most likely to be impacted. The number of flight passes were slightly less due to other suitable habitat close by. Devon County Council ecologists submitted their final comments confirming it was acceptable subject to the inclusion of conditions.
- c) A letter of concern had been received from Mr Bateman and was available on the planning portal.
- d) An error had been noted in the report under Condition 5 – the barn conversion should sit under the “full planning” list of conditions and not under the “outline planning” list of conditions. The condition numbers would need amending accordingly.

The Area Planning Officer outlined the application by way of a presentation and highlighted the following:-

- This application had been called in to Planning Committee for reasons of impact on highways, public disturbance by way of noise, design and appearance, impact on protected species, loss of high grade farmland and flood issues.
- The application was presented in hybrid form – part outline, part full seeking the construction of up to 25 safari tents and cabins for year round accommodation.
- The main issues raised were traffic impact, pollution, water, visual impact, scale of development, viability, ecological impact and planning balance.
- The County Highways Authority had been out to visit the site and had no objections to the application.
- There was a sewerage treatment plan for each accommodation.
- The proposed development was within flood zone 1 and deemed appropriate for development.
- Members were made aware of the following Committee Updates:-
 - i) DCC Ecology comments – which were available to view on the planning file.
 - ii) The submission of a detailed business case which was confidential.
 - iii) The submission of a revised drawing for Tent Type which included the removal of one of the wood burning stoves within each tent.
 - iv) The submission of the Spring Bat Survey which was available on the planning file.
 - v) The submission of a letter of concern which was available on the planning file.
- Members attended a site visit on 5th April where Members viewed the site noting existing buildings.

In response to the public questions the Area Planning Officer answered as follows:-

Mr Mark Stewart had asked how the proposed development cannot be in conflict with policies DM18 (Rural Development) and DM22 (Tourism and Leisure Development) and the findings of the Mid Devon Tourism Study? With respect to Policy DM18, the officer's report provided some detail at paragraph 3.0 on traffic generation and trip rate forecasts and para 4.0 on landscape and visual impact. The suitability of the site was addressed more critically within the planning balance (paragraph 11.0) where officers had set out the compelling evidence (at para 11.2) and the content of the National Planning Policy Framework (NPPF) in respect of suitable sites in rural locations not well served by public transport at paragraph 11.3.

The officer's report provided some detail at paragraph 1.0 in respect of DM22 confirming the proposal represented a diversification of an existing business and that it would represent a new kind of offer within Mid Devon. Paragraph 2.0 made reference to the business plan and paragraph 6.0 to the design and layout minimising environmental impacts in a countryside location. This again was picked up in the planning balance.

The Mid Devon Tourism Strategy identified a need to develop the accommodation offer for short stays including a high quality residential experience for people looking to get close to nature (slow tourism), encouraging countryside pursuits / quality locally sourced produce and goods and all year round events and accommodation – each of which this application sought to offer. Paragraph 2.5 of the officer report provided some detail in respect of the Tourism Strategy.

Officers advised that the proposed development was not in conflict with policies DM18, DM22 or the findings of the Mid Devon Tourism Study.

Matt Brammer

Paragraphs 4.1 – 4.11 of the officer’s report made reference to the National Planning Policy Framework and Mid Devon planning policy with specific reference to Policy S1, the special character of Exmoor National Park, Mid Devon’s Landscape Character Assessment, the submitted LViA and Arboricultural Impact Assessment as a means to address the impact of this application on the landscape.

The impact of the proposal on biodiversity and geodiversity was more specifically addressed at paragraph 5.1 – 5.10 of the officer’s report with light pollution referenced more specifically at paragraphs 5.9 and paragraph 8.6.

Mark Stewart

The tents had fabric rooves and provided no solid attachments for gutters and down pipes. Surrounding the tents was permeable ground, with the Flood Risk assessment confirming an ‘infiltration’ form of water disposal linking into a system of swales and ditches. Paragraph 7.3 of the officer’s report provided more specific reference.

Sherrie Tuhy

The Transport Statement and Plan provided a detailed assessment of traffic generation and trip rates which were set out in paragraph 3.3 of the officer’s report. Professional consultants had been engaged to undertake the Transport Statement drawing on a range of data sources. It had been independently reviewed by Devon County Council Highway Authority who had not raised an objection to the application. An additional independent assessment for a development of this scale would be unusual.

Lars Hasselgren

Paragraphs 6.1 – 6.21 provided some detail on the design and layout of the proposed scheme with para 4.1 – 4.11 on their visual impact within the landscape. How they accorded with Policy forms part of your considerations within the planning balance.

S14 was specifically referenced at paragraph 1.6 of the officer’s report; concluding in-principle support on a policy basis at para 1.14. With regard to how this application would justify its countryside location on the basis of Policy DM22 - again this had been addressed above.

Julie Meeson

Whilst Condition 7 restricts amplified music, any other increase in noise associated with the scale of development and its impact, would form part of your considerations within the decision making.

It was not your officer's intention to approve the lighting strategy forming part of the application pack. Condition 8 required a strategy so that further assessment including with DCC Ecology could be undertaken to ensure the very best lighting solution was achieved in this rural location.

In planning terms, officers advised that this was a sui generis (unique) holiday accommodation use and not commercial development.

With regard to the inclusion of a condition to ban dogs on the site. This was not a planning issue and could not be added.

Victoria Killearn

Whilst the officer's report sets out at Paragraphs 6.1 – 6.21 detail on the design and layout, at paragraphs 4.1 – 4.11 the visual impact, it was again a consideration that forms part of your planning balance.

Consideration was given to:

- Cooking facilities – it was explained that cooking facilities were not available but that strong links were being established with local businesses for food provision.
- Air quality with the use of fire pits/wood burners – it was explained that this was not something the Council could condition as households were not controlled in that way. Public Health had raised no concerns.
- The use of the land and whether it would still be used for grazing – it was confirmed that the land would continue to be farmed and people would be given free space to roam across the estate.
- Whether any Tree Preservation Order's (TPOs) had been placed – it was explained that the Tree Officer had not attended or viewed the site but that a TPO could be issued at any point. There was also significant tree planting as part of the application.
- The Committee were concerned with regard to noise levels. It was **AGREED** that delegated authority be given to the Development Management Manager to amend the noise condition to include more robust wording.

It was therefore **RESOLVED** that the application be granted subject to conditions.

(Proposed by Cllr F J Colthorpe and seconded by Cllr G Cochran)

Reason for the decision - as set out in the report.

Notes:-

- i) Cllr L Cruwys, Cllr G Duchesne and Cllr M Jenkins voted against the application.
- ii) Cllr S Clist abstained from voting.
- iii) Kevin Bateman spoke as the objector.
- iv) Lestyn John, Bell Cornwall spoke on behalf of the applicant.
- v) Cllr C Adcock and Cllr R Gilmour spoke as Ward Members.

b) 23/00511/FULL - Erection of 5 affordable dwellings following demolition of existing garages with associated parking, landscaping and works at Land and Garages at NGR 313963 113447, Eastlands, Hemyock.

The Planning Officer advised the Committee of the following update:-

- Condition 4 - Prior to the construction of the residential development hereby approved, the proposed car parking spaces located adjacent to the development (9) and those spaces immediately to the east of the development (7) as shown on approved plan Z34-ZP-A1-XX-DR-A-010-S1-P05 – Proposed Site Plan shall be substantially completed and made ready for use. Such spaces shall be maintained for the lifetime of the development. The car parking spaces to the north shall be available for the residents of 'Eastlands' estate, with the car parking provided immediately to the east of the development made available at all times for the residents of the new residential units hereby approved.

Reason: To ensure that there were sufficient parking spaces available to the existing residents of Eastlands following the re-development of the formal parking area, as well as the new residents associated with the development hereby approved.

The Planning Officer outlined the application by way of a presentation and highlighted the following:-

- The site lay within the development boundary of Hemyock within the Blackdown Hills National Landscape.
- The site was split into 2 areas separated by the existing highway.
- The site to the north of the public highway was currently a grassed area with a low metal barrier around its boundary.
- There was an existing cycle path route from the south west of the site to the main road and in turn to the recreation ground.
- The main issues raised were the principle of development, design and amenity, impact on protected species and habitats/biodiversity, highways and parking, Blackdown Hills National Landscape, flood risk and drainage and climate change.
- The proposed application sought the provision of 9 car parking spaces on land to the north of the proposed dwellings. There would be an overall loss of up to 6 parking spaces.
- The County Highways Authority had no objections to the application.
- South West Water had no objections regarding sewerage or water.

- The proposed materials for the new dwellings would match those of the surrounding properties through the use of painted render on the elevations.
- There were solar panels proposed on each dwelling.
- Each dwelling would have a small garden to the rear and would form part of the Council's housing stock.

In response to the public questions the Planning Officer answered as follows:-

Parking and Highway Safety

There were 8 existing formalised parking spaces on site and 5 informal parking areas. There were 16 proposed spaces. 9 were required for the new dwellings, leaving 7 to replace the existing provision leading to a deficit of 1 space (or 6 including the informal parking areas), however, the proposed dwellings were sited in a sustainable location with access to public transport options and within walking distance of a range of facilities, amenities and services. The reduction of 1 parking space in this location was not considered to be reasonable ground for refusal. The Highways Authority had no objections to the proposed development. On that basis it was considered that the proposed development satisfactorily accords with policies DM3 and DM5 of the Local Plan.

The elderly or those with limited mobility would be able to use the replacement spaces in the same manner as they currently did.

School Capacity

Devon County Council had commented on the application in relation to education and have sought contributions in relation to secondary school education and school transport.

Drainage and Surface Water

South West Water (SWW) had requested further information in relation to surface water disposal and that it should be demonstrated that this would discharge as high up the run off destination hierarchy as possible.

A condition had been included requiring a final detailed design for surface water drainage to be approved prior to the first occupation of the dwellings.

The photographs provided showed a drain that lied outside of the red line boundary area. Additionally, it was the responsibility of the Highways Authority to clear the drains. The condition of the road lay outside the scope of material planning considerations.

Sewage, Water and Electric

SWW had commented on the application and did not raise any objection in relation to sewage or water.

Future Occupiers of the dwellings

A condition had been included requiring the dwellings to be used as affordable dwellings only and that prior to occupation a scheme for the provision of affordable housing was submitted to and approved in writing by the Local Planning Authority. These dwellings would be available to Council tenants district wide.

Consideration was given to:

- Whether the garages to be demolished contained asbestos. It was confirmed that they did and the Council would be required to pay for the removal of this.
- Car parking issues for elderly residents.

It was therefore **RESOLVED** that the application be granted subject to conditions.

(Proposed by Cllr F Letch and seconded by Cllr S Robinson)

Reason for the decision - as set out in the report.

Notes:-

i) Elizabeth Lawrence spoke as the applicant.

c) 23/00126/FULL - Erection of 8 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works at 2 - 8 Beech Road, Tiverton, Devon.

The Area Team Leader advised the Committee of the following update:-

- Condition: The development hereby approved shall not be occupied until the access and parking areas have been provided in accordance with the proposed site plan, drawing number Z28-ZP-A1-XX-DR-A-010-S01-PROPOSED SITE PLAN. Following their provision these facilities shall be maintained for the lifetime of the development.

Reason: In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.

The Area Team Leader outlined the application by way of a presentation and highlighted the following:-

- The application was for the erection of 8 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access.
- The facilities would be retained for the lifetime of the development.
- Moorhayes bungalows to the northwest of the site comprised of a row of terraced and semi-detached, single storey brick and tile roofed dwellings set back from the road with enclosed front gardens.
- The site lies within the settlement boundary for Tiverton.
- The main issues raised were principle of development/planning policy, highways and highway safety, design of development and impact on landscape, living conditions, green infrastructure and public open space, drainage and flood risk, climate change, ecology and biodiversity net gain.

In response to the public questions the Area Team Leader answered as follows:-

Paul Elstone

Question 1:

It had been commented that statements in the officer report were substantially incorrect whereby the modular building would be over 50% wider and that the modular home would extend forward by about 3 meters in respect of the existing building line. As could be seen in the comparison of the existing block plan and that of the proposed plan this would not be the case. The dimensions of the existing building to be removed had been measured as approx. 21m by 7.45m whereas the new building would be 28m by 10.85m. When taking the footprint of the existing outbuildings to either side of the main building which would also be removed, the length of building coverage was 27.4m which is comparable to that of the new building footprint, albeit the new building would be moved further away from the neighbouring property from a distance of 4.02m to 5.28m. With respect to being forward of a building line by 3m, the new building would be 1.08m further forward than the neighbouring property of 10 and 12 Beech Road whereas it would still be 0.54m behind the front facing walls of 14 and 16 Beech Road. Therefore still following the general pattern of development.

Question 2:

The second question related to National Floor Space Standards and that the questioner having examined the plans for the 2 bedroom 4 person properties had calculated that the internal floor space area of only 66.9 m² which was below the 70sqm required.

It appeared that this calculation by the questioner had been achieved by adding up the figures provided for each room. However, this was not how internal floor area was calculated as set out in the Technical housing standards – nationally described space standard. This outlined that The Gross Internal Area of a dwelling was defined as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling (The internal face of a perimeter wall was the finished surface of the wall. For terrace and semi-detached houses or apartments they were the external walls and party walls). This included partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. RICS Code of measuring practice also outlined that for calculating Gross Internal Area (GIA), this would include areas occupied by internal walls and partitions, columns, piers, chimney breasts etc. Taking an area measurement from the inside of the perimeter walls, I calculated that the floor area would be 70.05sqm.

The applicant was also questioned on the matter of floor area and they have confirmed that the units in question do adhere to the 70 sqm NDSS GIA as they contain a total of c.3sqm of internal partition.

Question 3:

The third question related to the design of the 1st floor one-bedroom properties where the bedroom windows have direct access from a communal landing. Therefore concern was raised that this resulted in both substantial privacy (visual and noise) and security issues for the residents so should be redesigned.

I would note that this arrangement was not dissimilar to the 8 dwellings at Shapland Place, Tiverton (21/01957/FULL) which Planning Committee approved in 2022. The design approach as set out in para.4.3 of the officer report is that 'Habitable room spaces have all been designed with primary windows and balconies facing towards the front of the property onto public road with amenity grassland and defensive planting acting as a buffer'. As can be seen from the first floor plan, 4 first floor properties would be accessed via the first floor landing whereby the staircase is located centrally so only the occupiers of one other property would pass by the bedroom window. The width of the landing is also not conducive for sitting out and as such congregating was unlikely to occur.

Question 4:

This matter was addressed in detail within Section 2 (Highways and highway safety) of the officer report where it was noted that 9 spaces would be provided which equated to 1 space per unit with 1 visitors space. It was noted that four of the units were 1 bed and the site was in a sustainable location within walking distance of a number of services/facilities and public transport. In addition, the proposals at Beech Road formed part of the Council's Housing Services wider regeneration of the local area and there was a scheme also under consideration located at Sycamore Road within 100m of the site which was to provide 13 Homes and 28 spaces which was an over provision of parking by 6 spaces. Therefore it was considered that a case could be made to the level of parking provided which would not set a precedent elsewhere and the Local Highway Authority raised no objection to the development.

Question 5:

On the matter of fire safety, in accordance with validation requirements, the Applicant had provided a Fire Strategy which is contained within the Design and Access Statement. The non-combustible materials specified as part of the fire strategy demonstrate part of how the proposal would comply with Part B2 and B3 of the building regulations.

Zedpods had also outlined the additional strategies that were deployed as standard by their construction system to comply with regulatory requirements whereby:

- All units were provided with both a primary means of escape via the front entrance door and stairway or secondary by the including of openable windows on the first floor ensuring a fire in any unit would not impede residents' ability to egress the unit safely as required by Part B1 -Means of Warning and Escape
- All units would be installed with an LD-2, Grade D1 detection and alert system using industry leading AICO components with remote monitoring and call outs in the case of an activation, as required by BS 5839 and Part B1 - Means of Warning and Escape
- Compartmentation to stop the surface spread of flame was achieved by use of both horizontal and vertical fire stopping between units. This prevented a cladding fire from spreading between units for an hour as required by Part B4: External Fire Spread.

In summary, fire safety measures were integrated into the construction build to ensure full compliance with fire regulations.

Consideration was given to:

- Car parking and public transport.
- The positioning of bird boxes.

It was therefore **RESOLVED** that the application be granted subject to conditions (Proposed by Cllr M Jenkins and seconded by Cllr G Duchesne).

Reason for the decision - as set out in the report.

Notes:-

i) Laura Eimermann spoke on behalf of the applicant.

d) 23/01351/MFUL - Construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements at Land at NGR 304444 114510, North of A361, Junction 27, Westleigh.

The Area Planning Officer outlined the application by way of a presentation and highlighted the following:-

- The land for this application was close to Junction 27 of the M5.
- The batteries were designed to import energy from the grid and release at periods of high demand.
- The main issues raised were construction traffic, landscape and visual impacts, loss of best and most versatile agricultural land, impact on Grand Western Canal, Impacts on neighbouring residents, fire safety, flood risk and drainage.
- Devon and Somerset Fire and Rescue Service had no objections subject to conditions.

In response to the public questions the Area Planning Officer answered as follows:-

Mr Peter Drew

The drawing illustrating the substation was indicative and not for approval. The actual details of the substation would be required to be submitted and approved to discharge condition 6 as recommended in the officer's report. The applicant had confirmed that the substation would be a maximum of 13 metres high. The applicant had also confirmed that the photomontages did show the substation but the substation was hidden behind existing trees in the views shown on the photomontages.

The officer's report referenced the appeal decision mentioned and stated that the impacts of the appeal development would have had a moderate to high impact. The Landscape and Visual Impact Assessment submitted to the appeal and supplied by Mr Drew assessed the impact on landscape character as moderate adverse, with no significant effects on visual amenity.

At the time of the appeal, Devon County Council's Landscape Officer stated that the visual effects had been underestimated in the Landscape and Visual Impact Assessment and disagreed with the findings. Devon County's report stated that whilst it was acknowledged that landscaping proposals would help to integrate the development into its setting and mitigate adverse visual impacts in some views in the medium to long term, it was considered that many adverse visual impacts could not be mitigated and residual adverse effects would be more sensitive than was concluded in the Landscape and Visual Impact Assessment.

During the appeal, the Inspector stated that the stockpiles of materials would be large and unsightly, with a maximum height of 5m. They would also be highly visible from the adjacent road and visible from the main transport routes into Devon. The appeal proposal would result in significant harm to the character and appearance of the surrounding area.

By way of verbal update, the Area Planning Officer stated that taking this into account, Members should note that the statement in the officer's report relating to the appeal development should be amended from it having a 'moderate to high' impact, to a 'moderate adverse' impact. This did not change the officer's conclusion in the report that the battery energy storage proposal, which could be largely screened, would have less of an impact on the character and appearance of the area.

With regard to how the site was identified, the applicant has secured a grid connection in this location and was not required to identify alternative locations.

Consideration was given to:

- Landscaping a 2.5 metre high bund and a new hedge bank along the northern boundary to reduce background noise and to help with screening.
- Visual impacts including from the Grand Western Canal.
- Flood risk as the land adjacent to Flood Zone 2 and 3 and how this would be addressed. It was explained that the Environment Agency and Lead Local Flood Authority had considered the proposal and surface water drainage arrangements to ensure its suitability and the battery packs would be placed on concrete plinths.
- Safety of the Battery Energy Storage Systems (BESS) and fire risk which had been considered by the Devon & Somerset Fire and Rescue Service and Public Health Officers.

It was therefore **RESOLVED** that the application be granted subject to conditions

(Proposed by Cllr F Letch and seconded by Cllr G Cochran)

Reason for the decision - as set out in the report.

Notes:-

- i) Rachel Ness, Clearstone Energy spoke on behalf of the Applicant.
- ii) Cllr S Taylor spoke on behalf of Sampford Peverell Parish Council.
- iii) Cllr G Westcott spoke as the Ward Member.
- iv) Cllr N Letch abstained from voting.

100 **MAJOR APPLICATIONS WITH NO DECISION (04:14:44)**

The Committee had before it, and **NOTED**, a list *of major applications with no decision.

The Committee agreed that the applications remained as per the report.

Note: *List previously circulated.

101 **APPEAL DECISIONS (04:15:01)**

The Committee had before it, and **NOTED**, a list of appeal decisions.

Note: *List previously circulated.

(The meeting ended at 6.30 pm)

CHAIRMAN

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MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 8 May 2024 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
S J Clist, F J Colthorpe, J M Downes,
G Duchesne, M Farrell, B Holdman,
M Jenkins, F W Letch, N Letch and D Wulff

Apologies

Councillor(s)

G Cochran and S Robinson

Also Present

Councillor(s)

C Adcock, G Czapiewski and S Keable

Also Present

Officer(s):

Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer), Richard Marsh (Director of Place & Economy), Angharad Williams (Development Management Manager), John Millar (Area Team Leader), Christie McCombe (Area Planning Officer), Helen Govier (Principal Planning Officer) and Angie Howell (Democratic Services Officer)

Councillors

Online

J Buczkowski and A Glover

Officers Online

102 APOLOGIES AND SUBSTITUTE MEMBERS (00:03:49)

Apologies were received from Cllr G Cochran with Cllr D Wulff substituting and Cllr S Robinson with Cllr J Downes substituting.

103 PUBLIC QUESTION TIME (00:04:10)

Duncan Manning - Application No. 23/00118/MFUL

Question 1

As Chairperson of the Bampton Allotment Association Ltd. My question is whether a better use for the area of land to the extreme west of the proposed development site would be for allotments rather than a small community wood? All allotments in the area are fully occupied and this development provides the opportunity to provide more.

Cllr Barry Warren, Chairman of Willand Parish Council Application No. 23/00118/MFUL

The officer report under Proposed Development states: "*This application is for the erection of 7 affordable dwellings on disused, Council-owned land off Somerlea, Willand*". This is not a true statement. There is considerable use of this land which has taken place over a number of years. We are advised that some of the garage users have recently been granted new leases by MDDC. There are photographs in the Design and Access Statements and in a recent drone shot provided to the case officer by the Parish Clerk which shows some 26 vehicles on the site.

Question 1

Will members of committee satisfy themselves as to the true position of the use of land before making a decision?

Many of the vehicles on the site will be displaced and have to park on adjoining roads which are already congested with parked vehicles. There is a suggestion that some of the householders who park on the land at the rear of their properties can park on the road at the front. That position is close to a busy road junction from Station Road to Somerville Road where there are bus stops either side of the road. See paragraph 5.4 on page 74.

Question 2

Is it sensible for Committee to approve the application for more housing whilst ignoring or dismissing the problems which will be caused to existing residents or infrastructure by potential parking problems caused by the displaced vehicles?

In paragraph 5.4 on page 74 of your papers are these words: "*In responding to these concerns, the applicant has also advised that as a result of the tenure type, it is anticipated that the occupiers would have lower car ownership rates, in which case it would be feasible to allocate one space per property and leave the remaining spaces unallocated (albeit this cannot be guaranteed).*"

These words are judgemental and discriminatory in respect of potential Council tenants. Working members of families in occupation may well need to bring home works vans to park as well as their own vehicles.

Question 3

Is it appropriate for an officer to include such comments in his report from an applicant on behalf of the council, particularly taking into account the comments at the end of the report which says: "*This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.*"?

Paul Elstone - Application No. 23/01381/FULL

Question 1

Very precisely why have Mid Devon District Council decided not to use their declared Partner i.e. ZED PODS to build these 6 affordable/social properties?

Application No. 24/00039/FULL

Question 2

Why is it not being brought to the attention of this Committee that there are two bedroom windows in a property that immediately faces bedroom windows of the new proposed modules? That there is only around a 10-meter separation between these windows. That privacy will be significantly impacted?

Question 3

Why is the applicant being allowed to locate the refuse storage and collection area and for all 7 properties immediately on the boundary fence line of an adjacent bungalow and around 5 meters from the bungalow's front door?

Question 4

In the Zed Pod Design and Access Statement Section 6.2 Reference is made to Factory Built Quality Control. Specifically, in-house manufacturing quality control. Can it be fully confirmed that Zed Pods firstly own, then manage and that they have full operational control of their own factory?

Question 5

If not, who does own, manage and operate the factory?

Denise McGowan - Application No. 23/00118/MFUL

Question 1

Please consider the previous emails and correspondence already sent to you in recent weeks regarding how this proposal is going to affect the residents already living in the areas of Market Close and West Street, Bampton. It will affect lighting, privacy and security. There will be an increase in traffic and the play area will cause problems with litter and noise.

Kim Aitkin - Application No. 23/00118/MFUL

Question 1

I don't understand why the current houses are being knocked down. The play area proposed will have an impact on the residents living in the area.

104 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:18:33)

Members were reminded of the need to declare any interests where appropriate.

- Cllr F J Colthorpe referred to Plan List 3 Application No. 23/00118/MFUL and declared a Protocol of Good Practice as her husband used to work with Duncan Manning (who had asked a question during 'public question time') a long time ago and she also had dealings with him when she was County Councillor for Tiverton West.
- Cllr S Clist referred to Plan List 1 Application No. 23/00510/FULL, Plan List 2 Application No. 24/00039/FULL, Plan List 3 Application 23/00118/MFUL and Plan List 4 Application No. 23/01381/FULL and declared that he had an Other Registerable Interest.

105 MINUTES OF THE PREVIOUS MEETING (00:19:22)

The minutes of the previous meeting held on 10th April 2024 were agreed as a true record and duly signed by the Chairman.

106 CHAIRMAN'S ANNOUNCEMENTS (00:19:42)

The Chairman reminded Members of the Committee of the Informal Planning Committee scheduled to take place on the 29th May 2024.

107 WITHDRAWALS FROM THE AGENDA (00:20:15)

There were no withdrawals from the Plans List.

108 THE PLANS LIST (00:20:22)

The Committee considered the applications in the *Plans List.

Note: *List previously circulated.

- a) 23/00129/MFUL – Erection of 13 affordable dwellings following demolition of 4 existing dwellings and garage blocks with associated parking, landscaping and works at Dwelling Block 2 - 8 Holly Road and Garage Blocks Sycamore Road, Tiverton.

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The site currently comprised of 4 existing dwellings and a number of dilapidated garage blocks which would be removed and replaced with 13 affordable dwellings, which would form part of the Council's affordable housing stock.
- The site location was on the corner of Holly Road and Sycamore Road.
- The main issues raised were principle of development, design and impact on surroundings, residential amenity, highways and parking, flood risk and drainage, impact on protected species and habitats/biodiversity and climate change.
- The properties comprised of 3 terraced houses with 2 bedrooms and a larger block of 10 properties with 1 bedroom.
- All units built would comply with the National Space Standards.
- 28 parking spaces would be provided and the site also included secure bike storage.
- The scheme also provided for the storage of waste and recycling through the provision of external storage space with the provision of a communal bin area for the other properties that would not have storage provided.
- The front elevation would be cream rendered half way with metal standing seam external cladding at the first floor and to the roof.
- Solar Photovoltaics (PV) panels would be installed on the roof slopes of the building.
- There was a mix of private gardens and communal landscaped areas.

- Due to the time that the application was submitted there were no requirements for Biodiversity Net Gain (BNG) however it would provide a BNG of 13.57% in habitat units and 916.15% in hedgerow units.

Discussion took place regarding:-

- Whether the units were on a level access as the properties were being built on a slope.
It was **AGREED** that delegated authority be given to the Development Management Manager to check the plans in more detail regarding the design of the properties.
- The communal gardens and who would manage and maintain them going forward for the lifetime of the development and the amendment of a condition regarding this.
It was **AGREED** that condition 8 would be amended regarding the communal gardens and who would be responsible for the maintenance of them.
- Recycling and bin storage and the inclusion of a condition regarding this.
It was **AGREED** that additional conditions would be included regarding recycling/bin storage to ensure provisions were in place prior to occupation.

It was therefore **RESOLVED** that planning permission be granted subject to conditions and delegated authority be given to the Development Management Manager to check the plans in more detail regarding the decision of the properties and to amend condition 8 to reflect the management and maintenance of the communal gardens and to draft additional conditions regarding the recycling/bin storage to ensure provisions were in place prior to occupation.

(Proposed by Cllr B Holdman and seconded by Cllr G Duchesne).

Reason for the Decision – as set out in the report.

Notes:-

- (i) Laura Eimermann spoke on behalf of the Applicant.
 - (ii) Cllr M Farrell and Cllr G Czapiewski spoke as Ward Members.
- b) 24/00039/FULL - Erection of 7 affordable dwellings with car parking, landscaping and other minor works following demolition of existing garages at Land at NGR 303611 111116, Somerlea, Willand.

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The application was for the erection of 7 affordable dwellings on disused Council-owned land off Somerlea, Willand, which would form part of the Council's affordable housing stock.
- A total of 12 car parking spaces would be provided.
- The main issues raised were principle of development, design and impact on surroundings, residential amenity, highways and parking, flood risk and drainage, impact on protected species and habitats/biodiversity and climate change.
- All units would be built to comply with the National Space Standards.

- The properties would comprise of a rendered finish with a metal standing seam roof.
- Solar PV panels would be installed on the roof slopes of the building.
- The storage of waste and recycling would be provided through the provision of a secured communal refuse storage area.
- Due to the time that the application was submitted there were no requirements for Biodiversity Net Gain (BNG) however it would provide a BNG of 20.63% in habitat units.
- The Highways Authority had no concerns with regard to the single access track to the site.

In response to the public questions the Area Team Leader answered as follows:-

Barry Warren

Questions 1 and 2

It had been confirmed that the site was originally a Garage Ground Rent site, however most of the garages had now been removed. There were 5 of the original garages that remained tenanted. Those tenants would be served notice once planning permission was obtained. Otherwise there was no legal right to park, despite the use by some local residents.

While some local residents would no longer be able to park on the site, which they had no right to do, several of the vehicles were owned by a local business that had been using the site to park vehicles and carry out business activities, much of which would not be able to take place on the public highway.

As indicated in the report, and as raised in the following question, it was indicated that there was a likelihood that residents may have a lower vehicle ownership rate, which could allow the allocation of one space per property, with other spaces being unallocated.

Question 3

No. This statement was based on fact. While it was not suggested that all tenants would not have more than one vehicle, figures released by the Office of National Statistics did clearly show that occupiers of Council social rented properties did generally have lower vehicle ownership levels than other tenure types.

Paul Elstone

Question 2

This related to a property directly opposite one of the units, which did not have any windows on its gable end. There were two roof lights, however these were set higher than the windows of the proposed unit, and at an angle, at which it was considered that there would be reduced levels of overlooking, which would not be unacceptable to the occupiers of that property, and future residents. This property also had its main window on the north facing elevation, with roof lights to both roof slopes for additional light.

Question 3

The location of the waste storage area was considered to be acceptable. I did run this past the Environmental Health Officer before they left and they did not raise any concerns. It was suggested that provision of signage for users could assist with management of the bin store area. It was suggested by Mr Elstone that the bin storage area could become smelly and attract flies and wasps, as bins were only collected every three weeks. Despite this, food waste should not be placed in bins, with separate food waste collection made on a weekly basis.

Questions 4 and 5

Not relevant to planning, unable to answer.

Discussion took place regarding:-

- The communal gardens and who would manage and maintain them going forward for the lifetime of the development and the amendment of a condition regarding this.
It was **AGREED** that condition 7 would be amended regarding the communal gardens and who would be responsible for the maintenance of them.
- Recycling and bin storage and the inclusion of a condition regarding this.
It was **AGREED** that additional conditions would be included regarding recycling/bin storage to ensure provisions were in place prior to occupation.
- Whether the tenants would be eligible for “Right to Buy”? It was confirmed that this would be the case.

It was therefore **RESOLVED** that planning permission be granted subject to conditions including the prior completion of a S106. Delegated authority be given to the Development Management Manager to amend condition 7 to reflect the management and maintenance of the communal gardens and to draft additional conditions regarding recycling/bin storage to ensure provisions were in place prior to occupation.

(Proposed by Cllr F J Colthorpe and seconded by Cllr M Jenkins).

Reason for the Decision – as set out in the report.

Notes:-

- (i) Elizabeth Lawrence spoke on behalf of the Applicant.
- (ii) Debbie Bird, Parish Clerk for Willand spoke on behalf of the Parish Council.
- (iii) Cllr A Glover spoke as the Ward Member.

- c) 23/00118/MFUL - Erection of 18 affordable dwellings following demolition of 10 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works at School Close, Bampton, Tiverton.

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The application was for the erection of 18 affordable dwellings following the demolition of 10 existing properties which would form part of the Council's affordable housing stock.
- The main issues raised were principle of development, design and impact on surroundings, impact on heritage assets, residential amenity, highways and parking, flood risk and drainage, impact on protected species and habitats/biodiversity and climate change.
- The properties would comprise of a mixture of 1, 2, 3 and 4 bedroomed homes.
- The properties would comprise of a rendered finish with a metal standing seam roof.
- Solar PV panels would be installed on the roof slopes of the building.
- Plans were amended to ensure all rooms met and complied with the National Space Standards.
- Due to the time that the application was submitted there were no requirements for Biodiversity Net Gain (BNG) however the landscaping provided a BNG of 20.85% in habitat units and 295.11% in hedgerow units.

In response to the public questions the Area Team Leader answered as follows:-

Duncan Manning

Question 1

This matter had been discussed, with the approved plans amended to include indicative locations for raised beds. It was not considered appropriate to condition these, as the provision of allotment space/raised beds was not necessary in order to make the development acceptable. As such, a condition to that effect would not meet the 'tests for conditions'. It was noted that the Council as landowner had indicated a willingness to discuss the matter of providing raised beds, outside of the planning process.

Denise McGowan

Question 1

The points raised are all answered in the officer report, however to clarify, no play area is proposed. The space referred to was an open communal landscaped area. The triangular area of land referenced also has no intended use other than forming part of the landscaped area providing biodiversity net gains.

Mr Atkins

Question 1

Unable to comment on the need for the type of accommodation being lost, however the development would provide for a much needed affordable (socially rented) accommodation, with the terrace replacing the existing bungalows providing two 2 bed homes, and six 1 bed homes. Again confirmation was provided that no play area was proposed.

Discussion took place regarding:-

- Whether the properties were currently vacant – it was confirmed that the properties would be vacant by June 2024.
- The communal gardens and who would manage and maintain them going forward for the lifetime of the development and the amendment of a condition regarding this.
It was **AGREED** that condition 8 would be amended regarding the communal gardens and who would be responsible for the maintenance of them.
- Recycling and bin storage and the inclusion of a condition regarding this.
It was **AGREED** that additional conditions would be included regarding recycling/bin storage to ensure provisions were in place prior to occupation.

It was therefore **RESOLVED** that planning permission be granted subject to conditions and delegated authority be given to the Development Management Manager to amend condition 8 to reflect the management and maintenance of the communal gardens and to draft additional conditions regarding recycling/bin storage to ensure provisions were in place prior to occupation.

(Proposed by Cllr J Downes and seconded by Cllr B Holdman).

Reason for the Decision – as set out in the report.

Notes:-

- (i) Elizabeth Lawrence spoke on behalf of the Applicant.
 - (ii) Cllr C Adcock spoke as the Ward Member.
- d) 23/01381/FULL - Erection of 6 dwellings following demolition of 4 existing dwellings at 7-10 Wordland Cross, Cheriton Fitzpaine, Crediton

The Principal Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The application was for the erection of 6 dwellings following demolition of 4 existing dwellings.
- The main issues raised were policy and principle of development, highways impacts and parking, design and amenity issues, impact on the character and appearance of the rural area, ecology and biodiversity, flood risk and drainage.
- The application included small gardens and a layby parking area for 12 parking spaces.
- The dwellings included solar panels to the North East and South West elevations.
- The properties would comprise of a brick plinth, painted render walling, cladding, slate tile roofs and uPVC windows and doors.
- Each property would have individual bin/recycling storage.

In response to the public questions the Principal Planning Officer answered as follows:-

Paul Elstone

Question 1

We are required to determine the application before us on its merits and, as set out in the officer report, the design of the scheme was considered to be acceptable in this context therefore any possible alternative approaches to construction on the site were not considered to be relevant at this stage.

Discussion took place regarding:-

- Why the properties were set further back than the current properties. It was explained this was to accommodate parking and recycling storage.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr F Letch and seconded by Cllr J Downes).

Reason for the Decision – as set out in the report.

Notes:-

- (i) Cllr F J Colthorpe spoke as the Ward Member.
- e) 24/00250/MFUL - Variation of Condition 2 and Removal of Conditions 24 and 25 of planning permission 21/00128/MFUL - Erection of 86 dwellings to include public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure - to allow self build units (plots 195-199) to be open market units at Land at NGR 298634 113714 (Braid Park), Uplowman Road, Tiverton.

The Area Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The application sought to vary Condition 2 of the Application and remove Conditions 24 and 25.
- 5 of the plots were identified as custom and self-build units through a S106 agreement.
- After a 22 month marketing period the plots were not sold.
- The application was to now regularise the planning conditions to remove the reference to self-build and to allow construction of 5 units and 5 single garages on the site in keeping with the existing dwellings.
- Main issues raised were loss of custom and self-build plots, affordable housing provision and surface water discharge.
- The application for 5 open market units did not reach the threshold to make contributions in the form of affordable housing as the original 2013 application had previously secured the affordable housing provision and had been provided.

Discussion took place regarding:-

- Whether there was sufficient drainage. It was confirmed that further drainage works had been carried out which the Flood Authority had overseen.

It was therefore **RESOLVED** that planning permission be granted subject to conditions and a Deed of Variation to the S106 Agreement.

(Proposed by Cllr S Clist and seconded by Cllr F J Colthorpe)

Reason for the Decision – as set out in the report.

109 **MAJOR APPLICATIONS WITH NO DECISION (02:34:28)**

The Committee had before it, and **NOTED**, a list *of major applications with no decision.

The Committee agreed that the application remained as per the report.

Note: *List previously circulated.

110 **APPEAL DECISIONS (02:34:45)**

The Committee had before it, and **NOTED**, a list of appeal decisions.

Note: *List previously circulated.

(The meeting ended at 4.50 pm)

CHAIRMAN

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MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 12 June 2024 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
S J Clist, G Cochran (Vice Chairman),
F J Colthorpe, G Czapiewski, G Duchesne,
B Holdman, M Jenkins, N Letch and
S Robinson

Apologies

Councillor(s)

F W Letch

Also Present

Councillor(s)

D Broom, S Keable, G Westcott

Also Present

Officer(s):

Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer), Richard Marsh (Director of Place & Economy), Angharad Williams (Development Management Manager), John Millar (Area Team Leader), Adrian Devereaux (Area Team Leader), Magdalena Halls (Planning Officer) and Angie Howell (Democratic Services Officer)

**Councillors
Online**

E Buczkowski and J Buczkowski, A Glover, C Harrower
and D Wulff

Officers Online

Stephen Carr (Corporate Performance and Improvement
Manager)

1 ELECTION OF CHAIRMAN

The Vice-Chairman of the Council invited nominations for the election of a Chairman for the municipal year 2024/2025.

RESOLVED that Cllr L Cruwys be elected Chairman of the Planning Committee for the municipal year 2024/2025.

(Proposed by Cllr B Holdman and seconded by Cllr N Letch).

2 ELECTION OF VICE CHAIRMAN

The Chairman of the Committee invited nominations for the election of a Vice-Chairman for the municipal year 2024/2025.

RESOLVED that Cllr G Cochran be elected Vice Chairman of the Planning Committee for the municipal year 2024/2025.

(Proposed by Cllr L Cruwys from the Chair)

3 START TIME OF MEETINGS

Cllr S Clist proposed and seconded by Cllr G Duchesne that the Committee remain at 2.15pm for the remainder of the 2024/2025 municipal year.

The Committee **AGREED** to meet at 2.15pm for the remainder of the 2024/2025 municipal year.

4 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr F Letch with Cllr G Czapiewski substituting.

5 PUBLIC QUESTION TIME

There were no public questions.

6 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

Members were reminded of the need to declare any interests where appropriate.

- Cllr S Clist referred to Plan List 2 Application No. 24/00507/FULL and declared that he had an Other Registerable Interest as the Cabinet Member for Housing, Assets and Property but he had not been involved with this application.

7 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting held on 8th May 2024 were agreed as a true record and duly signed by the Chairman.

8 CHAIRMAN'S ANNOUNCEMENTS

The Chairman made the following announcements:-

- He welcomed Milad Ghaderi the new Planning Officer to the team.
- He also welcomed Stella Radley who would be joining the Planning Team as a Planning Enforcement Assistant on 24th June
- He explained that despite one round of interviews regarding the Senior Enforcement Role that the Planning Team were not able to appoint on this occasion. However the post had been advertised again.

- The Planning Team had been shortlisted by the Royal Town Planning Institute for Local Planning Authority of the Year. The team would go to an awards ceremony on 25th June - the Chairman wished them all the best in coming home with the trophy.

9 WITHDRAWALS FROM THE AGENDA

Plans List 1 – Application No. 24/00285/FULL

Erection of 7 workshops (Use Class B2) and cafe to serve development (Use Class E) following demolition of general industrial buildings at Stag and Squire, Shadow Pond, Stoodleigh.

The Chairman explained that the application had been withdrawn from the Planning Committee at the request of the applicant as they preferred to submit revised plans to overcome a concern on ecology rather than have a pre-commencement condition imposed on any decision to approve the application

Cllr S Robinson requested a site visit prior to the application coming before the Planning Committee in July.

It was explained that the Constitution states that site visits should normally only be taken where the impact of the proposed development was difficult to assess from the plans and any other supporting information. They could also cause delay and additional costs.

It was **AGREED** that as plans were to be resubmitted by the applicant that a decision for a site visit would only be made upon receipt of those amended plans.

10 THE PLANS LIST

The Committee considered the applications in the *Plans List.

Note: *List previously circulated and attached to the minutes.

- a) 24/00695/TPO - Application to monolith 1 Beech tree by 4-6m in height from ground level protected by Tree Preservation Order 80/00003/TPO at Land at NGR 294630 113109, Longdrag Hill, Tiverton.

It was noted by the Officer in her update to Members that the description should read “to 4-6m” rather than “by 4-6m”.

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The Application was to monolith 1 Beech tree to 4-6 metres in height from ground level which was protected by a Tree Preservation Order (TPO).
- The tree was sited close to adjoining residential properties and had been identified as having a large area of decay on the northern aspect and multiple weak primary limb attachments.

- The structural condition was classified as poor which posed a risk to neighbouring residents and properties.
- The main issues raised were loss of a tree subject to a TPO; visual amenity impact; environmental impacts; and Tiverton Town Council considered the proposed works to the protected tree to be too excessive.
- Justification for the works included the extent of the decay and the poor structural condition; public safety concerns; monolithing process was the best industry practice; and it retained a valuable habitat resource.

Discussion took place regarding:-

- Whether when a mature tree was removed if a mature tree could be planted in its place. It was explained that a replacement tree would have to be planted within 10 metres of the original tree and this may cause problems for residents. The replacement tree would be a copper beech tree.
- The value of keeping the monolith due to the conservational value and supported a wide range of species.
- Would the monolith be monitored to check the condition and safety? It was explained that inspections would take place.

It was therefore **AGREED** to grant consent.

(Proposed by Cllr S Clist and seconded by G Duchesne)

Reason for the Decision – as set out in the report.

- b) 24/00507/FULL - Demolition of existing garages and erection of 3 affordable dwellings and associated parking, landscaping and other minor associated works at Garages and Forecourt, Churchill Drive, Crediton.

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The Application was for the demolition of existing garages and the erection of 3 affordable dwellings and associated car parking and landscaping.
- The site was located inside the settlement limits of Crediton and approximately 200m away from the town centre boundary to the south east.
- The site currently comprised of 13 garages with the ground levels falling from north to south.
- There was a prominent tree to the north of the site within close proximity to the garage block.
- The application was within a flood zone 1 which was the lowest level of flooding outside of a landscape designation and South West Water had raised no objections.
- The main issues raised were the principle of development/planning policy; highways and highway safety; design of development and impact on the landscape; living conditions of the nearby residential properties; green infrastructure and public open space; drainage and flood risk; climate change; and ecology and biodiversity net gain.

- The proposal was for 3 social affordable units made up of 3 one bed units and all units would be built in compliance with the national space standards.
- The 2 existing green spaces and all existing trees would be retained.
- The general character would be single storey dwellings, primarily brick walls and rendered.
- The units would be triple glazed with solar panels on the roof slope of the building.
- Pedestrians would have level pedestrian access from the road to the units.
- There would be a proposed Biodiversity Net Gain of 25.96%.

Discussion took place regarding:-

- The size of the back gardens. It was explained that the garden sizes were considered to be acceptable in these circumstances being only one bed units.
- Whether there would be sufficient parking. The Area Team Leader explained that there would be adequate parking and Highways had raised no objections.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr B Holdman and seconded by Cllr S Robinson)

Reason for the Decision – as set out in the report.

Notes:-

- (i) Elizabeth Lawrence spoke on behalf of the Applicant.
 - (ii) Cllr F Letch spoke as the Ward Member
- c) 23/01838/MFUL - Installation of ground mounted solar PV panels to generate up to 5MW, comprising photovoltaic panels and associated infrastructure and works (Site Area 6.30ha) at Land at NGR 300681 107829 (East of Wells Park), Cullompton, Devon.

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The Application was for the installation of ground mounted solar PV panels to generate 5MW, comprising photovoltaic panels and associated infrastructure and works.
- The site comprised of 6.3ha of agricultural land on the north side of Little Toms and was situated to the north west of the Cullompton northern extension.
- The main issues raised included the principle of development; visual impacts, including heritage impact; loss of agricultural land; access and highway safety; flood risk and drainage; residential amenity; ecology and biodiversity net gain; environmental impact assessment.
- The site of the solar farm was within existing fields, hedges and tree boundaries with one large tree to the north to be avoided.

- There was existing vehicular access to the site which would be retained and widened by 6.9m by removing hedgerows.
- All other trees and hedges would remain.
- There would be a Biodiversity Net Gain of 88.82% in habitat and 14.77% in hedgerow units.

Discussion took place regarding:-

- Traffic road safety and the accumulative traffic movement.
- Whether the widened entrance, once constructed would have fencing or a hedgebank reinstated. This would be looked into.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr G Duchesne and seconded by Cllr S Robinson)

Reason for the Decision – as set out in the report.

Notes:-

- (iii) Charlotte Peacock spoke on behalf of the Applicant.

11 MAJOR APPLICATIONS WITH NO DECISION

The Committee had before it, and **NOTED**, a list *of major applications with no decision.

The Committee agreed that the applications remained as per the report.

Note: *List previously circulated.

12 APPEAL DECISIONS

The Committee had before it, and **NOTED**, a list of appeal decisions.

Note: *List previously circulated.

13 HABITAT BANK AT PUDDINGTON MOOR, PUDDINGTON

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- This was a proposal to create a Biodiversity Net Gain (BNG) Habitat Bank of 10.29ha on the northern edge of Puddington.
- The site was a single arable field that had been subject to intensive arable management.
- It was located outside of any landscape designation and within flood zone 1.

Discussion took place regarding:-

- How the Council would be able to ensure the habitat bank had a duration of 30 years. It was explained that the site would be assessed and maintained as set out within the associated S106. This required the owner of the site to submit a Monitoring and Management Plan as set out within the S106, to which the Local Planning Authority would then be responsible for ensuring the land concerned was managed and maintained in accordance with the plan. Such monitoring would go on at various stages as set out for a period of 30 years as required by Government.
- Whether the land was arable. It was explained that the Ecologist at Devon County Council had raised no concerns.

It was therefore **RESOLVED** to approve the signing of the S106 agreement to secure a Biodiversity Net Gain Habitat Bank of 10.2ha.

(Proposed by Cllr B Holdman and seconded by Cllr S Robinson)

Reason for the Decision – as set out in the report.

14 **HABITAT BANK AT HIGHER AYSHFORD FARM, WESTLEIGH, TIVERTON**

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- This was a proposal to create a Biodiversity Net Gain (BNG) Habitat Bank of 59.85ha at Higher Ayshford Farm located approximately 7.5km to Tiverton.
- To the south were a number of listed buildings.
- The site was made up of a total of 16 arable fields which included hedgerows, woodland and riparian habitats including ditches and ponds.
- Following receipt of an updated Habitat Management and Monitoring Plan there would be an overall increase of 405.57% habitat biodiversity units, which equated to a Biodiversity Net Gain of 282.84%.

It was therefore **RESOLVED** to approve the signing of the S106 agreement to secure a Biodiversity Net Gain Habitat Bank of 59.85ha.

(Proposed by Cllr F J Colthorpe and seconded by Cllr B Holdman).

Reason for the Decision – as set out in the report.

15 **PERFORMANCE DASHBOARD QUARTER 4**

The Committee were presented with the Performance Dashboard for quarter 4 showing performance against target in 2023-24 by the Corporate Performance and Improvement Manager.

Discussion took place regarding:-

- Whether planning enforcement indicators could have a rag rating.

- Why there was a £0 target set for appeals. It was explained that in the budget there was nothing in place to cover the cost of appeals and that was why it was set at £0. Planning Officers and accountants met regularly to discuss any potential cost pressures relating to appeals.

Note: * Performance Dashboard previously circulated.

(The meeting ended at 4.49 pm)

CHAIRMAN

MINUTES of a **MEETING** of the **LICENSING COMMITTEE** held on 28 June 2024 at 10.30 am

**Present
Councillors**

D Broom, J Buczkowski, J Cairney,
S Chenore, A Cuddy, F J Colthorpe,
L J Cruwys, J M Downes, A Glover,
M Jenkins, L G J Kennedy and F W Letch

**Apologies
Councillor**

S Keable

**Also Present
Officer(s):**

Deborah Sharpley (Operations Manager Legal Services and Monitoring), Harriet Said (Team Leader (Commercial), Public Health), Thomas Keating (Specialist Lead (Licensing) Officer) and Angie Howell (Democratic Services Officer)

Officer Online Laura Woon (Democratic Services Manager)

1 ELECTION OF CHAIR (00:03:01)

The Chair of the Council invited nominations for the election of a Chair for the municipal year 2024/2025.

RESOLVED that Cllr J Cairney be elected as Chair of the Licencing Committee for the municipal year 2024/2025.

(Proposed by Cllr F J Colthorpe and seconded by Cllr A Cuddy)

2 ELECTION OF VICE-CHAIR (00:06:03)

The Chair of the Licensing and Regulatory Committee invited nominations for the election of a Vice-Chair for the municipal year 2024/2025

RESOLVED that Cllr A Cuddy be elected as Vice Chair of the Licencing Committee for the municipal year 2024/2025.

(Proposed by Cllr L Cruwys and seconded by Cllr F Letch)

3 START TIME OF MEETINGS (00:07:40)

It was **AGREED** that the start time of meetings for the remainder of the municipal year continued to be at 10.30am.

4 APOLOGIES AND SUBSTITUTE MEMBERS (00:08:31)

Apologies were received from Cllr S Keable with Cllr A Glover substituting.

5 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (09:00)

There were no declarations of interest received.

6 PUBLIC QUESTION TIME (00:09:18)

There were no members of the public present and no questions were asked.

7 MINUTES OF THE LAST MEETING (00:09:29)

The minutes of the 2nd December 2023 **APPROVED** and signed by the Chairman.

8 LICENSING ACT POLICY REVIEW (00:10:12)

The Committee had before it a report * from the Team Leader, Commercial, Public Health of the Licensing Act Policy Review.

The Specialist Lead (Licensing) presented the report and the following was highlighted:-

- The main amendments to the Policy were:-
 - (i) The removal of Appendix C (Pool of Conditions) and Appendix D (Code of Good Practice for Licensed Premises) to create standalone documents that could be updated independently to the Statement of Policy. The documents would be made available on Mid Devon District Council's (MDDC) website.
 - (ii) Non-licensable entertainment and how issues arising could be addressed. Since the introduction of the Act there had been significant change in the licensing of entertainment. It was now possible for more forms of entertainment to take place without the need for a licence as a way to encouraging live music to continue. Therefore additional safeguarding was in place for residents.
 - (iii) Additional information on large scale public events and the Safety Advisory Group (SAG) – a multi-agency group including the Fire Service, Ambulance Service, Highways and the Police to give free advice to organisers on how they could run their events safely. This section encouraged event organisers to engage in this process at an early stage to ensure adequate time for any required Licensing process.
 - (iv) The prevention of crime and disorder and guidance notes on drink spiking prevention, underage drinking and anti-social behaviour.

- (v) Minor amendments to the Hearing Procedure which would also include Licensing Officers being enabled to ask questions from any party to seek clarification.

Discussion took place regarding:-

- Whether the information from SAG is advisory or enforceable and whether it was stopping events from happening? It was explained that the Panel was advisory and could not stop events from happening but that the Panel may highlight risks and offer alternative ways forward to ensure the safety of members of the public. The Terms of Reference for SAG had recently been updated and would be published on MDDC's website. The detailed minutes of the meetings captured actions so that they could always be referred to.

The Committee **AGREED** to consult on the proposed revised policy.

The Committee **RESOLVED** that the updated Licensing Policy be approved.

(Proposed by Cllr J Cairney, Chair)

Note: * Report previously circulated.

9 LICENSING UPDATE REPORT (00:23:28)

The Committee had before it a report * from the Team Leader, Commercial, Public Health of the Licensing Act Policy Review.

The following was highlighted:

- The update report provided a brief summary of activity of the Licensing Team over the second half of the financial year 2023/2024.
- The total of 448 Temporary Event Notices (TEN) were received during 2023/2024. A 19% increase on 2022/2023.
- There were a number of recommendations for the Committee to consider.
- The Licensing Bulletin was circulated quarterly to Members of the Licensing and Regulatory Committee which was prepared by Legal Service. Licensing Officers and Legal Services proposed to offer a quarterly Teams meeting to support the Committee in terms of provision of information on legislative changes and case law. This would also give Members the opportunity to ask questions that may arise regarding the implications of the changes to service delivery.
- The second recommendations related to the review of the Gambling Act Statement of Principles. As a Local Authority the Council had a statutory requirement to publish a Gambling Act 2005 Statement of Principles every 3 years. A revised Statement would need to be published 4 weeks prior to the implementation date of 31st January 2025.
- There was a requirement for a consultation process to be carried out following a review of the Policy. The proposal was to make minor changes to the Statement with a short consultation lasting 6 weeks during the summer of 2024.

The revised Statement and consultation responses would then be brought to the Licensing Committee with a recommendation to present to Full Council to approve the Statement prior to 19th December 2024. This would then be ready to publish 4 weeks prior to the implementation on 31st January 2025.

- There were also a number of other changes on Pavement Licensing being made permanent by the Levelling Act. A separate report would be presented to Full Council.

Discussion took place regarding:-

- The Pavement Licence and the placing of objects/furniture to ensure there was enough room for people to pass especially visually impaired people. It was explained that responsibility for any objects other than furniture sat with Highways. Anything associated with the consumption of food and drink outside sat with the Local Authority. As part of the application process the Licensing Team would ensure adequate space was made available.
- Whether Pavement Licences were currently available? It was clarified that temporary pavement licensing regime had now been made permanent. Licence holders of an active licence issued under the previous regime would be able to renew under the new regime. New licences could be valid for up to 2 years.
- Whether businesses in town were aware of the requirements? It was explained that businesses always needed to apply for a Pavement Licence and in the past that would have been applied for through Devon County Council. If they wished to continue to have street furniture for the consumption of food and drink on the highway then they would need to apply via MDDC. An educational approach would be applied.

The Committee **AGREED** to meet quarterly for a Teams briefing to support the established quarterly Licensing Bulletin.

The Committee **AGREED** to approve a minor review of the Gambling Act 2005 Statement of Principles and subsequent 6 week consultation during August and September 2024 as outlined in section 4.6 of this report.

(Proposed by Cllr J Cairney, Chair)

Note: * Report previously circulated.

(The meeting ended at 11.15 am)

CHAIRMAN

MINUTES of a **MEETING** of the **REGULATORY COMMITTEE** held on 28 June 2024 at 11.30 am

**Present
Councillors**

D Broom, J Buczkowski, J Cairney,
S Chenore, A Cuddy, F J Colthorpe,
L J Cruwys, J M Downes, A Glover,
M Jenkins, L G J Kennedy and F W Letch

**Apology
Councillor**

S Keable

**Also Present
Officer(s):**

Deborah Sharpley (Operations Manager Legal Services and Monitoring), Harriet Said (Team Leader (Commercial), Public Health), Thomas Keating (Specialist Lead (Licensing) Officer) and Angie Howell (Democratic Services Officer)

Officer Online Laura Woon

1 ELECTION OF CHAIR (00:03:23)

The Chair of the Council invited nominations for the election of a Chair for the municipal year 2024/2025.

RESOLVED that Cllr J Cairney be elected as Chair of the Regulatory Committee for the municipal year 2024/2025.

(Proposed by Cllr F J Colthorpe and seconded by Cllr A Cuddy)

2 ELECTION OF VICE-CHAIR (00:04:50)

The Chair of the Licensing and Regulatory Committee invited nominations for the election of a Vice-Chair for the municipal year 2024/2025

RESOLVED that Cllr A Cuddy be elected as Vice Chair of the Licencing Committee for the municipal year 2024/2025.

(Proposed by Cllr L Cruwys and seconded by Cllr F Letch)

3 **START TIME OF MEETINGS (00:06:09)**

Discussion took place regarding:-

- Whether the Regulatory Committee could commence upon the rising of the Licensing Committee. It was explained that a time must be given on the agenda to show the start time of the meeting.
- Whether the Licensing and Regulatory Committee Meetings could be combined to just one Committee rather than two separate Committees.

It was **AGREED** that Officers would investigate whether Licensing and Regulatory Committees could be combined and report back to the next meeting of the Regulatory Committee.

It was **AGREED** that, in the meantime, the start time of meetings for the remainder of the municipal year continued to be at 11.30am.

4 **APOLOGIES AND SUBSTITUTE MEMBERS (00:17:40)**

Apologies were received from Cllr S Keable with Cllr A Glover substituting.

5 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00:18:03)**

There were no declarations of interest received.

6 **PUBLIC QUESTION TIME (00:18:17)**

There were no members of the public present and no questions were asked.

7 **MINUTES OF THE PREVIOUS MEETING (00:18:25)**

The minutes of the meeting held on 2nd December 2023 were **APPROVED** as a true and accurate record and were signed by the Chair.

8 **HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) POLICY UPDATE (00:18:44)**

The Committee had before it a report * from the Team Leader, Commercial, Public Health of the Licensing Act Policy Review.

The following was highlighted:

- The report made a number of recommendations for the Committee to consider following the consultation that had been carried out.
- The document was the same as previously presented at the meeting on the 2nd December 2023 other than the changes made following feedback from Committee, members of the public and consultee responses.
- The consultation ran for a period of 3 months and received 41 responses.
- In addition to the 41 responses, 2 workshops were held - one with Committee Members and the other with Mid Devon licenced drivers, proprietors and operators and both sessions had received positive engagement.

- Responses and feedback gathered through the survey and workshops had been revised and a number of recommendations were made:-
 - (i) Proposal to introduce safeguarding training to be refreshed every 3 years.
 - (ii) To introduce a Penalty Points Scheme from 1st September 2024 - a robust appeal process would need to be put in place with a lead officer to ensure that there was a mechanism for licensee's to appeal.
 - (iii) In terms of driving training/assessment there was a requirement to pass an initial assessment but now with a recommendation to introduce 10 yearly requirements for driver training/assessments.
 - (iv) There was a requirement for an English language assessment to be undertaken to test a driver's proficiency which would cover both oral and written English language skills.
 - (v) There were a few minor changes around medicals and rights to request a second opinion, ensuring that eye tests were included and the option of using any medical practitioner for a medical due to difficulties accessing a GP.
 - (vi) The recommendation to implement new Ultra Low Emission Zone (ULEZ) standards as a phased approach. This would mean that new vehicles from 1st September 2024 would need to comply with ULEZ; from January 2027 apply ULEZ standards to vehicles at both new and renewal application; and from January 2030 apply ULEZ standards for renewal and zero emissions for new applications.
 - (vii) Dispatch and booking staff to have Disclosure and Barring Services (DBS) checks which would be implemented by the Operator.
 - (viii) Lost property checks to be removed and also the requirement to have a road atlas.
 - (ix) There were other proposed changes which were not captured in the table:-
 - There was a proposal to increase the testing of vehicles to every 4 months however this was not supported and having reviewed the information it was felt that there was no justification to increase this therefore the recommendation was to stay with every 6 months as per the existing policy.
 - There would be an update to raise awareness that there was a National Register called NR3S which recorded taxi driving licences that had been suspended, revoked or refused in order that all local authorities could access this. The draft policy stated that licences would not be surrendered if the licence holder was involved in any investigation by the Council for non-compliance against the said licence. However, on further review it was felt that surrender of a licence should not be accepted at any time, as the Authority may not be aware of a contravention at the time of surrender. If a licence was surrendered and subsequently the Authority was made aware of an issue, this could have an issue on public safety, as the NR3s register could not be updated. This only affected driver licences, as it was important that we provided a mechanism for vehicle surrenders and the NR3s database only related to driver licences.
- It was recommended that paragraph 4.5 (page 61 of the Policy) would need to be updated and reworded as follows: *“There is no mechanism to surrender a driver licence and it remains current until expired, revoked or suspended. This will allow the licensing authority to take action should any unknown pending*

sanction come to light and if necessary, take appropriate action against the licence, such as revocation or suspension and where relevant share on NR3s”.

- It was also recommended to amend Paragraph 5.1.3 on page 62 by removing line (e) “*You wish to surrender your taxi driver licence*” as it would no longer apply.
- Further meetings with the taxi trade were proposed to raise awareness of the changes.

Discussion took place regarding:-

- Whether there was proof that taxi drivers had been refusing people with assistance dogs. It was explained that complaints had been received by the Licensing Team though it was not a big problem but hoped that future Disability Awareness Training would prevent any recurrence in the future.
- The procedure for dealing with such complaints and how allegations would be fully investigated if there was a breach. Currently under the Penalty Points Scheme 4 penalty points would be given if such a breach took place. It was suggested by some of the Committee Members that 12 points should be awarded which would then require a Regulatory Sub-Committee to be held.

The Chair thanked the Licensing Team for their hard work. He had attended the workshops and was proud to have been invited and to see the team doing such a good job.

The Committee **AGREED** the proposed final amendments to the policy document outlined in section 4.1 of this report with the additional recommendations:-

- Paragraph 4.5 (page 61 of the Policy) would need to be updated and reworded as follows: “*There is no mechanism to surrender a driver licence and it remains current until expired, revoked or suspended. This will allow the licensing authority to take action should any unknown pending sanction come to light and if necessary, take appropriate action against the licence, such as revocation or suspension and where relevant share on NR3s”.*
- To amend Paragraph 5.1.3 on page 62 by removing line (e) “*You wish to surrender your taxi driver licence*” as it would no longer apply.
- To change 4 penalty points to 12 under the Penalty Point Scheme.

(Proposed by Cllr L Kennedy and seconded by Cllr A Glover)

(Cllr F J Colthorpe and Cllr L Cruwys voted against the recommendation to change 4 penalty points to 12)

The Committee **APPROVED** the following recommendations:-

- That the draft proposed policy attached as Annex A to include the additional amendments that were outlined by a verbal update be recommended for adoption by Full Council in July 2024, with a proposed implementation date from 1st September 2024.

- That delegated authority for amendments to the Penalty Point Scheme be given to the Head of Housing and Health.
- That delegated authority to approve the standard for English communications assessment be given to the Head of Housing and Health.

(Proposed by the Chair)

Note: * Report previously circulated.

Reason for the decision as set out in the report.

9 LICENSING UPDATE REPORT (01:01:10)

The Committee had before it, and **NOTED**, the Licensing Update Report, the contents of which were outlined by the Team Leader, Commercial, Public Health.

The following was highlighted:-

- The report provided an overview of the activity carried out by the Licensing Team during the second half of 2023/24.
- There had been a slight increase in the number of Hackney Carriage and Private Vehicle licences.
- 51 taxi inspections had been carried out, currently one of the Service's key performance indicators which was met.
- Following on from the consultation the Licensing Team were looking to reintroduce an annual forum for taxi drivers to address key changes and to open up 2-way conversations.
- Animal welfare licenced premises remained constant with no increase.
- Specified beauty treatments were covered by the Local Government (Miscellaneous Provisions) Act 1982 which included tattooing piercing, electrolysis and acupuncture. A piece of work would be carried out later this year with the Licensing Team and officers from the Food and Health and Safety Team due to the risks associated with infectious diseases which the Committee would be updated with at its next meeting in December.
- 3 Regulatory Hearings were conducted in the second half of 2023/24 and the outcome of those Hearings were summarised within the report.

Cllr L Kennedy thanked the Licensing Team for their hard work.

The Chair asked the Committee to please respond to the Clerk when asked if they were available for Sub-Committee meetings.

Note: * Report previously circulated.

(The meeting ended at 12:38)

CHAIRMAN

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Hackney Carriage and Private Hire Policy

November 2023

Mid Devon District Council
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[Licensing - MIDDEVON.GOV.UK](https://www.middevon.gov.uk)

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Definitions

Applicant

Person or business who has submitted an application for either a grant or renewal of a licence.

Application

A completed application made by an individual (or individuals) for the grant or renewal of a licence.

Assistance Dog

- a dog which has been trained to guide a blind person;
- a dog which has been trained to assist a deaf person;
- a dog which has been trained by a prescribed charity to assist certain disabled persons.

Authorised Council Officer

A Council officer who is authorised by the Council to exercise powers and duties conferred by legislation.

Badge

Issued to all licensed drivers and must be worn at all times when working as a licensed driver.

Byelaws

Locally adopted laws applicable to Hackney Carriages and drivers. Breach is a criminal offence.

Conditions

Conditions of licence applied by the Council to a driver's licence, an operator's licence, or a vehicle licence. Non-compliance will lead to penalty points being imposed or action against the licence.

Controlled District Boundary

Area of a local authority which has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976. This is the area of Mid Devon District Council.

Conventional partnership

An arrangement where 2 or more people are in business together, but which is not a Limited Liability Partnership.

Council

Mid Devon District Council

Councillor

A councillor who is a member of Mid Devon District Council.

Date of First Registration

The date of first registration on the vehicle's V5 log book issued by DVLA.

DBS

Disclosure & Barring Service

DfT

Department for Transport

District

This is the terminology used in the Local Government (Miscellaneous Provisions) Act 1976 to refer to the area of the Council.

Driving licence

Full UK driving licence issued by DVLA, Northern Ireland driving licence, EEA driving licence or exchangeable driving licence as defined in section 108 of the Road Traffic Act 1988.

DVLA

Driver and Vehicle Licensing Agency

DVSA

Driver and Vehicle Standards Agency (which replaced VOSA in 2014)

Endorsable fixed penalty notice

A notice which receives both a fine and points on the DVLA licence. A non-endorsable fixed penalty notice means a fine, but no penalty points.

Equality Act

Equality Act 2010 as amended

Fare Card

A card which must legally be displayed in Hackney Carriage vehicles that are fitted with a taximeter which indicates the maximum authorised fare to be charged for distance travelled, waiting time and additional charges determined by the Council under s65 and the licence plate number. This is issued by the Council.

Grandfather Rights

Also known as acquired rights, means the continuation of rights granted when the licence was issued. The applicant does not have to comply with the requirements for a new licence as they are renewing the licence that complied at the time it was first granted.

Guidance

Guidance published or issued by the Government via the DfT or any other Government Department.

Hackney Carriage Vehicle

A vehicle licensed under the Town Police Clauses Act 1847; often referred to as a taxi.

Hirer

Any person or persons who from time-to-time hires or books the vehicle.

HMRC

His Majesty's Revenue and Customs

ICO

Information Commissioner's Office

IoL

Institute of Licensing

LGA

Local Government Association

Legislation

Acts of Parliament, Secondary legislation and decisions of the senior courts, Supreme Court, European Court of Justice and European Court of Human Rights.

Licensing Authority

The licensing function within Mid Devon District Council.

Licensed Driver

A driver licensed under the Town Police Clauses Act 1847 to drive a Hackney Carriage Vehicle and under the Local Government (Miscellaneous Provisions) Act 1976 to drive a Private Hire vehicle.

Licensed Operator

A person, persons or company holding a licence to operate Private Hire Vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976. A Private Hire operator's licence is required to enable a person to accept or invite bookings for Private Hire Vehicles.

Licensed Vehicle

A Hackney Carriage or Private Hire Vehicle licensed by Mid Devon District Council.

Licensee(s)

The person(s) or company/firm named in the licence.

Licence Plate

The plate that licensed vehicles must display showing the licence number, maximum number of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle.

Licensed Vehicle

Vehicle licensed under Town Police Clauses Act 1847 as a Hackney Carriage or licensed under the Local Government (Miscellaneous Provisions) Act 1976 as a Private Hire Vehicle.

Limited Company

A company registered with Companies House.

Limited Liability Partnership

An incorporated partnership registered with Companies House.

Member

See Councillor. The terms “councillor” and “member” are effectively interchangeable.

NR3S

The National Register of Refusals and Revocations and Suspensions¹.

Officer

An employee of the Mid Devon District Council or another individual acting in the same capacity as an employee e.g. an independent contractor.

Operator

See Licensed Operator.

Policy

This policy document and all associated documents

Private Hire Vehicle

A vehicle licensed by Mid Devon District Council under the section 48 Local Government (Miscellaneous Provisions) Act 1976.

Proprietor

Registered owner or part owner of a vehicle

PSV or PCV

Public Service Vehicle or Passenger Carrying Vehicle

Regulatory Committee

The committee which determine taxi licensing matters as set out in the Mid Devon District Council constitution.

Regulatory Sub-committee

Members of the Regulatory Committee, usual 3 and a quorum of 2, who take decisions on behalf of the Committee.

Road Traffic Acts

¹ Full details are available at <https://www.local.gov.uk/topics/licences-regulations-and-trading-standards/national-register-taxi-and-private-hire-licence>

Road Traffic Act 1988 and all associated legislation.

Stretched Limousine

Any vehicle that has been modified after manufacture with an additional body section, extending the vehicle length.

Taximeter

Device used for calculating the fare to be charged for the journey by measuring distance travelled plus any time waiting. This must be fitted in all Hackney Carriage Vehicles and may be fitted in Private Hire Vehicles.

The 1847 Act

The Town Police Clauses Act 1847 as amended and all associated legislation and the provisions within.

The 1976 Act

The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within.

WAV

Wheelchair Accessible Vehicle. Certain Hackney Carriages and Private Hire Vehicles can be suitable for carrying wheelchair-bound passengers.

Working day

Any day other than a Saturday, a Sunday, Christmas day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

Section 1: Introduction

- 1.1 This Policy has been published and adopted by the Council to inform and assist the discharge of its functions in relation to Hackney Carriage and Private Hire licensing under the powers and duties contained in the 1847 Act and the 1976 Act and all associated and related legislation. The Council is responsible for the licensing of Hackney Carriage and Private Hire Vehicles, drivers and operators.
- 1.2 This Policy is written in plain English, as far as possible. Where technical terms are used they will be explained clearly, and there is a list of definitions at the beginning. Any reference to external material (legislation, guidance etc.) will be clear and should be easily accessible.
- 1.3 This Policy has been drawn up with reference to the Council's Corporate Plan
- Sustainable and prosperous communities
 - A sustainable planet
 - Sustainable participation
- 1.4 The Council will adopt and carry out its licensing function with a view to promoting the following:
- The protection of public health and safety
 - The prevention of crime and disorder
 - The safety and health of drivers
 - Vehicle safety, comfort and access
 - Creating an integrated and sustainable transport service for the community
 - The protection of children and adults at risk from harm
 - Protection of the environment
- 1.5 The Council serves a rural location covering an area of 353 square miles (914 km²) in the agricultural heartland of Devon, between Dartmoor, Exmoor and the Blackdown Hills. More than half the population is scattered in villages in the rural hinterland, with the balance divided between the three main towns of Tiverton, Cullompton and Crediton.
- 1.6 Mid Devon has currently a resident population of approximately 80,623 according to 2017 ONS population estimates. The population is set to increase; Devon County Council 2016 trend based projections anticipate that the population will be approximately 91,534 by 2033.

- 1.7 This will place further strains on transport systems and Hackney Carriage and Private Hire use is expected to remain important and integral to the infrastructure of the District.
- 1.8 This Policy has been adopted by the Council following consultation and reference to the Regulatory Committee and the Council. Responsibility for Hackney Carriage and Private Hire licensing is split between the Council and the Executive – see the Councils constitution for further detail, especially Appendix AA. Council regulatory functions in relation to licensing are delegated to the Regulatory Committee and some Officers.
- 1.9 This Policy will be kept under review and revised as necessary. The Corporate Manager for Public Health and Housing Option is authorised to make minor amendments to the Policy. In addition, amendments to this Policy may be authorised by the Council without consultation.
- 1.10 In carrying out these functions, the Council will comply with the law and also have regard to this Policy and any relevant Guidance published by the DfT and any other relevant Guidance issued by any Government Department. In any situation where the Council departs from this Policy, clear reasons will be given for doing so.
- 1.11 In any case where a situation or matter is not covered by this Policy, the matter will be considered from first principles i.e. as if this Policy did not exist, and the decision will be based on the Councils' interpretation of the law and Guidance.
- 1.12 The Council is committed to ensuring that Members and Officers involved in Hackney Carriage and Private Hire licensing are fully trained, and such training is regularly updated.
- 1.13 This Policy contains firm statements of intent which may appear to be absolute. Such statements are lawful and allow the Council to provide robust guidance to itself, applicants, licensees and citizens on the approach that will be taken. They do not fetter the discretion of the Council because each case will be considered on its merits but in consideration of this Policy.

- 1.14 Where this Policy differs from the previous policy, consideration will be given by the Council to licences that were granted or renewed before this Policy was adopted. There is no guarantee that any licence will be renewed and the Council will consider all new and renewal applications in the light of this Policy. The fact that a licence has been granted in the past will be taken into account and will be a relevant consideration, but there is no legitimate expectation that any Hackney Carriage or Private Hire licence will be renewed.
- 1.15 This Policy will also be used to inform action that may be taken against any existing licence.
- 1.16 In 2015 the Deregulation Act introduced some amendments to the 1976 Act, the most significant of which was the ability for a Private Hire operator to subcontract to another Private Hire operators licensed anywhere in England, Wales, Scotland or Greater London.
- 1.17 The introduction in 2016 of more of the provisions relating to Hackney Carriages and Private Hire vehicles contained within the Equality Act, and the additional amendments introduced by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 has improved the access to and use of these vehicles for those with disabilities, and the Council works actively to support both those who require and provide such transport.
- 1.18 The Policy refers to guidance that is available to applicants, drivers and operators and proprietors to assist them with the application processes and the running of their business under their licence. This guidance, application forms and current fees are available on the Council's website.
- 1.19 Council Officers involved in Hackney Carriage and Private Hire licensing and other associated functions will always be polite, courteous, civil and professional. The same standards of behaviour are expected from applicants and licensees and the Council has a policy of zero tolerance to any abuse, bullying, violence or similar behaviour towards staff or councillors. Any such behaviour on the part of an applicant or licensee will be taken into account when considering whether a licence should be granted, or whether action should be taken against any existing licence.

- 1.20 The Council recognises its duties and responsibilities under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. Full details of the privacy policy and the specific policy for taxi licensing are detailed on the Council's website.
- 1.21 The Council takes its Enforcement Policy seriously, and will have regard to its Enforcement Policy when considering taking action under this Policy.

Section 2: Council Service Standards

- 2.1 Subject to unforeseen circumstances beyond the control of the Council, the Council will endeavour to maintain the following service levels:
- 2.2 Licensees and applicants should be able to contact the licensing team by email, through the website, by appointment in person, or by phone. However, the preferred method of contact is via email to reduce the need for licence holders to travel to the Council offices and to allow the team to deal with enquiries as effectively as possible.
- 2.3 The primary method of contact for the Licensing team is by email at: licensing@middevon.gov.uk. Emails are constantly monitored during normal working hours, Monday to Friday.
- 2.4 The team can also be reached by phone, on **01884 255255** during working hours Monday to Friday.
- 2.5 The Council will always aim to issue a licence within 14 days from receipt of a valid application and payment.
- 2.6 If you have any concerns or complaints about the service you have received, please contact the licensing team. If you are still not satisfied, please use the Council's complaints procedure, details of which can be found here [Licensing - MIDDEVON.GOV.UK](https://www.middevon.gov.uk/licensing)

Section 3: Background, guidance & legislation

- 3.1 Hackney Carriage and Private Hire vehicles have an important role to play in the transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas,

or outside "normal" hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

- 3.2 The DfT has national responsibility for Hackney Carriage and Private Hire legislation and policy in England. They also provide guidance for local licensing authorities. Their principal document is *the 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance'* (referred to as "Best Practice Guidance" in this Policy²). This is supplemented by the '*Statutory taxi and private hire vehicle standards*' (referred to as "the Statutory Standards" in this Policy³). They have been taken into account in preparing this Policy. Additional and revised guidance is anticipated and this Policy may require amendments in the light of that.
- 3.3 The DfT guidance recognises and emphasises that licensing authorities can reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances.
- 3.4 This Policy takes account of the law which forms the basis of the Council's taxi licensing functions. The principal pieces of legislation are the 1847 Act and the 1976 Act both as amended. In addition the Senior Courts (High Court and Court of Appeal) have handed down judgments which explain and interpret this legislation.
- 3.5 This Policy also takes into account guidance produced by the IoL including "*Guidance on determining the suitability of applicants & licensees - hackney & private hire trades*"⁴.

3.6 Purpose of Hackney Carriage & Private Hire Licensing

- 3.6.1 The sole consideration in relation to the licensing of Hackney Carriage and Private Hire Vehicles is public safety (See DfT Best Practice Guidance). Public safety includes the safety of drivers, operators, vehicle proprietors and their staff as well as the users of Hackney Carriage and

² Available at <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance> . This dates from 2010 and is expected to be updated

³ Available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>. This dates from 2020

⁴ Available at [guidance-on-suitability-online-pdf-2.pdf \(instituteoflicensing.org\)](https://www.instituteoflicensing.org/guidance-on-suitability-online-pdf-2.pdf)
This dates from 2018

Private Hire Vehicles, and the wider public. The public must have confidence in the safety of Hackney Carriages and Private Hire Vehicles as a form of transport and as a consequence the highest standards will be expected from all applicants and licensees.

3.6.2 Public safety includes safeguarding which also includes prevention of child sexual abuse and exploitation. All licensees will be expected to demonstrate an understanding of public safety and safeguarding and ensure that their actions do not infringe those requirements at any time. Any member of the public, licensee, Officer or Member who becomes aware of any safeguarding issues, or any other criminal behaviour relating to Hackney Carriage and Private Hire licensing should inform the Council. They can be secure in the knowledge that the Council's Whistleblowing Policy will be used to take all reasonable steps to protect them.

Section 4: Policy aims & objectives

4.0.1 This Policy is intended to enable the Council to provide a robust licensing regime which enables the Hackney Carriage and Private Hire trades to provide the best possible service to the public with the overriding aim of maintaining and improving public safety.

4.1 Aims

4.1.1 The aims of this Policy are:

- the protection of the public
- the maintenance and development of professional and respected Hackney Carriage and Private Hire trades
- enabling access to an efficient and effective local transport service
- the protection of our local environment
- to support all Hackney Carriage and Private Hire businesses by ensuring a consistent and fair approach

4.2 Objectives

4.2.1 The Council will achieve these aims by delivering the following objectives:

- by ensuring that licensed drivers are fit and proper persons and achieve and maintain the highest standards of professional practice

- by ensuring that licensed vehicles are safe for passengers, drivers and other road users, and properly insured
- by ensuring that licensed vehicles comply with Council standards
- by checking all documents provided as part of an application for authenticity, including contacting the maker of the document and other tests when necessary
- by specifying emissions standards
- by ensuring that licensed vehicles are comfortable
- by working across the Council to ensure that Hackney Carriages and Private Hire vehicles form part of wider strategic transport and local transport plans
- by working in partnership with a variety of other agencies to support the Council's objective in relation to both the public and the trade
- by reducing the frequency with which licence holders are required to attend the Council offices
- by ensuring online accessibility to allow remote application by new and existing licence holders, so far as is permissible under the legislation
- by utilising electronic and mobile communication methods and other technological methods including web sites

4.3 Methods

4.3.1 The methods the Council will use to achieve this will include (but this is not an exhaustive list):

- setting the standards for the licensing of vehicles, drivers and operators;
- use of the NR3S database;
- assessing knowledge of the District, highway code and this Policy as well as driving ability (at the time of application);
- annual licensing and routine inspection of vehicles, with appropriate follow-up action including enforcement;
- routine inspection of documents, with appropriate follow-up action including enforcement;
- routine checks of driver's medical fitness and criminal record history during the time the licence is in force;
- timely investigation of complaints with appropriate follow-up action
- liaison with the Devon and Cornwall Police and other constabularies as required, neighbouring local authorities and other agencies regarding issues of concern relating to public safety;

- robust enforcement (taking account of the Regulators' Code) including, monitoring of contraventions, suspension or revocation of licences for breach of conditions or legislation and prosecution;
- regular training and development of Council Officers and Members;
- provision of mandatory training (at the cost of the applicant) for applicants and licensees when considered necessary;
- promotion of training courses and information for licensees.

4.4.1 To achieve this the Council will actively cooperate with, assist, provide and obtain advice from a wide range of agencies including (but not limited to):

- The Devon and Cornwall Police and other constabularies including British Transport Police
- The DVSA
- Other local authorities
- Town and Parish Councils
- National Rail and other railway companies
- The DBS
- The DfT
- The DVLA
- Home Office
- Department for Work and Pensions
- Other relevant agencies and departments

4.4 Uniformity

4.4.1 The Council will conduct its functions in relation to Hackney Carriage and Private Hire licensing in a consistent and uniform manner and will take a reasonable and proportionate approach to enforcement action.

Section 5: Applications and licences

5.1 Hackney Carriage and Private Hire licences can be granted for a maximum period of time. Those maximum periods are

- Hackney Carriage Vehicle – 1 year;
- Private Hire Vehicle – 1 year;
- Hackney Carriage and Private Hire driver – 3 years;
- Private Hire operator – 5 years.

The Council reserves the right to issue licences for a shorter period than those specified if it is believed to be appropriate in particular circumstances.

- 5.2 Applicants for licences must submit a complete application. A complete application means that the application form has been properly completed with all required information provided, all supporting documentation that is required has been submitted, and the fee has been paid.
- 5.3 If an application is made which is not complete, the applicant will be contacted and given an opportunity to rectify the problems. Any such application will be held on file for 3 months during which time additional and/or updated information can be provided to enable the application to proceed. After 3 months a new application would need to be made in its entirety.
- 5.4 Applications for renewals of licences must be received before the expiry of the current licence. Any application received after that date will be treated as a new application. This will extinguish any grandfather rights and the applicant will have to comply with all requirements for a new licence.
- 5.5 There may be exceptional circumstances where renewal applications will be accepted beyond expiry of the Licence. This will be at the discretion of the Council and apply in instances where failure to renew is due to unforeseen circumstances.
- 5.6 To ensure continuity of a licence on renewal, applications must be received 14 days prior to expiry.
- 5.7 As part of the application process applicants will have to attend certain appointments. If the date and time provided is inconvenient, the applicant should contact the Council as soon as possible to arrange an alternative date and time. Failure to attend an appointment without having notified the Council in advance will lead to the entire application being cancelled and a fresh application will have to be commenced.
- 5.8 Licensees must ensure that they notify the Council of any change of address, change of name, or change of contact details (telephone numbers or email addresses).

- 5.9 Any notice required to be served by the Council under this licence or under any statutory provision shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of, the holder of the licence.
- 5.10 All information held on files and databases about an applicant is confidential, under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. However, this information can be used (“processed”) by the Council as part of the application process and used within the Council. This will include communicating information to relevant Officers and Members who are involved in any decision-making process. In addition, the Council is under a duty to protect the public and to protect the public funds it administers, and may use any information provided by an applicant for this purpose. This may include sharing this information with other agencies where that is lawful.
- 5.11 The legislation requires the Council to maintain Public Registers, which will be available for inspection at the Council offices and also via the Council’s website. That duty overrides any data protection provisions.
- 5.12 It is a privilege to hold a Hackney Carriage or Private Hire licence and licensees have responsibilities to their passengers (drivers) and customers (drivers, operators and proprietors), other road users (drivers and vehicle proprietors) and the public generally. The requirement to satisfy the Council that the applicant is a fit and proper person continues throughout the duration of the licence. If at any time a licensee falls below the standards expected of a new applicant, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence.
- 5.13 Licensees must be aware of this and be familiar with the requirements placed upon them by the legislation, the conditions of their licence and this Policy.
- 5.14 The Council can charge a fee for each of these licences. Those fees are calculated in accordance with the legislation.
- 5.15 Fees are calculated on a cost recovery basis.
- 5.16 The fees include the costs of:
- processing applications;

- issuing licences;
- providing badges and vehicle plates (as required);
- providing additional vehicle signage;
- ensuring compliance with the requirements of the licence.

5.17 If a licence is surrendered, revoked or suspended, no refund of the licence fee will be made.

Section 6: Suitability of applicants

- 6.1 The legislation makes it quite clear that the Council cannot grant a Hackney Carriage or Private Hire drivers' licence or a Private Hire operators' licence unless they are satisfied that the applicant is a fit and proper person. It is for the applicant to prove that they are a fit and proper person, and not for the Council to prove that they are not.
- 6.2 In relation to a Hackney Carriage or Private Hire Vehicle proprietors' licence there is no statutory requirement for the Council to be satisfied that the applicant is a fit and proper person. However the Council has an absolute discretion as to whether or not to grant such a licence and in addition to considering the vehicle itself the Council will also take into account the suitability of the applicant.
- 6.3 The Institute of Licensing "*Guidance on determining the suitability of applicants & licensees - hackney & private hire trades*" suggests that the phrase "fit and proper" can be explained and be more easily understood by using the term "safe and suitable". Wherever this term is used by the Council it is synonymous with fit and proper.
- 6.4 That guidance also contains guidelines on suitability which are almost identical to the DfT guidance in "Statutory Standards". These have been incorporated into this Policy and form the basis of the previous convictions policy. This is contained at Appendix 2.
- 6.5 It is recognised that some applicants and licensees will have criminal convictions or other matters in their personal history which may affect their safety and suitability to hold a Hackney Carriage or Private Hire licence.
- 6.6 The previous convictions policy at Appendix 2 provides guidance. These standards will be used in relation to all licences: driver, operator and

proprietor. This is to ensure that the standards are maintained across the trades, and to reassure the public that only safe and suitable people are licensed for any role in the Hackney Carriage or Private Hire Vehicle industry.

- 6.7 Applications will be considered on their own merits. If the previous convictions policy does not cover a particular matter then a decision will be made from first principles where the question will be whether, in the light of that information the Council can be satisfied that the applicant is a fit and proper person to be granted that licence.
- 6.8 The Council has powers to take action against any licence that has been granted (the licence can be suspended, revoked, or the Council can refuse to renew it). It is vitally important that licensees understand that the test of safety and suitability is not simply to be met when the application is first granted. It is a continuing requirement. If at any time during the duration of the licence, the behaviour or conduct of the applicant falls below that which would be acceptable for a new applicant, the Council will consider whether or not action should be taken against that licence.
- 6.9 At all times when making these decisions the sole consideration will be public safety.

Section 7: Decision Making

- 7.1 Decisions on applications and action against licences are made by the Council. Usually that will be a decision made by an Officer acting under delegated powers but where an application is outside Policy or action needs to be taken in relation to an existing licence the matter may be referred to a Sub-committee of the Regulatory Committee.
- 7.2 There is no difference in the decision-making process between an Officer and a Regulatory Sub-committee. In both cases the applicant or licensee will be given an opportunity to make representations and those will be taken fully into account. There may be occasions when a very short timescale will be provided for representations to be made: this is likely to occur where action needs to be taken quickly in relation to a licence. In those circumstances the licensee will be contacted by all practicable means to be informed of the date and time of when the decision will be made and given an opportunity to attend. If however

the licensee cannot be contacted or does not attend, then the decision will be taken in their absence.

- 7.3 Any decision to suspend or revoke a licence will be made on the balance of probabilities. This means that the evidence indicates that the event more likely occurred, than it did not, and applicants or licensees should not be given the benefit of doubt.
- 7.4 In all cases the matter will be considered entirely on its own merits, in the light of this Policy and any guidance issued by the DfT.
- 7.5 Full and detailed reasons for all decisions will be provided to the applicant or licensee, together with details of the rights of appeal.

Section 8: Behaviour of licensees

- 8.1 All licensees (drivers, operators and vehicle proprietors) are professionals undertaking a highly responsible activity which protects and ensures the safety of their passengers, customers, other road users and the public at large.
- 8.2 The highest standards of integrity and behaviour are expected, and these must be maintained at all times, not solely when acting in the exercise of their licence. As a result, any behaviour at any time which falls short of the standards expected will lead to the Council considering whether that licensee should be allowed to retain their licence.
- 8.3 Where unacceptable behaviour occurs in connection with the use of the licence, it will be considered an aggravating feature. Behaviour which is not connected with the use of the licence will not be seen as less serious.
- 8.4 The overall aim of this Policy is to ensure that the Hackney Carriage and Private Hire trades continue to provide a safe and satisfactory service to the public, and actions or behaviour that affect or reduce those standards will not be tolerated by the Council.

Section 9: Enforcement

- 9.1 In any situation where there has been non-compliance with any requirement, or behaviour which falls short of the requirement to remain

a fit and proper person to hold a licence, the Council will consider enforcement action. In addition, action will be taken in respect of vehicles that do not comply with either the Council's requirements or Road Traffic laws. Any enforcement action will be guided by the Council's Enforcement Policy, and may result in one or more of the following (this is not an exhaustive list):

- (a) Take no action
- (b) Issue penalty points
- (c) Use statutory notices (suspension of a vehicle licence using section 68 of the 1976 Act)
- (d) Suspension of a licence;
- (e) Revocation of a licence;
- (f) Issue of a simple caution in respect of criminal offences;
- (g) Prosecution in respect of criminal offences;

9.2 The Council's Penalty Points Scheme, mentioned above, is detailed in Appendix 1

Section 10: Appeals

10.1 There are statutory rights of appeal contained within the legislation. These are against decisions to refuse an application, refuse to renew a licence, suspension or revocation of a licence and also against any conditions that the Council has attached to a licence. The rights will be detailed in any decision notice which is issued where there is such a right of appeal.

10.2 Generally the right of appeal is to the magistrates' court and contact should be made with that court for details on how the appeal is commenced. The one exception to that is a refusal to grant a new Hackney Carriage proprietors licence where the right of appeal is directly to the Crown Court. Again, in those circumstances contact should be made with the court for details on how the appeal is commenced.

10.3 The appeal period is 21 days from the date on which the written notice of the Council's decision was received. That period cannot be extended so anybody who is considering appealing should ensure that the appeal is lodged with the court as soon as possible.

10.4 For Mid Devon the relevant magistrates' court is presently:

North and East Devon Magistrates' Court which sits at Exeter Magistrates' Court, Southernhay Gardens, Exeter, EX1 1UH

Section 11: Equality Act and discrimination

- 11.1 The Council will treat all applicants and licensees equally and fairly. There will be no discrimination on any ground and each and every application and subsequent decision will be considered on its merits in the light of the legislation, guidance and this Policy.
- 11.2 The Council will not accept or tolerate any discriminatory behaviour on the part of any applicant or licensee. This includes any discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation, but that is not an exhaustive list.
- 11.3 All licensees must at all times treat people courteously, civilly and decently.
- 11.4 All licensees must ensure that they comply with their statutory duties in relation to disabled people under the Equality Act as amended.
- 11.5 Drivers should be trained in disability awareness.
- 11.6 Drivers of vehicles designated by the Council in the list of wheelchair accessible vehicles must:
- (a) be able to carry the passenger while in the wheelchair;
 - (b) not make any additional charge for doing so;
 - (c) if the passenger chooses to sit in a passenger seat, be able to carry the wheelchair;
 - (d) take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - (e) give the passenger such mobility assistance as is reasonably required.
- 11.7 Mobility assistance is assistance:
- to enable the passenger to get into or out of the vehicle;
 - if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - to load the passenger's luggage into or out of the vehicle;

- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 11.8 This does not apply if the driver has a certificate of exemption, and the specified notice is displayed in the vehicle at the time.
- 11.9 Drivers of all Hackney Carriage and Private Hire Vehicles must carry any disabled passenger without any additional charge being made (by the driver in the case of a Hackney Carriage, or by the operator or driver in the case of a Private Hire vehicle) and:
- (a) if the passenger is in or has with them a wheelchair, to carry the wheelchair;
 - (b) if the passenger has with them any mobility aids, to carry the mobility aids (anything apart from a wheelchair the passenger uses to assist their mobility);
 - (c) to take such steps as are reasonable to ensure that the passenger is carried in safety and reasonable comfort;
 - (d) to give the passenger such mobility assistance as is reasonably required.
- 11.10 Mobility assistance means providing assistance:
- to enable the passenger to get into or out of the vehicle;
 - to load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.
- 11.11 This does not apply if the driver has a certificate of exemption, and the specified notice is displayed in the vehicle at the time.
- 11.12 Drivers of Hackney Carriages must carry an assistance dog and allow it to remain with their owner unless they have a certificate of exemption issued by the Council (and the specified notice is displayed in the vehicle at the time). They must not make any additional charge for doing so. When an assistance dog is being carried, the driver must allow it to be carried wherever the owner requires i.e. the driver cannot insist on the dog being separated from the owner or the owner and dog sitting in a particular seat (Section 168 Equality Act).
- 11.13 The same requirements apply to drivers of Private Hire vehicles when the operator has accepted a booking for a passenger with an assistance dog (whether or not the driver is aware of the existence of the dog)

unless they have a certificate of exemption issued by the Council (and the specified notice is displayed in the vehicle at the time). The operator cannot make any additional charge for the carriage of the dog.

- 11.14 Operators should identify a passengers accessibility needs prior to taking a booking to ensure an appropriate vehicle is provided.
- 11.15 In addition to those requirements, in vehicles equipped with a taxi meter, the meter must not be activated until the wheelchair bound passenger has been properly loaded and secured for the journey, all loading ramps or other equipment have been properly stowed and the vehicle is ready to commence the journey. The same applies for any disabled passenger, and the meter must not be activated until any mobility equipment has been properly stowed and the vehicle is ready to commence the journey. At the end of the journey the meter must be stopped before any unloading activity commences.

Section 12: Safeguarding

- 12.1 The Council is committed to safeguarding and promoting the welfare of children, young people, adults at risk, vulnerable persons and all other members of society. We take our responsibilities seriously and expect all our licensed drivers, proprietors and operators to share this commitment.
- 12.2 Licensed driver, proprietors and operators must consider the safety, security and welfare of their passengers, customers and the public generally when determining what safeguarding measures they should put in place in relation to their activities as a licensee.
- 12.3 All new applicants for Hackney Carriage driver licences, Private Hire operator licences and Hackney Carriage and Private Hire proprietors (vehicle) licences will be required to attend and successfully pass a safeguarding course and test, as required by the Council. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until the applicant provides a valid certificate showing they have passed the safeguarding course.
- 12.4 All existing licensed drivers, proprietors and operators will be required to attend and successfully pass a safeguarding course and test, as required by the Council. A pass certificate must be produced within 1 calendar

year of adoption of this Policy or on renewal whichever is sooner. Failure to do so may result in suspension of the licence until successful completion of the test.

As part of the licence renewal application process, applicants will be required to submit a current safeguarding certificate, issued by a provider approved by the Council and renewed every 3 years.

12.5 It is the duty of the applicant to ensure that they have completed the course and passed the test in sufficient time before applying for a renewal licence. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until a certificate is produced.

Section 13: Complaints about licensees

13.1 If any person has any complaint about the behaviour or actions of a licensee (taxi driver, private hire operator or vehicle proprietor) they should contact the licensing team at licensing@middevon.gov.uk. Complaints can be made by email, letter or via the Council's website, for more information please see our [website](#).

13.2 To enable a complaint to be investigated that person must provide their name, address and contact details to the Council but these will not necessarily be passed on to the licensee. The licensing Officers will consider all complaints. If the complaint is taken forward by the Council there will be full discussion with the complainant and agreement as to whether or not their identity can be revealed to the licensee. Depending on the outcome of the investigation, the Council may take appropriate action against the licensee. The Council will keep complainants informed of the progress of the investigation, any subsequent action taken and the outcome of any subsequent court proceedings (if taken).

13.3 Any complaints that are received by the Council that indicate that the licensee has failed to uphold the standards will be investigated thoroughly, and if substantiated will lead to action being taken against that licence.

Section 14: Hackney Carriage and Private Hire driver licences

14.1 The Council issues combined driver licences. That means that the licence is issued under both section 46 of the 1847 Act to drive a

Hackney Carriage, and section 51 of the 1976 Act to drive a Private Hire Vehicle. In both cases the vehicle must be licensed by the Council.

14.2 To be licensed as a driver, the following requirements must be met by the applicant. Full details are contained in Appendix 3

- They must have held a full (not provisional) valid driver's licence for at least 1 year. This must be a UK, Northern Ireland, EU or exchangeable licence. In the case of an exchangeable driving licence this can only be used in the UK for a maximum of one year, after which it must be exchanged for a UK licence;
- They must have the right to live and work in the UK;
- They must be registered for tax with HMRC (in the case of a renewal) or acknowledge that they must register for tax with HMRC (in the case of a new application);
- They must pass the approved driver skills assessment (this applies to all new applicants and all existing drivers who on renewal cannot demonstrate that they have passed any previous test to the same standard);
- They must provide a medical certificate from their own GP;
- They must pass the Council's approved English communication skills test, which will include both written and spoken English;
- They must pass an assessment of their disability awareness;
- They must attend the Council approved child sexual exploitation and safeguarding training and pass the required test.

14.3 The applicant must obtain an enhanced DBS certificate with a check of both the adult and child barred lists. This is applied for in conjunction with the Council. The licence application must be made within one month of the date on the DBS certificate.

14.4 All new applicants and existing licence holders must subscribe to the DBS Update Service. This means they must pay the required annual fee to maintain this subscription (as set by the DBS). They must also provide the Council with written authorisation to conduct a status check, along with providing, when required, any relevant information the Council may require to carry out a status check.

14.5 In addition to the requirements listed at 14.2, the applicant must be able to demonstrate that they are a fit and proper person (as required by sections 51(1)(a)(i) and 59(1)(a)(i) of the 1976 Act.

- 14.6 As part of that process the Council will check the NR3S and undertake checks with DVLA.
- 14.7 In addition, information may be shared with other departments of the Council, other local authorities, HMRC, the police and immigration services. As a user of the NR3S, the Council will check the name of every applicant for a driver's licence against the database, and will add the details to the database of any driver whose licence application is refused, suspended or whose licence is revoked.
- 14.8 Applicants can complete the application form, satisfy the immigration checks and provide the DBS certificate without undertaking the driving test, safeguarding training or medical if they wish. This is referred to as a provisional application.
- 14.9 A provisional application will enable them to be satisfied that the Council will regard them as being a fit and proper person, subject to the additional requirements. This will save expenditure on the part of the applicant in situations where there is doubt as to whether or not a licence will be granted based upon their previous convictions.
- 14.10 Full details of the policy including the application process and Code of Conduct can be found at Appendix 3.
- 14.11 The legislation allows conditions to be attached to a Private Hire driver's licence, but they cannot be attached to a Hackney Carriage driver's licence. To ensure that the standards of behaviour are the same when drivers are driving either type of vehicle, the Council issues dual Licences and has decided to adopt a Code of Conduct, see Appendix 3. These are not conditions attached to the licence: rather this is the standard of behaviour expected from all taxi drivers.
- 14.12 If there is any non-compliance with this Code of Conduct, or the driver's behaviour falls short of these requirements, the Council will then consider whether or not that person remains a fit and proper person to hold a licence. The consequences of not complying with the Code of Conduct include penalty points being awarded; suspension of the licence; revocation of the licence or non-renewal of the licence.

Section 15: Hackney Carriage vehicle (proprietor) licences

- 15.1 Once a vehicle has been licensed as a Hackney Carriage, it retains that status all day every day for the duration of that proprietors (vehicle) licence. That means that it can only be driven by a person who holds a dual driver's licence entitling them to drive a Hackney Carriage licensed by the Council. The exception to this is when the vehicle is being tested.
- 15.2 Full details of the policy including the application process and vehicle conditions can be found at Appendix 4.
- 15.3 Applicants for a Hackney Carriage proprietor's licence must provide a basic DBS at the time of first application and on every renewal (subject to the DBS update service).
- 15.4 The Council sets fares for Hackney Carriages. The mechanism for doing so is contained in section 65 of the 1976 Act.
- 15.5 A fare review/increase can be initiated by the Council or by the Hackney Carriage trade. A fare review may be initiated following significant changes in licensing fees and other major costs such as fuel.

Section 16: Private Hire Vehicle (proprietor) licences

- 16.1 Once a vehicle has been licensed as a Private Hire vehicle, it retains that status all day every day for the duration of that proprietor's (vehicle) licence. That means that it can only be driven by a person who holds a dual driver's licence entitling them to drive a Private Hire vehicle licensed by the Council. There is no exception to this, even when the vehicle is being tested.
- 16.2 Full details of the policy including the application process can be found at Appendix 4.
- 16.3 Applicants for a Private Hire proprietor's licence must provide a basic DBS at the time of first application and on every renewal (subject to the DBS update service).

Section 17: Executive hire vehicles

- 17.1 An executive hire vehicle is a private hire vehicle and all other interpretations, policies and conditions relevant to licensed private hire vehicles still apply, except where described below.
- 17.2 The licensing authority has the power to disapply the general requirement to display a licence plate where the circumstances justify it. Accordingly, an exemption notice may be issued to the proprietor of an executive vehicle. In these instances, the notice must be kept inside the vehicle and the internal vehicle plate must be in the front windscreen.
- 17.3 Whilst driving an executive vehicle the driver of the vehicle will be exempt from the general requirement to wear his/her driver badge. In these instances, the badge must be kept inside the vehicle at all times whilst the driver is using the vehicle for private hire purposes and it must be made available for inspection to any passenger, police officer or authorised officer of the council upon request.
- 17.4 The Council does not provide a definitive list of vehicles it considers to be suitable for licensing as executive hire, although it is expected that the vehicle will be a 'high value' executive model, in pristine condition, that provides an elevated level of comfort that would not reasonably be expected of a standard private hire vehicle.
- 17.5 For the purposes of this policy, 'executive hire' applies to a licensed vehicle where the overt display of licence plates may identify or otherwise compromise the anonymity of the travelling passenger(s) for specific personal or commercial reasons. It is for the applicant or licensee to demonstrate to the Licensing team that there is a good case for exemption. For example, stating that the vehicle is used for 'account work' is not sufficient and the Licensing team may request evidence and testimonials to support claims for exemption.
- 17.6 Proprietors wishing to licence executive vehicles would normally be offering chauffeur driven contracts, cooperate account work and other similar services where the driver would be expected to observe a strict dress code. It would be expected that a contract for the hire of an executive vehicle would normally be in place no less than 24 hours prior to the commencement of the journey.

- 17.7 Exemptions will not be granted for vehicles that are made available for work such as day to day private hire bookings and home to school passenger transport.
- 17.8 Each application for 'executive hire' will be assessed on its own merits. The vehicle may be inspected by an authorised council officer, over and above a vehicle compliance test, to ensure compliance with these requirements.

Section 18: Private Hire operator licences

- 18.1 A Private Hire vehicle must be booked via a Private Hire operator before the journey carrying passengers (the hiring) commences. A Mid Devon Private Hire operator can only operate (i.e. dispatch) a Private Hire vehicle driven by a Private Hire driver, both of which have been licensed by the Council.
- 17.1 A Mid Devon licensed Private Hire operator can subcontract to another operator licensed anywhere in England (including Greater London but excluding Plymouth), Wales or Scotland, and can also accept a subcontract from any other operator. When discharging a subcontract, the vehicle and driver used must be licensed by the Council.
- 17.2 A Mid Devon licensed Private Hire operator can advertise their services anywhere, not only within the area of the District.
- 17.3 Full details of the policy including the application process can be found at Appendix 5.
- 17.4 Applicants for a Private Hire operator's licence must provide a basic DBS at the time of first application annually thereafter (subject to the DBS update service).

Appendix 1 Penalty Points Scheme

Index

1. Penalty Points Scheme ('the Scheme')
2. List of Offences/Breach of Vehicle Licence Conditions
3. List of Offences/Breach of Driver Code of Conduct
4. List of Offences/Breach of Operator Licence Conditions

1. Penalty Points Scheme

- 1.1 Hackney Carriage and Private Hire operators, drivers and vehicles are principally governed by the 1847 Act and the 1976 Act, and the Policy and conditions set by the Council.
- 1.2 The primary objective of the Scheme is to improve the levels of compliance and to help improve the standards, safety and protection of the travelling public.
- 1.3 Points issued through the scheme are separate to and not connected with the 'penalty points' (endorsements) that the courts can put on a motorist's licence.
- 1.4 The Scheme works in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the Scheme is to record misdemeanours and to act as a record of licensees' behaviour and conduct so as to ascertain whether they remain a fit and proper person to be a vehicle driver or operator and/or suitable to hold a vehicle licence. It does not prejudice the Council's ability to take other action.
- 1.5 The Scheme will be used where operators, drivers or proprietors of vehicles fail to comply with any legislative requirement, commit a criminal offence (under legislation) or fail to adhere to the Code of Conduct, or following complaints from the public.
- 1.6 Licensees involved will be asked to make representations, either in writing or in person. Once the investigation is completed, letters will be sent out detailing the outcome and a permanent record will be kept on the licensee's file. The outcome of the investigation may result in Officers determining that: no further action be taken; penalty points be imposed; a formal warning be issued, and/or prosecution.
- 1.7 If a licensee wishes to challenge the imposition of penalty points, can submit an appeal. Licensees must appeal any points issued by the Council, to the Lead Officer or above within 21 days of the points being

issued. Details of the appeal mechanism will be contained in the letter confirming the imposition of points.

- 1.8 For driver and proprietor licences, penalty points remain live or current for 36 months from the date the penalty points were imposed.
- 1.9 For operator licences, penalty points remain live or current for 60 months from the date the penalty points were imposed.
- 1.10 If the decision was appealed and points uphold, those points will remain live for 36 months from the date of the decision. The 36 month period is on a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.
- 1.9 Where a licensee accumulates more than 12 penalty points in any rolling 36 month period, or 60 month period for operators, the matter will be referred to a Regulatory Sub-committee to consider whether the driver or operator remains a fit and proper person. The Regulatory Sub-committee will identify if further action is necessary to address concerns. Such action may be a requirement to undertake additional training, or the sub-committee may suspend or revoke a licence, or issue a warning to the licensee, depending upon the circumstances. Periods of suspension of a licence by a Sub-committee will be dependent on the nature of the breaches of the legislation, conditions, behaviour and the compliance history of the individual. Suspension periods will normally range between 7 to 31 days.
- 1.10 Where a licensee holds multiple licences from the Council, points can accumulate across those licences as they are against the holder of the licence. This is necessary to ensure that the scheme is effective in identifying behaviour that brings into question a Licensees fitness and propriety.
- 1.11 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation and conditions.
- 1.12 If points are issued to a proprietor or driver for a matter which is also a criminal offence which the Council could prosecute for e.g. not wearing a driver's badge, failure to maintain operator records, those person(s) will not then be the subject of a prosecution by the Council.

2. List of Offences / Breach of Vehicle Licence Conditions

<u>Offence / Breach</u>	Code	Points
Failure to supply vehicle inspection test when vehicle is over 3 years of age	V1	4
Failure to have/maintain grab handles	V2	2
Failure to have a means of loading wheelchairs into the vehicle available at all times	V3	2
Failure to supply a current mechanical tail lift safety certificate to the Licensing Authority	V4	4
Failure to provide an annual LPG safety compliance Certificate	V5	4
Failure to maintain seat belts in a safe condition	V6	4
Undertaking alterations to equipment, dimensions or other specification to a licensed vehicle without consent	V7	4
Failure to display approved roof sign	V8	2
Failure to maintain roof sign in working order	V9	2
Private Hire vehicles advertising incorrectly	V13	4
Display sign that does not comply	V14	4
Failure to display "no smoking" signs in the vehicle	V15	4
Private Hire displaying the word "taxi"	V16	4
Incorrectly displaying licence plate	V17	4
Failure to return plate on expiry of licence if requested to do so by licensing team	V18	4
Failure to report loss or damage of a vehicle plate, following discovery of loss or damage	V19	2
Failure to surrender vehicle licence and plate if proprietor does not wish to retain vehicle licence	V20	2
Advertising on vehicle without written authorisation from the Licensing Authority	V21	4

Failure to submit taximeter for testing when requested to do so by Licensing Authority	V22	2
Tampering or allowing an unauthorised person to tamper with taximeter	V23	4
Failure to display a statement of fares inside the Hackney Carriage	V24	2
Wilfully or neglectfully causing letters or figures in the statement of fares to be obscured	V25	2
Displaying a statement of fares which differ from the approved fares	V26	2
Failure to notify licensing team of accidents or damage affecting the safety, performance or appearance of the vehicle	V27	2
Failure to get authorisation for a temporary transfer vehicle or leaving the vehicle on for more than two weeks	V28	2
Failure to have insurance for the licensed vehicle	V29	12
Failure to provide evidence of insurance prior to expiry	V30	6
Failure to keep copy of insurance/cover note in the vehicle	V31	2
Failure to notify Licensing Authority of change of insurer or particulars within 2 working days	V32	2
Failure to produce details to the Licensing Authority of drivers permitted to drive	V33	2
Failure to notify change of drivers	V34	2
Failure to notify Licensing Authority of change of address or other contact details	V35	2
Failure to obtain written permission to use trailers on licensed vehicles	V37	12
Failure to present vehicle and trailer for inspection	V38	4
Using a driver without the appropriate DVLA category code to tow a trailer	V39	6
Failure to maintain a reasonable standard of behaviour	V40	2
Failure to provide information requested by an authorised officer	V41	4

Failure to provide assistance to an authorised officer	V42	4
Failure to provide evidence of insurance or vehicle compliance test prior to expiry (1 st instance)	V43	6
Failure to provide evidence of insurance or vehicle compliance test prior to expiry (2 nd instance)	V44	12
Failure to show evidence of continuous MOT, vehicle test or insurance	V45	12

3. List of Offences/Breaches of Driver Code of Conduct

<u>Offence / Breach</u>	<u>Code</u>	<u>Points</u>
Driver not complying with the Driver Dress Code	D1	2
Driver not behaving in a civil and orderly manner	D2	3
Driver allowing noise from radio or other similar equipment to be a source of nuisance or annoyance to any person inside or outside the vehicle	D3	2
Driver smoking/vaping/similar whilst in the vehicle	D4	4
Private Hire driver parking in a position or location which gives the appearance of being for hire, whilst not on a pre booking	D5	3
Driver of Private Hire vehicle plying for hire	D6	6
Driver of a Private Hire vehicle calling out or influencing person to travel in the vehicle for gain without a prior appointment	D7	3
Failure to have in possession driver badge whilst driving a licensed vehicle	D8	2
Driver badge not visible to passengers being conveyed in the vehicle	D9	2
Drivers failure to wear the driver badge around their neck	D10	2
Failure to surrender driver badge to the Licensing Authority upon expiry, revocation or suspension of their licence when requested by licensing team	D11	2
Failure to carry evidence of insurance cover, this can be a cover note, in the vehicle whilst on duty	D12	2
Failure of driver to check vehicle proprietor has insurance on the vehicle	D13	2

Driver carrying greater number of persons than the number specified on the licence	D14	12
Carrying other persons in the vehicle without the consent of the hirer	D15	2
Carry a member of family/friend in a licensed vehicle when it is for hire/hired	D16	2
Failing to carry or ensure safety of passenger luggage	D17	4
Failing to offer reasonable assistance with luggage	D18	2
Failing to take steps to ensure passenger safety	D19	6
Failing to ensure passengers are dropped off safely, at the correct destination	D20	2
Fail to operate taxi meter correctly	D21	4
Charging more than the metered fare	D22	4
Tampering or allowing tampering of a taximeter	D23	4
Cancelling the fare or concealing the fare on meter before the hirer has agreed the fare	D24	2
Demanding more than the previously agreed fare	D25	4
Demanding more than the fare shown on the taxi meter or scale of charges on the tariff sheet	D26	4
Starting the fare before the hirer enters the vehicle unless specified in the tariff sheet	D27	4
Failure to notify proprietor of complaints made by the passengers	D28	2
Failure to notify passengers of their right to refer their complaint to the Licensing Authority	D29	2
Failure to attend at appointed time or place without sufficient cause	D30	2
Unnecessarily prolonging journey in distance or time	D31	4
Failure to ensure insurance cover for them to drive vehicle	D32	4
Failure to ensure vehicle is licensed by Licensing Authority for the purpose used	D33	2

Failure to notify Licensing Authority of change of address/telephone number within 7 days	D34	4
Failure to notify Licensing Authority of motoring offences over 3 penalty points or criminal convictions during the period of licence	D35	12
Failure to notify Licensing Authority of motoring convictions up to 3 penalty points during the period of licence	D36	6
Failure to notify Licensing Authority of involvement in incidents which the Police are involved and may lead to a caution/conviction	D37	12
Failure to notify Licensing Authority in writing within 7 days of serious injury or illness	D38	12
Failure to notify the Licensing Authority of a DVLA notifiable condition	D39	12
Failure to carry assistance dog and allow it to remain with the owner without exemption This is also a legal requirement	D40	4
Failure to provide mobility assistance to any passenger in a wheelchair when driving a Hackney Carriage designated as a wheelchair accessible vehicle This is also a legal requirement	D41	4
Failure to provide mobility assistance to any disabled passenger This is also a legal requirement	D42	4
Making additional charge for carrying assistance dog	D43	4
Failure to apply for or provide an exemption certificate on medical grounds for not being medically fit to carry an assistance dog	D44	4
Not using mobile phone in accordance with The Road Vehicle (Construction and Use) (Amendment) (No.4) Regulations 2003	D45	2
Failure to notify Licensing Authority of vehicle damage within 72 hours or present vehicle if requested to do so	D46	4
Failure to provide a written receipt for the fare paid if requested to do so by the passenger	D47	2
Failure to co-operate with any authorised officer of the Licensing Authority, Constable or any other clearly identifiable person nominated by the Licensing Authority	D48	4

Failure to comply with the regulations governing the wearing of seat belts	D49	4
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4. Offences / Breaches of Operator Licence Conditions - Private Hire

<u>Offence</u>	<u>Code</u>	<u>Points</u>
Operating more vehicles than stated on licence	O1	2
Failure to obtain and maintain insurance on vehicle	O2	12
Failure to produce evidence of insurance cover to the Licensing Authority	O3	6
Fail to provide valid insurance on expiry for any premises where the public have access	O4	6
Failure to notify the Licensing Authority of change of insurer within 2 days	O5	2
Fail to provide evidence of public liability insurance for premises	O6	2
Failure to operate the business in a manner which does not cause nuisance to the public or to persons in nearby premises	O7	2
Failure to attend a booking at appointed time or place without sufficient cause	O8	2
Knowingly allowing a greater number of persons in the licensed vehicle than is prescribed on the licence	O9	12
Fail to have necessary documents and equipment	O10	2
Operating the business from a premises outside the District	O11	12
Failure to keep booking or waiting areas which the public have access, clean, adequately heated, ventilated and lit	O12	2
Failure to provide seating facilities in waiting areas	O13	2
Failure to have in place planning permission if required at operator's address	O14	2
Failure to comply with planning permission or licence conditions for number of vehicles permitted	O15	2
Failure to supply written confirmation within 7 days of changes to the particulars shown on the application form relating to the licence	O16	4

Fail to notify Licensing Authority of change of address	O17	2
Failure to notify the Licensing Authority within 7 days of any convictions imposed on them, during the period of the licence	O18	6
Failure to keep proper records for a period of not less than 6 months	O19	3
Failure to keep proper records	O20	2
Fail to keep entries correctly	O21	2
Fail to notify details of security arrangements	O22	2
Fail to keep records of Private Hire vehicles operated	O23	2
Displaying the word Taxi or Cab on a Private Hire vehicle	O24	2
Failure to keep records of all drivers employed or failure to produce details of the drivers	O25	2
Failure to notify Licensing Authority within 7 days of the particulars of any driver who is no longer employed by the operator	O26	2
Failure to maintain telephone or radio equipment in sound condition or failure to repair defects promptly	O27	2
Failure to have or produce evidence of a Licence issued by the Department of Trade and Industry licence for all radio equipment	O28	2
Using unlicensed drivers to drive a Mid Devon Licensing Authority licensed vehicle	O29	12
Failure to keep a written record of all complaints or failure to make available to the Licensing Authority	O30	2
Late to provide evidence of insurance or vehicle test (1 st Occasion)	O31	6
Late to provide evidence of insurance or vehicle test (2 nd Occasion)	O32	12
Failure to carry out or provide the required DBS checks on dispatch staff	O33	12
Failure to record, maintain or provide details of checks on dispatch staff in a register	O34	12
Failure to make appropriate checks of any operator for which work is outsourced	O35	12

Failure to establish, maintain or provide a policy on employing ex-offenders to the licensing authority	O36	12
Failure to require notification of convictions as part of the contract of employment	O37	12
Failure to notify licensing authority of any conviction information relating to booking and dispatch staff in accordance with condition	O38	12

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Appendix 2 Previous convictions policy

Section 1: Introduction

- 1.1 The sole purpose of Hackney Carriage and Private Hire licensing is to protect the public. That is the only consideration the Council can take into account when determining application for a licence, or whether to take action against an existing licence (suspend, revoke or refuse to renew).
- 1.2 Ideally, all those involved in the Hackney Carriage and Private Hire trades (Hackney Carriage and Private Hire drivers, Hackney Carriage and Private Hire vehicle owners and Private Hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 1.3 The purpose of this this Policy is to lay down guidelines as to what the Council regards as unacceptable previous conduct on the part of an applicant or licensee. This will then assist the Council in determining whether a particular person is fit and proper either to be granted a licence in the first place or to retain such a licence.
- 1.4 Drivers and operators cannot be granted a licence unless the Council is satisfied that they are a fit and proper person to hold that licence (see s 51 and 59 in respect of drivers; s55 in respect of operators of the 1976 Act).
- 1.5 There are no statutory criteria for vehicle licences, therefore the Council has an absolute discretion over whether to grant either a Hackney Carriage or Private hire proprietor's licence.
- 1.6 In determining fit and proper, the Council is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the Hackney Carriage and Private Hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.

- 1.7 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction⁵. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁶.
- 1.8 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 1.9 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the Council to decide what action to take in the light of these guidelines.
- 1.10 In all cases, the Council will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of this policy.
- 1.11 Any offences committed, or unacceptable behaviour reported whilst driving a Hackney Carriage or Private Hire vehicle, concerning the use of a Hackney Carriage or Private Hire vehicle, or in connection with an operator of a Private Hire vehicle will be viewed as an aggravating feature, and the fact that any other offences were not connected with the Hackney Carriage and Private Hire trades will not be seen as mitigating factors.
- 1.12 As the Council will be looking at the entirety of the individual, in many cases fitness and propriety will not be determined by a specified period of time having elapsed following a conviction or the

⁵ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁶ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.

- 1.13 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 1.14 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 1.15 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to remain fit and proper. The Council has powers to take action against the holder of all types of licence (driver, vehicle and operator) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 1.16 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 1.17 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 1.18 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability, and therefore whether or not they are fit and proper. The Council is looking for fit

and proper individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

- 1.19 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the Council will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 1.20 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by this policy, the Council must consider the matter from first principles and determine the fitness and propriety of the individual.

Section 2.0: Considering previous convictions

- 2.0.1 As the Council issues dual licences and the criteria for determining whether an individual should be granted or retain a Hackney Carriage driver's licence are identical to the criteria for a Private Hire driver's licence, the two are considered together.
- 2.0.2 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 2.0.3 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they fit and proper.
- 2.0.4 In relation to single convictions, before a licence will be granted the following time periods should elapse following completion of the sentence. "Sentence" means the period of imprisonment imposed (not simply the time served), or the date of conviction if a fine was imposed, completion of any disqualification from driving, or the end of whichever lasts longer if more than one penalty was imposed.

2.1 Crimes resulting in death

2.1.1 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

2.2 Exploitation

2.2.1 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

2.3 Offences involving violence

2.3.1 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

2.4 Possession of a weapon

2.4.1 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.5 Sex and indecency offences

2.5.1 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

2.5.2 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

2.6 Dishonesty

2.6.1 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.7 Drugs

2.7.1 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

2.7.2 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

2.8 Discrimination

2.8.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.9 Motoring convictions

2.9.1 Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

2.10 Drink driving/driving under the influence of drugs/using a hand-held telephone or hand-held device whilst driving

2.10.1 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed.

2.10.2 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

2.11 Other motoring offences

2.11.1 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed or the date of conviction resulting in the 7th point.

2.11.2 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.12 Hackney Carriage and Private Hire offences

2.12.1 Where an applicant has a conviction for an offence concerned with or connected to Hackney Carriage or Private Hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.13 Vehicle use offences

2.13.1 Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages and Private Hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Section 3: Private Hire Operators

3.1 As public trust and confidence in the overall safety and integrity of the Private Hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined below.

3.2 A Private Hire operator does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the Private Hire vehicle (except where they are also licensed as a Private Hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about

their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

- 3.3 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a fit and proper person.
- 3.4 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and who are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the Council's overall criteria, that will lead to the operator's licence being revoked.

Section 4: Vehicle Proprietors

- 4.1 Vehicle proprietors (both Hackney Carriage and Private Hire) have two principal responsibilities. Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times. Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.2 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a fit and proper person to be granted or retain a vehicle licence.
- 4.3 As public trust and confidence in the overall safety and integrity of the Private Hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Appendix 3 Driver licence policy and Driver Code of Conduct (Hackney Carriage and Private Hire)

The Council issues dual driver's licences. That means that once you hold a driver's licence, you can drive any Council licensed Hackney Carriage or Private Hire vehicle.

This reduces the burden on drivers who may wish to drive either type of vehicle, reduces the costs to the drivers and the Council, and as the criteria for issue and retention of both Hackney Carriage and Private Hire drivers' licences are identical, there is no practical or legal reason not to do so.

This document contains the policy, Code of Conduct and legislation relating to a driver licence.

There is a power to attach conditions to Private Hire drivers' licences, but the Council has decided not to attach standard conditions to these licences.

As it issues dual licences, it has a Code of Conduct for drivers which applies to both Hackney Carriage and Private Hire activity.

This Code is not a condition: it is a standard of behaviour which the Council expects drivers to maintain. Any failure to comply with the Code will lead to the Council questioning whether you remain a fit and proper person to drive a Hackney Carriage or Private Hire vehicle.

A dual driver's licence is referred to as a "taxi driver's licence" and drivers are referred to as "taxi drivers" within the Council and for the remainder of this document.

Section 1: Introduction

- 1.1 The purpose of licensing taxi drivers is to protect the public, including passengers and others who may otherwise be placed at risk from unlicensed and potentially dangerous drivers.
- 1.2 It is a privilege to hold a taxi driver's licence and licensees have responsibilities to their passengers and customers, other road users and the public generally. The Council has been satisfied that when you applied for your licence you were a fit and proper person to have that licence granted. In assessing that, the Council took into account your

entire character and behaviour. This not only includes times when you are working as a taxi driver, but at all other times as well. This can include your use of social media as well as other forms of communication.

- 1.3 The requirement to satisfy the Council that you are a fit and proper person continues throughout the duration of the licence. If at any time you as a licensee fall below the standards expected of a new applicant, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. It is no defence to argue that your actions took place when you are not working as a taxi driver. You should appreciate that under the previous convictions policy (available at Appendix 2), if the unacceptable or criminal behaviour took place whilst you were driving as a taxi driver that will be viewed as an aggravating feature by the Council.
- 1.4 In many cases a taxi driver is the first person that a visitor to the District will encounter following arrival at an airport, railway station or bus station. Taxi drivers are ambassadors for the District and that first impression can affect a person for their entire visit. Taxi drivers should be aware of this and act accordingly at all times.
- 1.5 Taxi drivers can also be the eyes and ears of their communities. In addition to travelling far and wide around the District they also have close contact with people from every part of society. This means they can quickly establish when situations are not normal. That could be that a person has not made a booking that is expected which may be as a result of them falling ill. If they live alone the taxi driver may be the only person to have realised that there is a problem. Taxi drivers are also very aware of the movements of people. They are in a position to recognise where children may be being used for criminal purposes (for example County lines drug trafficking) or being moved for the purposes of abuse or exploitation. They may also recognise similar movements of adults in relation to modern slavery and other forms of abuse.
- 1.6 By working closely with the Council and other agencies the role of the taxi driver can be vital in protecting vulnerable people within the community.
- 1.7 You must understand and comply with the legal requirements relating to your taxi driver licence and the legal requirements and any conditions attached to the Hackney Carriage or Private Hire Vehicle licence of the

vehicle you drive. Failure to comply with the requirements may result in your taxi driver licence being suspended or revoked.

- 1.8 The Council office for Hackney Carriage and Private Hire licensing purposes is: Mid Devon District Council, **Phoenix House, Phoenix Lane, Tiverton, Devon**
Telephone: **01884 255255** Email: **licensing@middevon.gov.uk**

Section 2: Power to take action against a taxi driver's licence

- 2.1 Under section 61 of the 1976 Act, the Council may suspend or revoke or refuse to renew a taxi driver's licence on the following grounds –
- 2.2 that the licensee has, since the date of the grant of the licence –
- (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847;
 - (c) (aa) been convicted of an immigration offence or required to pay an immigration penalty; or
 - (d) any other reasonable cause.
- 2.3 The Council may suspend or revoke your licence with immediate effect where it is of the opinion that the interests of public safety require such a course of action under section 61(2A) of the 1976 Act. As this is likely to be an urgent situation, you will be contacted by telephone, text and email and notified of the time the decision will be made and your opportunity to make representations. If you do not avail yourself of that opportunity, the decision will be taken in your absence.
- 2.4 Failure to comply with any Hackney Carriage or Private Hire legislation, or other Road Traffic legislation is an offence, and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which may also result in your taxi driver's licence being suspended or revoked.
- 2.5 If any information given by you on the application form for this licence proves to be false, or you fail to disclose any relevant information on your

application form, the licence may be revoked, and you may be prosecuted under s57(3) of the 1976 Act.

- 2.6 The taxi drivers' licence and badge remain the property of the Council.
- 2.7 In the event that you lose your licence, or badge or they are damaged or defaced, you must get a replacement on payment of a fee determined by the Council, and you cannot drive a Hackney Carriage or Private Hire vehicle until such a replacement is obtained.

Section 3: Policy

3.1 Duration of licence

- 3.1.1 The drivers' licence expires 3 years (36 months) from the date of issue, unless an application was made for a licence for 1 year.

3.2 Renewal of licence

- 3.2.1 Any application for renewal must be made at least 14 days before the licence expires. If you do not apply to renew your licence in time there may be a period when you will be unable to drive a Hackney Carriage or Private Hire vehicle. If the renewal application is not received before the expiry of your current licence, it will be treated as a new application rather than a renewal and you will have to provide all the information that is required for a new application (e.g. a new DBS check, up-to-date medical etc.).

- 3.2.2 Renewals are generally dealt with by Council Officers under delegated powers, and can be processed quite quickly. However, if there have been any changes since the last grant of the licence (for example if you have been convicted or cautioned for any offence, received a fixed penalty notice, Community Protection Notice, Criminal Behaviour Order, been required to attend a speed awareness course or there have been a complaint or concerns about your behaviour, but this is not an exhaustive list) the renewal application may need to be considered by the Regulatory Sub-committee. If this is the case, then a 2 month temporary licence may be issued, without prejudice to any decision the Sub-committee might make.

- 3.2.3 The renewal of the licence will be at the Council's discretion.

3.3 Applications and fees

- 3.3.1 An application will not be processed until it is complete. The fee will be due prior to grant of the licence.
- 3.3.2 All applications must be accompanied by passport standard and sized photograph of the applicant with the applicant's full name written in block capitals on the reverse.
- 3.3.3 The fees payable for the grant and renewal of hackney carriage and private hire licences are available to see on the Councils website: [Hackney Carriage and Private Hire Fees - MIDDEVON.GOV.UK](http://MIDDEVON.GOV.UK)

3.4 Driving Licence

- 3.4.1 Applicants must have held a full DVLA driving licence for a Category B vehicle for a period of at least 12 months. Where an applicant (or an existing licensed driver) has been disqualified from driving for any period, as a result of a conviction, a taxi drivers' licence will not be granted to that applicant until at least 1 year has elapsed following the end of the period of disqualification.
- 3.4.2 If an applicant does not hold a UK driving licence, an application can be made provided the applicant holds a Northern Ireland, European Economic Areas or a driving licence issued by a country which is defined as an exchangeable driving licence, and has held that licence for at least 1 year at the date of application. Countries which issue licences recognised as exchangeable are currently Gibraltar, Jersey, Guernsey, Isle of Man, Australia, Barbados, British Virgin Islands, Canada, Falkland Islands, Faroe Islands, Hong Kong, Japan, Monaco, New Zealand, Republic of Korea, Singapore, South Africa, Switzerland, Zimbabwe (This list may alter as a result of changes to the legislation.).
- 3.4.3 The driving licence must be produced at the assessment interview and consent to access DVLA records must be given. A copy will be taken of the licence and retained together with the application form and all other supporting documents.

3.5 Immigration requirements

- 3.5.1 An applicant for a driver's licence must have the right to remain and work in the UK. This will be evidenced on application by the driver providing documentation or immigration check code which complies with the Home Office guidelines⁷. The list of acceptable documents is also detailed on the Council's website.
- 3.5.2 The original documents must be provided and brought to the Council offices by the applicant in person. They will then be inspected, verified and copied.
- 3.5.3 Where an applicant has an unqualified right to remain and work, that will be noted and this process will not be repeated on renewal.
- 3.5.4 However where there is a qualification to either of the rights, the required documentation must be provided each time the licence is renewed. In those cases a licence for a shorter period than the usual 3 years may be granted.
- 3.5.5 If at any time during the currency of a licence, the right to remain or work is lost, that licence will cease to have effect and the licensee must immediately notify the Council and return the licence and badge.

3.6 Tax Conditionality

- 3.6.1 Existing licensees applying for the renewal of a licence must obtain their unique 9 character code from HMRC and provide this to the Council. If this cannot be provided the application cannot proceed.
- 3.6.2 The Council will advise new applicants of the need to register with HMRC for tax and applicants must sign an acknowledgement that they have received this information.

⁷ At the time this policy was adopted those are detailed in Appendix 1 to the Home Office document "Guidance for Licensing Authorities to prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales" (available at [Guidance for licensing authorities to prevent illegal working in the taxi and private hire sector in the UK \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-for-licensing-authorities-to-prevent-illegal-working-in-the-taxi-and-private-hire-sector-in-the-uk))

3.7 Criminal Record Checks

- 3.7.1 All applicants (new and on renewal) will be required to provide an Enhanced DBS check with a check of both the adult and children barred lists, at their own expense, as part of the application process. This is conducted via the Council, but the DBS certificate is sent to the applicant's home address.
- 3.7.2 Once a licence has been granted, all licensees will be required to subscribe to the DBS Update Service.
- 3.7.3 The application will then be considered in the light of the Council's previous convictions policy (see Appendix 2).
- 3.7.4 As DBS checks do not cover convictions in countries outside the United Kingdom, any applicant who has lived abroad for any period of more than 6 months from the age of 18 must also provide a Certificate of Good Conduct from the appropriate Embassy or High Commission and it must be in English. The Council may undertake checks to ensure the authenticity of any such documentation. If this cannot be provided then the application will be refused.

3.8 Driving Standards

- 3.8.1 In order to establish that an applicant reaches an acceptable driving standard, new applicants will be required to successfully undertake and pass an approved driver skills assessment before a licence will be granted. Applicants must arrange and pay for this test themselves.
- 3.8.2 Any existing driver that cannot prove that they have completed a test to the same standard within the last 10 years must also successfully undertake such a test at their own expense before a licence will be renewed.
- 3.8.3 The driver skills assessment will assess the following:
- driving skills;
 - geographic knowledge and navigational skills;
 - English communication skills;
 - Hackney Carriage and Private Hire licence conditions knowledge;
 - child sexual exploitation awareness

- safeguarding awareness
- disability awareness and wheelchair assessment

3.9 Medical Requirements

- 3.9.1 Applicants are required to pass a medical examination, to include a vision assessment (at their own expense) and provide a Council issued medical certificate completed by their own GP, or any suitably qualified medical practitioner who must have full access to all of their medical records to meet PSV/HGV Group 2 (vocational licence) medical standards of fitness, as defined and updated by the DVLA.
- 3.9.2 An applicant can also provide a PSV/HGV Group 2 medical certificate which has been completed by their own GP within the previous four months.
- 3.9.3 Medical certificates are required at the initial application; and valid until the age of 45, thereafter every five years until the age of 65; and every year from the age of 65.
- 3.9.4 The Council reserves the right to seek a second opinion (at the expense of the applicant) in any case where it has any concerns about the medical fitness of an applicant, both on application and at any time during the duration of the licence. The Council may suspend a licence if the requested information is not submitted within 4 weeks of the request, and also where the information provided raises further concerns as to the applicant's fitness to carry out their duties as a licensed driver.

3.10 Driver's Licence and Badges

- 3.10.1 Successful applicants will be issued with their licence and 2 badges on receipt of the appropriate fee.
- 3.10.2 Badges must be worn and lodged with the operator or Hackney Carriage proprietor (as applicable) in accordance with the Code of Conduct.

3.11 Equality Act Exemption Certificates

- 3.11.1 Taxi drivers must carry assistance dogs, carry disabled people and provide mobility assistance to them, and, when driving a listed

wheelchair accessible vehicle, provide mobility assistance to wheelchair-bound passengers (detailed below).

3.11.2 Applications can be made to the Council for exemption from the assistance dogs' requirements under sections 169 and 171 of the Equality Act. Similar applications for exemptions from the requirement to provide mobility assistance can be made under section 166 of the Equality Act.

3.11.3 Application forms are available on the Council's website together with details of the criteria that will be used to determine whether or not any such exemption certificate should be issued and if so, on what terms.

3.11.4 Exemption certificates will only last until the driver is required to provide their next general medical certificate. This means that an exemption certificate will last for a maximum of 5 years, but if it is being granted subsequent to the last medical, it will not run beyond the renewal date for the general medical certificate.

3.12 Seat belts

3.12.1 The law relating to seat belts as it applies to drivers and passengers in Hackney Carriages and Private Hire vehicles is different from non-licensed passenger vehicles.

3.12.2 When driving a Hackney Carriage, the driver does not need to wear a seatbelt when seeking hire (plying), answering a call for hire (travelling to a pre-booked hiring) or when a commercial or fare paying passenger is being carried (this does not apply to the vehicle if being used for private/domestic use). However the Council strongly advises that a seatbelt should be worn by drivers of Hackney Carriages at all times.

3.12.3 When driving a Private Hire vehicle, the driver does not need to wear a seatbelt when a commercial or fare paying passenger is being carried (this does not apply to the vehicle if being used for private/domestic use). However the Council strongly advises that a seatbelt should be worn by drivers of Private Hire vehicles at all times.

3.12.4 In relation to commercial or fare paying passengers in Hackney Carriages and Private Hire vehicles (except when the vehicle is being used to private/domestic use) the rules relating to seat belts are as follows:

Commercial or fare paying passengers		Front seat	Rear seat	Who is responsible?
Children under three years' old		Correct child restraint MUST be used.	Correct child restraint MUST be used If one is not available in a licensed Hackney Carriage or Private Hire vehicle, the child may travel unrestrained.	Driver
Child Aged 3–11 and under 135cms in height (about 4.5 Feet)		Correct child restraint MUST be used	Correct child restraint must be used if seat belts are fitted. If a child seat is not available, a child may travel using just the seat belt in these situations : - In a licensed Hackney Carriage or Private Hire vehicle - For a short distance if	Driver

			the journey is unexpected and necessary - There isn't room to fit a third child seat	
Child Aged 12 or 13 years or younger child 135 cm or more in height		Adult seat belt must be worn if fitted	Adult seat belt must be worn if fitted	Driver
Passengers aged 14 years and over		Must be worn if fitted	Must be worn if fitted	Passenger

3.12.5 If you are carrying children under the age of 14 you must make any adult with responsibility for the child aware that the correct restraints may not be available and the carriage of the child in those circumstances is at the adults own risk.

3.12.6 Children can be carried lawfully in Hackney Carriages and Private Hire vehicles without the correctly sized child restraints. In these circumstances, the driver must make the parent's, carer's or other responsible adult's accompanying the children aware of the potential dangers of carrying children who are not correctly restrained in motor vehicles. It will remain the parent's, carer's or other responsible adult's decision as to whether they are prepared to accept those risks.

Section 4: Sanctions against breaches of the Code of Conduct and for acquiring driver licence points

4.1 Where a driver acquires 6 or more penalty points on their DVLA licence, or who breaches any legislation or requirement of the Code of Conduct, they may be referred to the Regulatory Sub-committee.

4.2 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for taxi drivers (see Appendix 2 for full details).

- 4.3 When a driver is brought before the Regulatory Sub-committee for whatever reason, the Regulatory Sub-committee will decide each case on its merits, after hearing the facts.
- 4.4 The Regulatory Sub-committee may also suspend or revoke the taxi driver's licence or impose further penalty points. Suspension or revocation of your licence can be with immediate effect where the Council is of the opinion that the interests of public safety require such a course of action. (Section 61 (2A) of the 1976 Act).
- 4.5 It must be understood that a decision to grant you a licence was made on the basis that you were a fit and proper person to drive a Hackney Carriage and Private Hire vehicle on the particular facts of the case on the day of the decision. That status can be lost at any time in the future and you must ensure that your behaviour remains of the highest standard to protect your drivers' licence and therefore your livelihood.
- 4.6 Licences cannot be surrendered if the licence holder is involved in any investigation by the Council for non-compliance against said licence. This is to ensure public safety, as it will be necessary to conclude the investigation, take appropriate action against the licence, such as revocation or suspension and where relevant share on NR3s.

Section 5.0: Taxi Drivers' Code of Conduct

- 5.0.1 This Code of Conduct relates to you as a licensed taxi driver. It outlines the standards of behaviour which are expected of you whilst you hold a taxi driver's licence. Failure to comply with these requirements may lead to enforcement action being taken. This could be by way of penalty points attached to your taxi driver's licence, suspension, revocation or refusal to renew your licence.
- 5.0.1 You are a licensed taxi driver for the duration of the licence, and at all times you should ensure that your conduct and behaviour is that of a fit and proper person. The Council will consider all your behaviour, and that is not limited to the times when you are driving a Hackney Carriage or Private Hire vehicle.
- 5.0.2 When you are driving a Hackney Carriage or Private Hire vehicle, that remains a Council licensed vehicle and you remain a Council licensed taxi driver wherever you may be located, and for whatever purpose you

are using the vehicle (this includes social and domestic use). This Code of Conduct applies across the whole of the United Kingdom.

5.1 Your taxi driver's licence and badge

5.1.1 You have been issued with 2 copies of your driver's badge. You must wear one driver's badge at all times when you are driving or working with a Private Hire vehicle or Hackney Carriage and failure to do so is a criminal offence. **(This is also a legal requirement)**

5.1.2 You must display the second copy of your badge in a position which is plainly and clearly visible to your passengers at all times whilst you are working as a taxi driver.

5.1.3 You must return your licence and badge to the licensing team of the Council **within 72 hours** if:

- (a) You change your home or business address
- (b) The licence expires, or
- (c) Is suspended or revoked (from the date the decision takes effect);
- (d) You lose the right to work in the UK, or the right to remain in the UK
- (e) You wish to surrender your taxi driver licence
- (f) Required to do so by an "Authorised Officer" of the Council.

5.1.4 In the event of the loss of your licence or badge you must report the loss to the Council's licensing team as soon as reasonably practicable.

5.2 Production of Documents

5.2.1 If an Authorised Officer of the Council, or a police constable or PCSO asks you, you must produce:

- Your DVLA driving licence
- Your taxi driver licence
- The vehicle registration document
- A valid certificate of insurance

within **5 days** of the request being made at the location that they specify.

5.3 Medical condition

- 5.3.1 You must notify the Council, in writing within **72 hours** of any change in your medical condition that may adversely affect your ability to drive Private Hire or Hackney Carriage vehicles.
- 5.3.2 When working as a taxi driver, you must be sober and not under the influence of any illegal drugs. If you are taking any prescription medication, you must ensure that it does not impair your driving ability.

5.4 Declaration of conviction / caution / penalty

- 5.4.1 You must declare all convictions, cautions, fixed penalty notices, Criminal Behaviour Orders, Community Protection Notices, requirements to attend a speed awareness course, injunctions, restraining orders to the Council on your initial application form.
- 5.4.2 If you are convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the subject of a Criminal Behaviour Orders or Community Protection Notice, are required to attend a speed awareness course, are made the subject on any injunction or restraining order, or you are arrested for any matter, you must give the Council details within **72 hours** of the event.

5.5 Driving

- 5.5.1 You must comply with all road traffic regulations at all times.
- 5.5.2 You must comply with all legislation and conditions relating to the Hackney Carriage or Private Hire vehicle that you are driving at all times. Those conditions are available within section 5 of Appendix 4 and on the Council's website.
- 5.5.3 You must not use a hand-held mobile telephone or any other handheld device whilst driving. In addition, you must not use any non-handheld device whilst driving, unless it is entirely voice activated. In addition this will be regarded as a serious breach of the Code of Conduct
- 5.5.4 You must not sound your vehicle horn –

- (a) unnecessarily, i.e. unless in an emergency or to let other road users or pedestrians know you are there;
- (b) when your vehicle is stationary on a road, at any time, other than at times of danger due to another moving vehicle on or near the road;
- (c) on any road in a built up area between 11.30 p.m. and 7.00 am.

5.5.5 Your vehicle horn must not be used to signal your arrival to collect any pre-booked passenger.

5.5.6 You must not drive any Hackney Carriage or Private Hire vehicle in a dangerous or inconsiderate manner and in addition to complying with all road traffic regulations you must ensure that your driving and behaviour on the road is of the highest standard.

5.5.7 When parking, or otherwise waiting for either a hiring, a booking to be communicated to you or attending for a pre-booked hiring, you must ensure that you do not obstruct other road users including pedestrians on pavements and in pedestrianised streets. You must also ensure that you do not block vehicle entrances or any emergency exits for buildings. You must also comply with parking and waiting restrictions (if any).

5.5.8 When stopping to set passengers down you must do so in a manner which minimises the risk to those passengers as they alight from the vehicle. You must warn passengers clearly of any unusual or unexpected dangers within the vicinity.

5.5.9 When driving a Hackney Carriage, you must not demand a fare greater than that shown on the meter for a journey within the Council's area.

5.5.10 Where a journey ends outside the Council's area, you must not demand a fare greater than that shown on the meter unless an agreement was made between yourself and the hirer before the hiring commenced.

5.5.11 When driving a Private Hire vehicle you must not demand a fare greater than that shown on the meter (if that is how your operator calculates fares) or as agreed between the hirer and the operator.

5.6 Data protection

5.6.1 You must ensure that you have the correct safeguards for storing personal data that comply with the Data Protection Act 2018 and the General

Data Protection Regulations (GDPR). This will include details of hirers (pre-booked Hackney Carriages) and also any dash cam footage.

5.7 Conduct and Behaviour

- 5.7.1 You must be honest and trustworthy at all times.
- 5.7.2 You must be polite and courteous to your passengers, other road users and the public generally. You must not use abusive or foul language, spit or smoke in or near the vicinity of your vehicle.
- 5.7.3 You must not use aggressive language or behaviour, or engage in any violent conduct.
- 5.7.4 You must not carry any form of weapon on your person or in your vehicle at any time and under no circumstances must you ever take the law into your own hands.
- 5.7.5 If the hirer requests, you must provide a written receipt for the fare paid for the hiring, including the amount of VAT (if applicable) shown separately if so requested. If requested you must provide details of the journey including the date, pick up point and destination, vehicle licence number, operator's name and driver name or licence number. You must then sign the receipt.
- 5.7.6 You must not cause or allow noise emitted by any radio or sound equipment in the vehicle which you are driving to be a source of nuisance or annoyance to any person or persons, whether inside or outside the vehicle.
- 5.7.7 If a passenger objects, you must not play any radio or sound reproducing instrument or equipment in the vehicle.
- 5.7.8 You must treat everybody decently, equally and fairly.
- 5.7.9 You must not discriminate against any person because of their race, colour, religious beliefs, age, gender, sexuality, or disability.
- 5.7.10 You must not use abusive, racist, sexist, or any other offensive language or terms with passengers or other members of the public (remember that not everybody shares your sense of humour, or views).

- 5.7.11 You must protect passengers and yourself. Be wary about entering any premises, especially domestic premises unless you know the person as an established customer. Even then make sure that you take all steps to minimise any risk to yourself or your reputation.
- 5.7.12 You must not obtain the telephone numbers of, or engage on any form of social media with anybody under the age of 18.
- 5.7.13 You must behave in a civil and reasonable manner at all times and must comply with any reasonable request made by the hirer.
- 5.7.14 You must always pick up your passengers on time unless unavoidably delayed.
- 5.7.15 You must always assist your passengers with their luggage. If they do not request this, you must ask whether they need help. This includes picking it up from the point of booking, removing it from your vehicle at the end of the journey and setting it down.
- 5.7.16 It is recommended that you maintain a logbook in which to record any incidents that you feel are of concern (including but not limited to concerns about child abuse, abuse of any other person, people trafficking, drug carrying, violence or criminal behaviour) or which may result in a complaint being made about you. Such incidents must be recorded promptly with as much detail as possible (date, time, location, nature of the incident, names of the parties (if known) and identifying features). This logbook must be kept securely in the vehicle and the details must be transferred to a storage medium which is not contained within the vehicle (i.e. a copy of the pages stored on a computer) as soon as possible.
- 5.7.17 When you are driving a Private Hire vehicle all such incidents must be reported to your operator as soon as possible. If you are driving a Hackney Carriage that has been booked via a booking agent, all such incidents must be reported to that agent as soon as possible.
- 5.7.18 Where you suspect that an incident involves criminal behaviour you must report this to the Police and Council immediately.

5.7.19 You must maintain a logbook of any complaints that are made to you as a driver. All complaints must be recorded promptly with as much detail as possible (date, time, location, nature of the complaint, names of the parties (if known) and identifying features).

5.7.20 When you are driving a Private Hire vehicle all such complaints must be reported to your operator as soon as possible. If you are driving a Hackney Carriage that has been booked via a booking agent, all such complaints must be reported to that agent as soon as possible.

5.7.21 Such complaints should also be reported to the licensing team.

5.8 Personal appearance and dress code

5.8.1 You must maintain good standards of personal hygiene at all times.

5.8.2 You must always be clean and respectable in your dress and present a professional image. To achieve this you must comply with the following dress code which will also ensure that public and driver safety is not compromised.

5.8.3 Acceptable standards of dress

(a) Collared shirts, blouses, polo shirts, or sweatshirts must cover the shoulders and be capable of being worn tucked inside trousers, shorts or skirts.

(b) All clothing must be clean, of smart appearance and in good condition.

(c) Trousers can be either full length or shorts.

(d) Any clothing must not impede the safe operation of the pedals.

(e) Footwear for all drivers must fit around the heel of the foot. Wooden soled footwear is not permitted.

5.8.4 Unacceptable standards of dress

(a) Anything not conforming to the above, including:

(b) Clothing not being kept in a clean and fresh condition or any items which have holes or rips.

(c) Words or graphics on any clothing that is of an offensive or suggestive nature.

(d) Sportswear e.g. football or rugby kits, track suits, beach wear, etc.

(e) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.

- (f) Not having either the top or bottom half of their bodies suitably clothed.
- (g) No baseball caps or hoods worn up whilst in the vehicle.

5.9 Use of the Vehicle

- 5.9.1 Private Hire vehicles and Hackney Carriages are smoke free vehicles at all times under the Health Act 2006. It is a criminal offence to smoke in a Private Hire vehicle at any time (section 7) or to allow a person to smoke in a Private Hire vehicle (section 8) and you can be prosecuted for either or both offences. In addition this will be regarded as a serious breach of the Code of Conduct.
- 5.9.2 Under normal circumstances, must not eat in the vehicle at any time. Discretion should be applied in the event of a person requiring food due to a medical condition.
- 5.9.3 Animals must not be carried in Private Hire vehicles or Hackney Carriages other than those belonging to or in the care of passengers.
- 5.9.4 You may refuse to carry a hirer's animal at your discretion. However, you must not refuse to carry an assistance dog, unless you have a valid exemption certificate issued by the Council (and the specified notice is displayed in the vehicle at the time). Any animal must be kept under the hirer's control, and must be carried in the rear of the vehicle (except assistance dogs). No animals can be carried in the luggage compartment of a vehicle unless the vehicle is an estate car or hatchback and the animal can be seen from outside the vehicle through a window.
- 5.9.5 You must not carry more passengers than the maximum number prescribed by the conditions attached to the Hackney Carriage, your Private Hire vehicle licence and displayed on the vehicle plate.
- 5.9.6 You must accept a reasonable amount of luggage for any hirer and assist them in loading it and unloading it from the vehicle.
- 5.9.7 You must not carry any additional passengers not already accompanying the hirer in the vehicle without the hirer's permission.

5.9.8 You must not carry more than one person in the front seat unless the vehicle is furnished with manufacturer fitted seats for more than one passenger in the front of the vehicle and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried.

5.9.9 You must not carry any child below the age of ten years in the front of the vehicle.

5.10 Vehicle Checks

5.10.1 It is your responsibility to ensure that the correct policy of insurance is in force for any Hackney Carriage or Private Hire vehicle that you are driving.

5.10.2 Before using a Hackney Carriage or Private Hire vehicle for the first time each day, you must undertake a “walk around check”. This requires that you ensure that the vehicle is roadworthy and fit for use as a Hackney Carriage or Private Hire vehicle. The check must include the tyres (pressure and tread depth), checking the lights are functioning (so far as is possible with one person – all lights except brake lights), checking all glass (lights and windows) is intact and ensuring there is no obvious damage to the vehicle. Any defects that are detected must be rectified before the vehicle is used to carry passengers.

5.10.3 Every time you commence driving the vehicle you must ensure that the rear identification plate, supplied by the Council, is securely fixed to the outermost rear of the vehicle, so that it can be clearly read by pedestrians and other road users. You must also ensure that any other identifying information (whether supplied by the Council or not) is correctly and securely attached to the vehicle.

5.10.4 If you have been issued a certificate of exemption from carrying assistance dogs or providing wheelchair assistance you must ensure that that notice is correctly placed on the nearside of the front windscreen.

5.10.5 You must not offer or accept any hire of the vehicle except where the hiring has been pre-booked via your Private Hire operator [does not apply to Hackney Carriages].

5.11 Taximeters in Private Hire Vehicles

- 5.11.1 You may use a meter in the Private Hire vehicle only if it is constructed, attached and maintained in compliance with the Private Hire Vehicle licence conditions.
- 5.11.2 Unless the fare is agreed in advance, you must switch the meter on at the point the hirer's journey commences and keep the meter working until the termination of the hiring.
- 5.11.3 You must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless a lesser fare has been agreed).
- 5.11.4 You must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.
- 5.11.5 You must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- 5.11.6 You must ensure that the meter is sufficiently illuminated when in use and is visible to passengers.
- 5.11.7 You must not (nor may you allow anyone else) to tamper with the meter or any seal on the meter without lawful excuse, or alter any meter with the intent to mislead.

5.12 Plying for hire when driving a Private hire Vehicle (does not apply when driving a Hackney Carriage)

- 5.12.1 You must not pick up passengers who have not pre-booked with your operator.
- 5.12.2 You must not offer or accept an offer for the immediate hire of a vehicle while it is being used in a public place.

5.12.3 You must not park or wait on or near any Hackney Carriage rank, or drop passengers off on a Hackney Carriage rank.

5.13 Fares when a Hackney Carriage is used for pre-booked work

5.13.1 A Hackney Carriage can be used for pre-booked work both within the District of Mid Devon and elsewhere. When the journey is wholly within the District, or commences or ends in Mid Devon District, the fare charged cannot be greater than that displayed on the meter or in accordance with the table of fares.

5.13.2 Where a pre-booked journey commences and ends outside the Mid Devon District the table of fares and the meter do not control the maximum fare that can be charged. In these circumstances the fare to be charged must be negotiated between the hirer and the driver or booking agent.

Section 6: Legal requirements (contained in national legislation) when driving a Hackney Carriage

6.1 Disability Discrimination

6.1.1 All drivers must comply with statutory duties in relation to disabled persons. These are set out in Section 11 (above) of the Policy.

6.2 Conduct

6.2.1 You must not drive a Hackney Carriage at any time if you do not hold a taxi driver's licence, or if your licence has been suspended (section 47 of the 1847 Act).

6.2.2 You must not lend your taxi drivers licence to anybody else (section 47 of the 1847 Act).

6.2.3 When driving a Hackney Carriage you must accept a hiring from a Hackney Carriage rank (taxi rank) or when you are stationary on the highway for a journey within the Council's area unless you have a "reasonable excuse" to refuse (section 53 of the 1847 Act).

6.2.4 When driving a Hackney Carriage if you agree to charge a fare lower than that shown on the meter for a journey in a Hackney Carriage then

you cannot charge more than that agreed fare (section 54 of the 1847 Act).

- 6.2.5 When driving a Hackney Carriage you must not charge more than the fare shown on the meter of a Hackney Carriage for a journey wholly within the Council's area, irrespective of how the journey was arranged (section 55 of the 1847 Act).
- 6.2.6 When driving a Hackney Carriage if you have agreed to accept a fixed amount of money for a journey, you must ensure that the journey lasts until that amount is shown on the meter (section 56 of the 1847).
- 6.2.7 When driving a Hackney Carriage if you have been hired and asked to wait, and either a deposit has been paid or the meter is running, you must wait until the hirer returns to your Hackney Carriage (section 57 of the 1847).
- 6.2.8 When driving a Hackney Carriage you must not charge more than the fare shown on the meter for a journey within the District (section 58 of the 1847).
- 6.2.9 When driving a Hackney Carriage you must not carry anyone apart from the hirer and their companions without the express consent of that hirer (section 59 of the 1847).
- 6.2.10 You must not drive any Hackney Carriage without the consent of the Hackney Carriage proprietor (if that is not yourself) (section 60 of the 1847 Act).
- 6.2.11 You must not leave a Hackney Carriage unattended at a Hackney Carriage rank (section 62 of the 1847 Act).
- 6.2.12 You must not prevent any other driver of a Hackney Carriage from taking a fare, or obstruct them in picking up or sitting down passengers (section 62 of the 1847 Act).
- 6.2.13 When driving a Hackney Carriage you must produce your taxi driver's licence if requested to do so by an Authorised Officer of the Council or any police constable (section 53(3) of the 1976 Act).

- 6.2.14 You must return your driver's licence to the Council within 7 days if you lose the right to remain or work in the UK (section 53A(9) of the 1976 Act).
- 6.2.15 You must not make any false statement or withhold any information when applying to renew your taxi driver's licence (section 57(3) of the 1976 Act).
- 6.2.16 You must return your licence, driver's badge(s) and armband to the Council within 14 days of any suspension, revocation or refusal to renew your licence (section 61(3) of the 1976 Act).
- 6.2.17 When driving a Hackney Carriage you must not charge more than the fare shown on the meter of a Hackney Carriage for a journey that ends outside the Council's area unless a different fare was agreed in advance (section 66 of the 1976 Act).
- 6.2.18 When driving a Hackney Carriage you must not charge more than the metered fare for a pre-booked journey which is wholly within, or starts or finishes within the Council's area. (section 66 of the 1976 Act).
- 6.2.19 You must use the shortest available reasonable route for all journeys by Hackney Carriage, subject to any directions given by the hirer. (section 69 of the 1976 Act).
- 6.2.20 You must not tamper with any seal on a taximeter, or alter the taximeter with any intent to mislead (section 71 of the 1976 Act).
- 6.2.21 You must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an Authorised Officer of the Council, or a police constable (section 73 of the 1976 Act).

Section 7: Legal requirements (contained in national legislation) when driving a Private Hire vehicle

7.1 Disability Discrimination

- 7.1.1 All drivers must comply with statutory duties in relation to disabled persons. These are set out in Section 11 (above) of the Policy.

7.2 Conduct

- 7.2.1 You must not drive a Private Hire vehicle at any time when your taxi drivers' licence has been suspended. (section 46(1)(b) of the 1976 Act).
- 7.2.2 When driving a private hire vehicle you must produce your taxi driver's licence if requested to do so by an Authorised Officer of the Council or any police constable. (section 53(3) of the 1976 Act).
- 7.2.3 You must return your driver's licence to the Council within 7 days if you lose the right to remain or work in the UK. (section 53A(9) of the 1976 Act).
- 7.2.4 You must not make any false statement or withhold any information when applying to renew your taxi drivers licence. (section 57(3) of the 1976 Act).
- 7.2.5 You must return your licence and drivers badge to the Council within 14 days of any suspension, revocation or refusal to renew your licence. (section 61(3) of the 1976 Act).
- 7.2.6 When driving a Private Hire vehicle you must use the shortest available reasonable route for all journeys by Private Hire vehicle, subject to any directions given by the hirer. (section 69 of the 1976 Act).
- 7.2.7 You must not tamper with any seal on a taximeter also the taximeter with any intent to mislead. (section 71 of the 1976 Act).
- 7.2.8 You must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an authorised officer of the Council, , or a police constable. (section 73 of the 1976 Act)
- 7.2.9 You must not drive any private hire vehicle with any roof sign which includes the words "taxi", "cab" or "hire", any similar words or anything which would indicate the vehicle is a Hackney Carriage. (section 64 Transport Act 1980).

Section 8: Penalty Points Scheme

- 8.1 Details of the Driver's Penalty Points Scheme (Appendix 1).

Appendix 4 Hackney Carriage & Private Hire proprietors (vehicle) licence policy and conditions

This document contains the policy, conditions and legislation relating to your Hackney Carriage and Private Hire proprietors (vehicle) licences. The legislation refers to Hackney Carriage proprietors' licences, but as these are often referred to as Hackney Carriage vehicle licences, for the avoidance of doubt the term "Hackney Carriage vehicle" will be used throughout this policy.

The legislation uses both of the terms “vehicle” and “proprietor” in relation to Private Hire vehicle licences, but as these are often referred to as Private Hire vehicle licences, for the avoidance of doubt the term “Private Hire Vehicle” will be used throughout this policy.

As Hackney Carriage and Private Hire vehicle licences can be held by limited companies and partnerships as well as individuals, this policy must be read to give effect to that. Any reference to a “person”, “you”, “licensee” or “proprietor” is taken to mean the proprietor of the Hackney Carriage or Private Hire vehicle.

The Council has a power to attach conditions to Hackney Carriage vehicle licences, and the Council has standard conditions which attach to these licences and are contained within this document.

Section 1: Introduction

- 1.1 The purpose of licensing Hackney Carriage and Private Hire vehicles is to protect the public, including passengers and others who may otherwise be placed at risk from unlicensed and potentially dangerous vehicles.
- 1.2 It is a privilege to hold a Hackney Carriage or Private Hire vehicle licence and licensees have responsibilities to their drivers, passengers and customers, other road users and the public generally. The Council has been satisfied that when you applied for your licence, your vehicle was safe and suitable for use as a Hackney Carriage or Private Hire vehicle and that you were a fit and proper person to have that licence granted (see Appendix 2 for the Council’s previous convictions policy). In assessing that, the Council took into account the type of the vehicle, the condition of the vehicle and your character and behaviour.
- 1.3 As a vehicle proprietor this assessment of your character not only includes times when you are working within the Hackney Carriage trade, but at all other times as well. The requirement to satisfy the Council that you are a fit and proper person continues throughout the duration of the licence. If at any time the standard of the vehicle or your behaviour falls below the standards expected for new applications, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. In relation to your personal actions, it is no defence to argue that your actions took place when you were not working within the Hackney Carriage trade. You should appreciate that under the previous convictions policy (available at Appendix 2), if the unacceptable or criminal behaviour took place whilst

you were working within the Hackney Carriage trade, that will be viewed as an aggravating feature by the Council.

- 1.4 The Council has decided to attach conditions to Hackney Carriage vehicle licences that it considers reasonably necessary under the powers contained in section 47(1) of the 1976 Act. The conditions are in addition to the statutory requirements of the legislation and are summarised in Appendix 4. Section 47(3) of the 1976 Act gives the right of appeal to the magistrates' court to any person aggrieved by any of the conditions attached to their licence within 21 days of receipt of the licence.
- 1.5 You must understand and comply with the legal requirements relating to the Hackney Carriage or Private Hire vehicle licensed in your name, a limited company in which you are a director or secretary, or in joint names when you are one of the named individuals. Failure to comply with the requirements may result in your Hackney Carriage or PH? vehicle licence being suspended or revoked.

Section 2: Sanctions against the Hackney Carriage and Private Hire vehicle licence

- 2.1 Where a proprietor breaches any legislation or condition of the licence, they may be referred to the Regulatory Sub-committee.
- 2.2 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for taxi licensees (see Appendix 1).
- 2.3 Whenever, and in what circumstances a proprietor is brought before the Regulatory Sub-committee, the Sub-committee will decide each case on its merits, after hearing the facts.
- 2.4 Licences cannot be surrendered if the licence holder is involved in any investigation by the Council for non-compliance against said licence. This is to ensure public safety, as it will be necessary to conclude the investigation, take appropriate action against the licence, such as revocation or suspension and where relevant share on NR3s.

Section 3: Power to take action against a Hackney Carriage or Private Hire vehicle licence

- 3.1 Under section 60 of the 1976 Act, the Council may suspend, revoke or refuse to renew a Hackney Carriage or Private Hire vehicle licence on the following grounds –

- 3.2 that the Hackney Carriage or Private Hire vehicle is unfit for the stated use;
- 3.3 any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- 3.4 any other reasonable cause.
- 3.5 An authorised officer of the Council or a police constable can immediately suspend a Hackney Carriage or Private Hire vehicle licence under S68 of the 1976 Act on the grounds of:
 - (a) the vehicle is unfit;
 - (b) the taximeter is inaccurate.
- 3.6 Failure to comply with any Hackney Carriage or Private Hire vehicle legislation, or other road traffic legislation is an offence and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which could lead to your Hackney Carriage or PH? vehicle licence being suspended revoked or the renewal refused.
- 3.7 Failure to comply with the Council's conditions may result in your Hackney Carriage or Private Hire vehicle licence being suspended, revoked or the renewal refused.
- 3.8 If any information given by you on the application form for this licence proves to be false, or you fail to disclose any relevant information on your application form, the licence may be revoked, and you may also be prosecuted under s57(3) of the 1976 Act.
- 3.9 The vehicle licence remains the property of the Council.
- 3.10 In the event that you lose your vehicle licence, vehicle licence plates or additional signage, or if they are damaged or defaced, you must get a replacement licence or plates on payment of a fee determined by the Council, and you cannot use the Hackney Carriage of Private Hire vehicle until such replacements are obtained and fitted.
- 3.11 It must be understood that a decision to grant a Hackney Carriage or Private Hire vehicle licence is made on the basis of the condition and suitability of the vehicle and the suitability of the proprietor(s) on the particular facts of the case on the day of the decision. That suitability can be lost at any time in the future and you must ensure that the condition of your vehicle and your behaviour remains of the highest standard to protect your vehicle licence and therefore your livelihood.

Section 4: Policy

4.1 Applicants

- 4.1.1 In all cases the applicant(s) must demonstrate that they have ownership of the vehicle, a financial interest in the vehicle or permission to use the vehicle on an extended basis (in the case of a lease or hire). A V5 registration document is not proof of ownership and other documentation will be required. This can include, but is not limited to:
- (a) Receipt for the purchase of the vehicle
 - (b) Lease/hire contract
 - (c) Partnership agreement between 2 or more individuals

4.2 Character of the applicant

- 4.2.1 The licensee of a Hackney Carriage or Private Hire vehicle can exert control over those who drive that vehicle, and as a consequence it is essential that they satisfy the Council that they are a suitable person to hold a Hackney Carriage or Private Hire vehicle licence.
- 4.2.2 All applicants (new and on renewal) will be required to provide a Basic DBS check at their own expense, as part of the application process.
- 4.2.3 Where you hold a dual driver licence you are not required to submit a yearly basic disclosure, but the requirement will continue to apply to any partners or directors of a company who do not hold a driver's licence.
- 4.2.4 The application will then be considered in the light of the Council's previous convictions policy (see Appendix 2).
- 4.2.5 In addition, the Council will take into account the compliance and maintenance history of previous and existing vehicles licensed by the applicant. The Council does not regard licensees whose vehicles fail regular tests as being a fit and proper person to have responsibility for Hackney Carriages and PH vehicles. All vehicles must be maintained to a satisfactory standard at all times and should pass any test required under this policy at any time.

4.3 Convictions

- 4.3.1 If you or anybody else with an interest in the vehicle or who is named on the licence is convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the

subject of a Criminal Behaviour Orders or Community Protection Notice, are required to attend a speed awareness course, are made the subject on any injunction or restraining order, or you are arrested for any matter, you must give the Council details within **72 hours** of the event.

4.4 Vehicles

4.4.1 It is the applicant's responsibility to ensure that any vehicle presented for licensing as a Hackney Carriage or Private Hire vehicle meets the Council's criteria which are detailed below.

4.4.2 As the Council will not be liable for any loss as a result of a vehicle not being licensed, it is vital that applicants ensure that any vehicle that they are considering purchasing meets these criteria.

4.5 Licensed Vehicle Age and Emissions Policy

4.5.1 Vehicles are constantly being improved by manufacturers, and improved standards are imposed by the Government. Newer vehicles are often safer, less environmentally damaging and less likely to break down. Vehicles deteriorate due to a combination of age, use and maintenance.

4.5.2 In order to reduce emissions it is important to set standards that are common to all within the Hackney Carriage and Private Hire vehicle fleet, to ensure consistency and a level playing field for proprietors. The age of vehicles and the exhaust emissions are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the Hackney Carriage and Private Hire fleet, the following standard will apply:

	Standard from September 2024	Standard from September 2027	Standard from September 2030
Vehicles on new application	ULEZ compliant	ULEZ compliant	Zero emissions
Vehicles on renewal application	Acquired rights apply until September 2027	ULEZ complaint	ULEZ complaint

ULEZ compliance can be checked on the Transport for London website [Ultra Low Emission Zone - Transport for London \(tfl.gov.uk\)](https://www.tfl.gov.uk)

- 4.5.3 In the case of non-standard vehicles, for example, wheelchair access vehicles and classic cars, these will be considered on a case by case basis and the emissions standard may not necessarily apply. Licences may be issued if all other requirements, vehicle tests and inspections are passed.

4.6 Duration and renewal of the licence

- 4.6.1 The licence expires 12 months from the date of issue. Any application for renewal must be made at least 14 days before the licence expires. If you do not apply to renew the vehicle licence in time there may be a period when you will be unable to use the vehicle for licensed activities. If the renewal application is not received before the expiry of the current Hackney Carriage or Private Hire vehicle licence, it will be treated as a new application rather than a renewal and you will have to provide all the information that is required for a new application. In that case any grandfather rights will be lost.
- 4.6.2 Renewals are generally dealt with by Officers under delegated powers, and can be processed quite quickly. However, if there have been any changes since the last grant of the licence (e.g. if you or any of your joint proprietors (or directors or secretary in the case of a limited company) have been convicted of any offence, or there have been complaints or causes for concern about your behaviour) the renewal application may need to be considered by the Regulatory Sub-committee. If this is the case, then a 2 month temporary licence may be issued, without prejudice to any decision the Sub-committee might make.
- 4.6.3 The licence is issued to you but it can be transferred to another individual, partnership or limited company. Notification of any transfer must be made in writing and indicate the consent of all interested parties. The Council will then issue a revised licence identifying the new licensee(s).

4.7 Vehicle specification

The following specifications detail the minimum requirements for all Hackney Carriages and Private Hire vehicles.

- 4.7.1 Be a right-hand drive vehicle.
- 4.7.2 Have at least 4 doors that can be opened from both inside and outside the vehicle. Each door (except the driver's door) must be capable of being opened by passengers.
- 4.7.3 For Hackney Carriages, have a minimum seating capacity for at least 4 adult passengers based on a width of not less than 400 mm per person across the rear seat.
- 4.7.4 For Private Hire vehicles, have a minimum seating capacity for one adult passenger, and vehicles that seat more passengers must provide at least 4 adult passengers based on a width of not less than 410 mm per person across the rear seat.
- 4.7.5 In any vehicle all exits must be easily accessible and not obstructed by another seat. Access to all doors must be free from obstruction. Any seats that require passengers to move any part of another seat to gain access or egress will not be licensed for carrying passengers. The seating configuration and number of passengers that can be carried is subject to assessment by the Council.
- 4.7.6 Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then 4.6.7 below will apply.
- 4.7.7 Roof racks, towbars and trailers will be permitted. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative.
- 4.7.8 Any Hackney Carriage vehicle using a roof rack must be fitted with a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack.
- 4.7.9 Passengers must be able to communicate with the driver.
- 4.7.10 The vehicle must be wind and water-tight.
- 4.7.11 The vehicle must have a floor properly covered with carpet or other suitable covering.

- 4.7.12 The vehicle must have an adequate internal light to enable passengers to enter and leave the vehicle safely.
- 4.7.13 The vehicle's bodywork and paintwork must be in good condition, free from dents or other damage or rust.
- 4.7.14 The vehicle must carry a spare wheel and tyre of the correct size to fit the vehicle, together with equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, all of which must be securely stored. If the manufacturer's specification when the vehicle was new did not include a spare wheel, the manufacturer's alternative (e.g. spray can) will be acceptable.
- 4.7.15 The vehicle must be fitted with tyres which meet the specifications detailed by the manufacturer in terms of size and speed rating. They must have at least 2 mm of tread across the entire contact surface.
- 4.7.16 The vehicle must be fitted with nearside and offside exterior rear view mirrors.
- 4.7.17 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- 4.7.18 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt or, where that was not a manufacturer's option when the vehicle was manufactured, a factory fitted lap belt. Any retrospectively fitted seat belts must be approved by the Council.
- 4.7.19 The vehicle must be fitted with glass which complies with current Road Vehicles (Construction and Use) Regulations. These Regulations require that the front windscreen allows 75% of light to be transmitted and the front door windows allow 70% of light to be transmitted. In addition the remaining glass within the vehicle must have a minimum light transmittance of not less than 70%. The rear of the vehicle must be fitted with at least one window (or one window per rear door fitted), the light transmission capacity of which must be a minimum of 70%.
- 4.7.20 No self-adhesive material (tinted or clear) can be affixed to any part of the glass without the approval of the Council.
- 4.7.21 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council.

- 4.7.22 The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- 4.7.23 The minimum unobstructed distance between the seat back and the foot well bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- 4.7.24 The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any armrests).
- 4.7.25 Any vehicle that has been converted to run on liquid petroleum gas (LPG) must be accompanied by a certificate stating that the conversion was undertaken in accordance with the LPG gas Association's code of practice, and if the conversion was undertaken more than one month before the application for the licence, an annual installation check which is not more than one month old.

4.8 Documents

- 4.8.1 A new vehicle licence will only be issued where the vehicle has evidence of:
- (a) A valid vehicle insurance certificate specifically stating that the vehicle is to be used for public hire/hackney carriage use.
 - (b) A certificate issued by a garage approved by the Council showing the vehicle has passed the relevant test which is less than 4 weeks old.
 - (c) A V5 vehicle registration document. In case of a new vehicle the sales invoice which must show engine and chassis numbers, shall be produced at the time of application and the registration document when it is received from DVLA. The registration document must in all cases be produced within 6 weeks of the licence being issued.
 - (d) The service history for the vehicle.
 - (e) For vehicles over 3 years old, a valid MOT certificate, which is checked online.
- 4.8.2 Before or on the date of expiry of any certificate, the certificate about to expire must be produced together with the relevant renewal certificate to the Council.

4.8.3 All driver licence documentation must be originals.

4.8.4 The Council provides an online platform for vehicle proprietors to upload details of their vehicles and associated documents. Instructions on how to access the system are provided to Licensees on grant of licence. The following documentation can be submitted through the Davis platform:

- (a) MOT certificate
- (b) Insurance certificate
- (c) Confirmation of vehicle tax

4.9 Engine/Chassis Numbers

4.9.1 The Chassis/Vehicle Identification Number Plates and engine numbers must match the numbers recorded with the DVLA as detailed on the V5 Document. Vehicle applications cannot be accepted without a copy of the vehicle registration document, or in the case of new vehicle purchase, the sales documentation indicating the engine and chassis numbers. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police Vehicle Identification Section who may undertake checks to ensure the vehicle is not stolen. If the engine is changed at any time whilst the vehicle is a licensed Hackney Carriage or PH vehicle, the Council must be notified within **72 hours** of that change and the updated V5 must be produced as soon as it is received from DVLA.

4.10 Maintenance and servicing

4.10.1 Vehicles must be maintained correctly and serviced in accordance with the manufacturer's recommendations. The service history of the vehicle will be inspected at first application and on every renewal of the licence.

4.11 Additional requirements for minibus and MPV type vehicles

4.11.1 In order to be licensed as a Hackney Carriage or Private Hire vehicle, any Minibus/MPV-type vehicles must be fitted, in addition to the front driver and passenger doors, with at least: one other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle OR 2 side loading doors that can be opened from the inside.

4.12 Stretched Limousines

4.12.1 The term “stretched limousine” in this policy will be taken to mean any vehicle that has been modified after manufacture with an additional body section, extending the vehicle length.

4.12.2 Any vehicle, before it can be considered to be licensed as a stretched limousine, must have European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval, including an inspection certificate issued by the Driver and Vehicle Standards Agency (DVSA) as a minimum standard⁸.

4.12.3 Applications for a Licence for stretched limousines will be considered on a case by case basis, as it is recognised that Council approved garages may not be equipped to conduct tests on these vehicles. Specialist garages may be utilised to provide evidence of suitability at the cost of the applicant.

4.12.4 Stretched limousines will only be licensed to carry a maximum of 8 passengers.

4.12.5 All passenger seats must be equipped with a 3 point seat belt.

4.13 Wheelchair Accessible Vehicles (WAV)

4.13.1 For Hackney Carriage vehicles capable of carrying a wheelchair bound passenger, the vehicle must be purpose built and comply with the current Transport for London “Conditions of Fitness” or it meets the following specification.

4.13.2 For Private Hire wheelchair accessible vehicles, the vehicle must be capable of carrying a wheelchair bound passenger which meets the following specification. It cannot look like a Hackney Carriage.

4.13.3 Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle, must have, European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval, including an inspection certificate issued by the Driver and Vehicle Standards Agency (DVSA) as **a minimum standard**.

(a) The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.

- (b) The passenger compartment must have a minimum unobstructed available width of 0.74 metres (including at the point of entry).
- (c) The passenger compartment must have a minimum unobstructed available length of 1.2 metres for a wheelchair and user.
- (d) The passenger compartment must have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- (e) The passenger compartment must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- (f) The passenger compartment must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- (g) The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- (h) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- (i) At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and any steps must be conspicuously marked where appropriate, to help visually impaired passengers.
- (j) All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.

4.14 Navigational devices

4.14.1 Any electronic navigational device which is being used must be securely located within the vehicle and must not be operated by the driver while the vehicle is moving. No handheld devices can be used unless they are securely located in a suitable cradle or other mounting device.

4.15 Radios and other equipment

4.15.1 Any radio, booking systems/data heads and/or GPS equipment provided must be maintained in a safe condition and any defects must

be repaired promptly. The licensed operator/booking agent must ensure that the licence issued by Ofcom for all radio equipment used is current and valid. All equipment must only be used on the frequencies stipulated in the Ofcom licence and the licensed operator/booking agent must allow the Council access to inspect all equipment and Ofcom licenses.

4.15.2 Any radio, booking systems/data heads and/or GPS equipment provided must not interfere with any other radio or telecommunication equipment.

4.15.3 Where apparatus for the operation of a two-way radio, booking system/data heads and/or GPS systems are fitted, no part of the apparatus can be situated in a way which could cause accident or injury to a passenger, nor can it be placed in the rear boot compartment if LPG tanks are situated in there.

4.16 Vehicle tests

4.16.1 A licence will be granted or renewed only if the vehicle is considered by the Council to be roadworthy, fit for purpose and meets the criteria specified.

4.16.2 With the exception of brand new vehicles (factory mileage), vehicles will be tested before the licence is initially granted, then at every renewal for vehicles up to 3 years old, then every 6 months for vehicles older than 3 years.

4.16.3 Vehicle tests, other than MOTs, should be carried out at a Council approved garage, a list of which can be found on our website.

4.17 “Dual Plating”

4.17.1 Once a vehicle has been licensed as a Hackney Carriage by the Council, it cannot be licensed as a Hackney Carriage (or Private Hire vehicle) by any other local authority or Transport for London during the duration of the Mid Devon licence.

4.17.2 The Council will not licence a vehicle that is licensed as a Hackney Carriage or Private Hire vehicle by another local authority or Transport for London.

4.18 Insurance “write-offs”

4.18.1 The Council will not licence any vehicle as a Hackney Carriage or Private Hire vehicle that has been written off by an insurance company.

4.19 Vehicle Use

4.19.1 You must maintain insurance for your licensed vehicle in accordance with Section 143 of the Road Traffic Act 1988.

4.19.2 If your vehicle has an accident which results in damage which may affect its safety, performance, appearance or the comfort or convenience of your passengers, you must report this to the Council within **72 hours**. (section 50)(3) of the 1976 Act).

4.19.3 You must not obstruct any Council Authorised Officer or Police Officer. You must provide any assistance or information they may reasonably require. (section 73) of the 1976 Act).

4.19.4 Any person driving a Hackney Carriage or Private Hire vehicle at any time, for any purpose and anywhere in the UK, must be licensed to drive the vehicle under section 46 of the 1847 Act, and section 51 of the 1976 Act respectively, even if the vehicle is not being used for Hackney Carriage or pre-booked purposes.

4.19.5 Any person driving a Hackney Carriage without the required licence will be committing an offence under section 47 of the 1847 Act, and section 51 of the 1976 Act respectively. The only exceptions to this are when the vehicle is being tested by the Council or a mechanic in connection with vehicle maintenance, and driving the vehicle to and from any such test.

4.19.6 If any Hackney Carriage or Private Hire vehicle proprietor permits a person who does not hold a Hackney Carriage or Private Hire driver's licence to drive the vehicle at any time (other than in accordance with the exceptions detailed above) the proprietor commits an offence and the Council will consider this a serious matter and action may be taken against the Hackney Carriage or Private Hire vehicle licence (whether or not a criminal prosecution or conviction ensued).

4.19.7 Once a vehicle has been licensed as a Hackney Carriage or Private Hire vehicle by the Council, it retains that status at all times for the duration of the licence (24 hours a day, 7 days a week). In addition to the requirement that it is only driven by a Hackney Carriage or Private Hire driver licensed by the Council (see above) the proprietor must ensure that at all times and wherever it may be located it complies with all requirements contained within the legislation and conditions. This

includes the cleanliness of the vehicle, display of licence plates and additional signage.

4.19.8 If the vehicle licence is suspended, revoked or not renewed, the proprietor must return the licence plates to the Council. This must be done as soon as reasonably practicable after the end of the appeal period (21 days from the written notification of the decision, or after any such appeal is determined or abandoned). If the suspension is immediate (under section 68 of the 1976 Act) this requirement must be complied with immediately.

4.19.9 If you refuse to surrender the vehicle plates and additional signage, tamperproof "Vehicle Licence Suspended" stickers will be affixed to the vehicle plates. These will destroy the plates, and replacements. Replacements must be purchased from the Council, at the proprietor's own expense, if and when the suspension is lifted.

4.20 Warning notice

4.20.1 If there is anything in the design, construction, form or working appearance of a vehicle which, in the opinion of the Council or its authorised officers or testers renders the vehicle unfit for Hackney Carriage or Private Hire use (which includes pre-booked work), then the Council will not licence that vehicle.

4.20.2 The Council is not liable for any expense incurred in preparing or testing a vehicle, which cannot be licensed for whatever reason.

4.20.3 Any unauthorised modifications made since a previous licence was issued may lead to the suspension, revocation or refusal to renew a licence.

4.21 Vehicle substitution

4.21.1 If you wish to change the vehicle that is licensed the following procedures must be followed:

(a) You must complete an application form for the "replacement" vehicle.

(b) You must surrender the original licence. Any refund against a licence will be calculated by the Council, taking into account the period of time for which the licence has been held and the administration costs incurred, and will be subject to a minimum level of £50, below which no refund will be made.

- (c) You must pay the stated fee for a 12-month period, minus any refund due for your surrendered licence.
- (d) Your replacement vehicle must be presented for test and subsequently pass.
- (e) Written proof of consent to the change of vehicle must be provided from all interested parties were relevant.
- (f) You must maintain and produce evidence of a continuous policy of insurance, which clearly states that the vehicle is to be used for public hire/as a Hackney Carriage. All such policies must be in the name of the licensee of the vehicle.

4.22 Letting/leasing of vehicles

- 4.22.1 You must not lease or let or hire a licensed Hackney Carriage or Private Hire vehicle to any other person, other than a fare paying passenger, without first notifying the Council in writing. If you do enter into a leasing arrangement you will remain the licensee and will still be responsible for the vehicle.
- 4.22.2 You must notify the Council in writing of anyone no longer having an interest in the vehicle within **72 hours** of the event.

4.23 The taximeter and table of fares (Hackney Carriage vehicles only)

- 4.23.1 The vehicle must be fitted with a taximeter. It must be mounted in such a way as to avoid injury to the driver or passengers in the case of any collision and where it is visible to passengers. This must be in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger. The letters and figures must therefore be illuminated when in use.
- 4.23.2 The Council may approve the location and fixing of, and test the meter before the vehicle can be used as a Hackney Carriage.
- 4.23.3 The meter must be set to ensure that the charge will never exceed the amount specified in the Council's Hackney Carriage Table of Fares.
- 4.23.4 The meter must be accurate, be capable of showing that the vehicle is or is not hired, it must be fitted with a key or other device that, when turned, will operate the meter and display the word "HIRED". This key or device must be capable of locking the meter so it does not work and no fare is recorded on it.

4.23.5 When the meter is in use, the fare must be clearly legible on the face of the meter. This fare must be unambiguous and must not exceed the fare permitted by the Council's Hackney Carriage Table of Fares.

4.23.6 The word "FARE" must be clearly printed on the meter so it clearly indicates the fare displayed.

4.23.7 A notice showing the current Table of Fares must be displayed inside the vehicle in a position where any passengers can easily read it.

4.23.8 There is no requirement for a Private Hire vehicle to be fitted with a taximeter. As there is equally no prohibition on meters being fitted to Private Hire vehicles, any meter that is fitted must be approved and tested by the Council.

4.24 Plates

4.24.1 The licence plates and other additional signage required by the Council must be displayed on the vehicle at all times.

4.24.2 If you lose or damage the plates, replacements must be purchased from the Council.

4.25 Signs and advertisements on Hackney Carriages

4.25.1 No sign or advertisement is permitted on the vehicle unless required by law, or has been agreed by the Council in writing.

4.25.2 For Hackney Carriage vehicles only, the vehicle must be fitted with a sign with the word "TAXI" (minimum size 35 cm wide and 10 cm high) on its roof. This can be combined with a "For Hire" sign, but that can be a separate sign, in a conspicuous position on the vehicle. The sign(s) must be illuminated when the vehicle is available for hire and switch off automatically when the meter is operating.

4.25.3 You may display the name and telephone number of the company operating your vehicle in its front and rear windows. However, the display must be no more than 10 cm high, must not contravene the current Road Traffic (Construction and Use) Regulations, and must not be illuminated.

4.26 Signs and advertisements on Private Hire vehicles

4.26.1 No sign or advertisement is permitted on the vehicle, and no flag or other emblem can be flown from the vehicle, except as detailed below, unless required by law, or has been agreed by the Council in writing.

4.26.2 The vehicle must not be fitted with any sign on the roof of the vehicle.

4.26.3 You may display the name and telephone number of the company operating your vehicle in its front and rear windows. However, the display must be no more than 10 cm high, must not contravene the Road Traffic (Construction and Use) Regulations, and must not be illuminated.

Section 5: Conditions

5.0.1 The following conditions are attached to your Hackney Carriage and Private Hire vehicle licence and must be complied with at all times. Failure to comply with conditions may lead to penalty points being imposed on your proprietors and/or drivers licence, suspension, revocation or refusal to renew the proprietors (vehicle) licence.

5.0.2 You must return your licence (and the plates if requested by the Council) to the Council as soon as reasonably practicable if;

- (a) You change your home or business address
- (b) If the licence expires, or is suspended or revoked
- (c) You wish to surrender your Hackney Carriage licence
- (d) When required to do so by an Authorised Officer of the Council.

5.0.3 If you are convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the subject of a Criminal Behaviour Orders or Community Protection Notice, are required to attend a speed awareness course, are made the subject on any injunction or restraining order, or you are arrested for any matter, you must give the Council details within **72 hours** of the event.

5.0.4 If your vehicle has an accident which results in damage which may affect its safety, performance or appearance or the comfort or convenience of your passengers, you must report this to the Council within **72 hours** (including weekends and bank holidays). If you are in doubt as to whether the vehicle is affected you must notify the Council.

5.0.5 Your vehicle must comply with the specification detailed within section 4.7 through 4.15 inclusive of this policy. These standards must be maintained during the currency of a licence for a Hackney Carriage and Private Hire vehicle.

5.1 Conditions relating to Drivers

5.1.1 Before you allow anyone to drive your Hackney Carriage or Private Hire vehicle you must ask that person for their Hackney Carriage or Private Hire driver licence and keep it in your possession whilst that person is permitted to drive your vehicle. You must ensure that they understand and will observe the law that regulate their conduct and the conditions attached to the vehicle licence.

5.1.2 No person may drive a Hackney Carriage or Private Hire vehicle unless they hold a driver licence issued by the Council. Anyone found driving a Hackney Carriage or Private Hire vehicle without a driver licence, may be prosecuted.

5.1.3 You must ensure that a valid policy of comprehensive insurance for Hackney Carriage work/public hire is in place for the vehicle and covers anyone who drives your Hackney Carriage or Private Hire vehicle.

5.1.4 You must not obstruct any Authorised Officer or Police Officer. You must provide any assistance or information they may reasonably require.

5.2 Production of Documents

5.2.1 You must not obstruct any Authorised Officer of the Council or Police Officer. You must provide any assistance or information they may reasonably require.

5.2.2 If an Authorised Officer of the Council (or a Police Officer asks you, you must produce:

- (a) Your licence;
- (b) The taxi driver licence of any person authorised to drive your Private Hire vehicle;
- (c) The vehicle registration document;
- (d) A valid certificate of insurance;

within 5 days of the request being made.

5.3 Licence Plates

- 5.3.1 The licence plates remain the property of the Council and must be returned to the Council whenever the vehicle is not licensed as a Hackney Carriage or Private Hire vehicle.
- 5.3.2 You must secure and display the exterior licence plate permanently to the outmost rear part of the vehicle. The method of fixing must prevent the plate being removed without the need for tools. The internal plate must be securely fixed inside the vehicle in the top left hand corner of the front windscreen. Both plates must at all times be displayed so that they can be clearly read by pedestrians and road users.
- 5.3.3 You must report the theft or loss of the licence plates or additional signage to the Police immediately and as soon as possible, and in any event within **24 hours** of becoming aware of the theft or loss, to the Council by email. You must also obtain a crime or lost property number from the Police and present this to the Council. You must then obtain duplicate licence plates and/or additional signage for which a charge will be made.
- 5.3.4 You must not wilfully or negligently cause or suffer any plates or additional signage on your vehicle to be concealed from public view at any time.
- 5.3.5 You must return the licence plates to the Council if the Hackney Carriage or Private Hire vehicle licence is suspended, revoked or not renewed.

5.4 Vehicle inspection

- 5.4.1 You must allow an Authorised Officer of the Council, or Police Officer, to inspect your vehicle at any reasonable time.
- 5.4.2 You must ensure the vehicle is presented for test in accordance with instructions from the Council.
- 5.4.3 You must produce the vehicle registration document and last MOT, and certificate of insurance to the Council Officer at the test. These can also be provided or checked online prior to the inspection.

5.5 No Smoking

- 5.5.1 The vehicle must have “no smoking” signs displayed inside the vehicle clearly visible to passengers.

Appendix 5 Private Hire Operator licence policy and conditions

This document contains the policy, conditions and legislation relating to your Private Hire Operator licence.

As Private Hire Operator licences can be held by limited companies, limited liability partnerships (LLP) and conventional partnerships as well as individuals, this policy must be read to give effect to that. Any reference to a “person”, “you”, “licensee” or “operator” is taken to mean the Private Hire Operator.

There is a power to attach conditions to Private Hire Operator licences, and the Council has standard conditions which are attached to these licences. These are contained within this document.

There is also a list of the main legislation that applies to Private Hire Operators.

Section 1: Introduction

- 1.1 The purpose of licensing Private Hire Operators is to protect the public, ensuring that passengers are not exploited, abused or otherwise affected by unlicensed and potentially unscrupulous or dangerous booking agents.
- 1.2 It is a privilege to hold a Private Hire Operator licence and licensees have responsibilities to their passengers and customers, drivers, vehicle proprietors and the public generally. The Council has been satisfied that when you applied for your Private Hire Operator licence you were a fit and proper person to have that licence granted. In assessing that, the Council took into account your character and behaviour.
- 1.3 As a Private Hire Operator, this assessment of your character not only includes times when you are working within the Private Hire trade, but at all other times as well. The requirement to satisfy the Council that you are a fit and proper person continues throughout the duration of the licence. If at any time your behaviour falls below the standards expected for new applications, the Council will consider taking action against your licence. This could be suspension, revocation or refusal to renew that licence.

- 1.4 In relation to your personal actions, it is no defence to argue that your actions took place when you were not working within the Private Hire trade. You should appreciate that under the Council's previous convictions policy (see appendix 2), if the unacceptable or criminal behaviour took place whilst you were working within the Private Hire trade that will be viewed as an aggravating feature by the Council.
- 1.5 The Council has decided to attach conditions to Private Hire Operator licences that it considers reasonably necessary under the powers contained in section 55(3) of 1976 Act. The conditions are in addition to the statutory requirements of the legislation. Section 55(4) of the 1976 Act gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the conditions attached to their licence within 21 days of receipt of the licence.
- 1.6 You must understand and comply with the legal requirements relating to the Private Hire Operator licence in your name, a limited company in which you are a director or secretary, a limited liability partnership in which you are a partner, or in joint names when you are one of the named individuals. Failure to comply with the requirements may result in your Private Hire Operator licence being suspended or revoked.
- 1.7 The Council office for Private Hire and Hackney Carriage licensing purposes is: Mid Devon District Council, **Phoenix House, Phoenix Lane, Tiverton, Devon**

Telephone: **01884 255255** Email: **licensing@middevon.gov.uk**

This is the address to which all applications, notices, reports of incidents and any other communications with the Council must be sent.

Section 2: Sanctions against the Private Hire Operator Licence

- 2.1 Where a Private Hire Operator breaches any legislation or condition of the licence, they may be referred to the Regulatory Sub-Committee.
- 2.2 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for Private Hire Operators see - Appendix 1 for full details.
- 2.3 Whenever, and in what circumstances a Private Hire Operator is brought before the Regulatory Sub-committee, the Sub-committee will decide each case on its merits, after hearing the facts.

- 2.4 The Sub-committee may also suspend or revoke the Private Hire Operator licence (see below) or impose further penalty points.
- 2.5 Licences cannot be surrendered if the licence holder is involved in any investigation by the Council for non-compliance against said licence. This is to ensure public safety, as it will be necessary to conclude the investigation, take appropriate action against the licence, such as revocation or suspension and where relevant share on NR3s.

Section 3: Power to take action against a Private Hire Operator licence

- 3.1 Under section 62 of the 1976 Act, the Council may suspend, revoke or refuse to renew a Private Hire Operator licence on the following grounds:
- a) any offence under, or non-compliance with, the provisions of this Part of this Act;
 - b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
 - c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
 - d) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
 - e) any other reasonable cause.
- 3.2 Failure to comply with most Private Hire Operator legislation is an offence and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which could lead to your Private Hire Operator licence being suspended, revoked or the renewal refused.
- 3.3 Failure to comply with the Council's conditions may result in your Private Hire Operator licence being suspended, revoked or the renewal refused.
- 3.4 If any information given by you on the application form for a Private Hire Operator licence proves to be false, or you fail to disclose any relevant information on your application form, the licence may be revoked, and you may also be prosecuted under section 57(3) of the 1976 Act.
- 3.5 The Private Hire Operator licence remains the property of the Council.
- 3.6 It must be understood that a decision to grant a Private Hire Operator licence is made on the basis of the suitability of the proprietor(s) on the

particular facts of the case on the day of the decision. That suitability can be lost at any time in the future and you must ensure that your behaviour remains of the highest standard to protect your Private Hire Operator licence and therefore your livelihood.

Section 4: Policy

4.1 Applicants

4.1.1 Private Hire Operator licences can be held by individuals, limited liability partnerships (LLP), conventional partnerships (two or more people in business together) or limited companies.

4.2 Character of the applicant

4.2.1 A Private Hire Operator will receive personal information from those who book a private hire vehicle through that operator. That information may be sensitive or relate to people's movements or activities and as a consequence it is essential that a Private Hire Operator satisfies the Council that they are a suitable person to hold a Private Hire Operator licence.

4.2.2 All applicants (new and on renewal) will be required to provide a Basic DBS check at their own expense, as part of the application process. The check must be dated within 1 month of the date of application. The same will be required of all partners in a limited liability or conventional partnership and all directors and the secretary of a limited company when the application is made, or the licence is held, by a limited liability or conventional partnership or limited company.

4.2.3 If any new or replacement partner, director or secretary or is appointed or joins, you must notify the Council within 7 days, and that notification must be accompanied by a Basic DBS certificate in relation to that person dated within 2 months of the date of notification.

4.2.4 The application will then be considered with reference to the Council's previous convictions policy at Appendix 2.

4.2.5 In addition, the Council will take into account the compliance history in relation to previous hackney carriage or private hire licences held by the applicant or any partners in a partnership, all directors and secretary of a limited company and any limited company itself.

4.2.6 Subject to the DBS update service; every year for the duration of your licence, you must provide a new Basic DBS certificate, not more than 1 month old, for yourself (if a sole operator) or all partners in a limited liability or conventional partnership and all directors and the secretary of a limited company if the licence is held, by a limited liability or conventional partnership or limited company. This/These must be provided to the Council within 2 weeks of the anniversary of the grant of your licence. Failure to do so may lead to action being taken against your licence.

4.3 Certificate of Good Conduct

4.3.1 As DBS checks do not cover convictions in countries outside the United Kingdom, any applicant who has lived abroad for any period of more than 6 months from the age of 18 must also provide a Certificate of Good Conduct from the appropriate Embassy or High Commission and it must be in English. The Council may undertake checks to ensure the authenticity of any such documentation. If this cannot be provided then the application will be refused.

4.3.2 Note - Nothing in this policy precludes a licence holder from being required to undergo a further DBS check at any time as directed by the Council.

4.4 Notification of conviction, caution, penalty

4.4.1 If you, any partner in a limited liability partnership or conventional partnership, or any director or secretary of a limited company is arrested in connection with, charged with, investigated in connection with or convicted of any criminal offence, which must be reported to the Council within **72 hours**.

4.5 Maintenance of the Licence and Renewals

4.5.1 Once the licence has been granted, you (including all partners in any form of partnership and all directors and secretary of a limited company) will be required to provide a basic DBS certificate annually.

4.5.2 A valid application for the renewal of a licence, including all the required original documentation, must be made at least 14 days prior to the expiry of the current licence. A valid application is one which is complete in all respects and can be processed immediately. Photocopies of documents will not be accepted. If the application is not made in time to enable all the relevant processes to be completed before the expiry of the current Private Hire Operator licence, there will be a period of time during which you will be unlicensed and cannot make a provision for the invitation of bookings for a private hire vehicle.

If the application is not made before the expiry of the current Private Hire Operator licence, but is made within 5 working days after the expiry, the licence will only be renewed in exceptional circumstances. Note - operating Private Hire drivers and vehicles without a valid licence is a criminal offence.

4.5.3 Where a Private Hire Operator licence is found to have been obtained using false or incomplete information enforcement action may be taken.

4.6 Identity

4.6.1 To prove their identity, all applicants (including all partners in a partnership and all directors and secretary of a limited company) must provide an authenticated form of photographic identification (for example photographic driving licence or national identification card).

4.6.2 Applicants from outside the UK must provide:

- (a) a passport with a valid stamp from the Home Office to say that they have leave to remain in the UK indefinitely; or
- (b) a passport with a valid UK visa, which allows the holder to work as a Private Hire Operator (student visas will not be accepted) and which has at least 6 calendar months remaining at the time of application.

4.6.3 A Private Hire Operator licence will only be granted until the expiry of the visa and will only be renewed or extended with the production of the passport and another valid visa issued by the Home Office. The Council reserves the right to verify, at any time, a licensee's entitlement to remain in the UK. The Council will not accept letters issued by the Home Office when a visa application is pending.

4.6.4 To comply with the Immigration Act 2016, the Council is required to check eligibility to live and work in the UK for all applicants for driver and operator licences. This will be evidenced on application by the operator providing documentation or immigration check code which complies with the Home Office guidelines⁹. The list of acceptable documents is also detailed on the Council's website.

⁹ At the time this policy was adopted those are detailed in Appendix 1 to the Home Office document "*Guidance for Licensing Authorities to prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales*" (available at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads>

- 4.6.5 For applicants with a limited time to remain in the UK, the Private Hire Operator's licence will only be granted for the period of permission to remain, and may only be granted for a shorter period. The Private Hire Operator licence may be extended should the applicant's right to remain in the UK be made permanent.
- 4.6.6 If an applicant has extended leave to remain (pending a decision) the Private Hire Operator licence cannot be granted for more than 6 months, and again may only be granted for a shorter period. The Private Hire Operator licence may be extended should the applicant's right to remain in the UK be made permanent.
- 4.6.7 If a Private Hire Operator licence holder loses the right to remain in the UK during the currency of a licence, the Private Hire Operator licence ceases to have effect and the Private Hire Operator licence (and badge for drivers) must be returned within 7 days.

4.7 Tax Conditionality

- 4.7.1 Existing licensees applying for the renewal of a licence must obtain their unique 9 character code from HMRC and provide this to the Council. If this cannot be provided the application cannot proceed.
- 4.7.2 The council will advise new applicants of the need to register with HMRC for tax and must sign an acknowledgement that they have received this information.

4.8 Operator's Base

- 4.8.1 Your Private Hire Operator licence relates to one or more addresses (bases) within the Council area. Every address that is being used will be detailed on the Private Hire Operator licence, and if a Private Hire Operator licence does not relate to the address or addresses being used, that licence is void. Continued use of that Private Hire Operator licence will be a criminal offence.
- 4.8.2 If you have more than one operating office or base within the District that does not mean that you require a separate Private Hire Operator licence for each premises, but you must submit a list to the Council

containing all the addresses from which you run your business, and all addresses will be detailed on the Private Hire Operator licence.

- 4.8.3 You must inform the Council within **24 hours** of any change of any address (ceasing to use an address, moving to a new address or adding an additional address).
- 4.8.4 Planning permission or a Certificate of Lawful Existing Use or Development for the use or change of use of premises, whether home or commercial, is not required before an application can be made for a Private Hire Operator licence. However it may be unlawful to use those premises as an Operator's base and advice should be sought from the Council's Planning Department if required.
- 4.8.5 Anyone who is making a provision for the invitation of bookings (evidenced by a Private Hire office or base) in more than one local authority area will be required to hold a Private Hire Operator licence with the local authority in each of those areas.
- 4.8.6 The Council has produced a guidance leaflet for customers explaining the complaints procedure. These leaflets must be displayed, and be available in all of your premises that are open to the public.

4.9 Manager

- 4.9.1 As a Private Hire Operator, you (unless you are an individual) must identify a person as the manager who has day-to-day responsibility for the Private Hire operation. There must also be a nominated deputy to act as holiday cover etc. You will have to ensure that one individual is responsible at any particular time.

4.10 Drivers and Vehicles

- 4.10.1 As a Private Hire Operator, you must ensure that any private hire driver or Private Hire vehicle operated, employed or used by you holds a current Private Hire driver or vehicle licence issued by the Council. You must hold the Private Hire Operator licence for the duration of the time that you operate that driver or vehicle.
- 4.10.2 If at any stage you propose dispatching a public service vehicle (PSV) to fulfil a booking, you must make the customer aware that the driver of that vehicle may only hold a PCV driver's licence and therefore not have been subjected to the same checks (criminal records and character) as a Private Hire driver.

4.11 Staff

- 4.11.1 As a Private Hire Operator, you must maintain a record of all staff (employees, independent contractors and others) engaged by or utilised by you as a Private Hire Operator.
- 4.11.2 You must create, maintain and apply a policy in relation to previous convictions of your staff. This should be the same as the Council's previous convictions Policy. You should apply this policy to all staff who are involved in making bookings for or dispatching Private Hire vehicles, or who have access to your Operator's records, and you should not engage any person in contravention of that policy unless there are truly exceptional circumstances. The reasons for such a decision must be recorded in your staff records.
- 4.11.3 You must require all staff to notify you within **48 hours** (including weekends and bank holidays) if they are arrested in connection with, being investigated for, charged with or convicted of any criminal offence. You must then determine what action to take in relation to that staff member. You must also notify the Council of the event and the action that you have taken within **72 hours** of your decision and record that in the staff records.
- 4.11.4 All such records of staff must be available for inspection by an Authorised Officer of the Council or Police Officer at any reasonable time.

4.12 Booking Records

- 4.12.1 You must create and maintain records of all bookings received for Private Hire vehicles as detailed in the conditions of licence. These records must be maintained for the 6 months and must be available for inspection by an Authorised Officer or Police Officer at any reasonable time.
- 4.12.2 You must inform the Council of the method that you intend to use to record this information. Depending on the scale of your operation this could be handwritten records (in a bound book with sequentially numbered pages) or a computerised system. In either case the records must not be capable of being altered after they have been compiled.

4.13 Standards of service and complaints

- 4.13.1 You must provide a professional and reliable service to customers' at all reasonable times.
- 4.13.2 You must maintain and utilise a comprehensive complaints process.

4.14 Insurance

4.14.1 You must maintain public liability insurance for all premises that are open to the public.

Section 5: Conditions

5.0.1 The following Conditions are attached to your Private Hire Operator licence and must be complied with at all times. Failure to comply with conditions may lead to penalty points being imposed on your Private Hire Operator licence, suspension, revocation or refusal to renew the Private Hire Operator licence.

5.0.2 You must return your Private Hire Operator licence to the Council immediately if:

- (a) You change your home or business address.
- (b) You add or alter any addresses detailed on the Private Hire Operator licence.
- (c) If the Private Hire Operator licence expires, or is suspended or revoked.
- (d) You wish to surrender your licence.
- (e) When required to do so by an Authorised Officer of the Council.

5.0.3 You must notify the Council within **72 hours** of the event (including weekends and bank holidays) if you (or any partner in the case of a partnership or director or secretary of a limited company) is arrested in connection with, charged with/reported, investigated in connection with or convicted of any criminal offence. The same requirement applies in relation to any fixed penalty notices, speed awareness courses, community protection notices, criminal behaviour orders, civil injunctions that you receive or have to attend.

5.1 General

5.1.1 You (unless you are a single person operator) must identify a person as the individual with day-to-day managerial responsibility (referred to in these conditions as "the manager"), and notify the Council of their identity and contact details, including a mobile telephone number.

5.1.2 The manager will be the first point of contact between the Council and the Private Hire Operator. You must identify another person as a deputy for holiday and sickness cover and the identity of the deputy, together with their contact details including a mobile telephone number must also be provided to the Council.

5.1.3 You must ensure that it is clear to all managers and deputies who is responsible for discharging that responsibility at any particular time. All

references to the manager include references to the deputy when they are acting in that capacity.

5.2 DBS Checks

- 5.2.1 You (where the operator is a partnership or limited company, all partners or directors and secretary of the company) must submit a Basic DBS certificate (dated within one month of the submission) on or before the anniversary of the granting of the Private Hire Operator licence. Failure to do so will result in the Private Hire Operator licence being suspended until such time as the DBS certificate is provided.
- 5.2.2 The cost of these checks will be covered by you.
- 5.2.3 Where you (or any partners or directors and secretary of the company where the operator is a partnership or limited company) hold a dual driver licence you are not required to submit a yearly basic disclosure, but the requirement will continue to apply to any partners or directors of a company who do not hold a driver's licence.

5.3 Staff Policy

- 5.3.0 Where you employ or intend to employ persons involved in taking bookings or the dispatch of vehicles, you must produce and apply a policy on the employment of ex-offenders in those roles. This policy must be based on the Council's previous convictions policy in Appendix 2. The policy must be available for inspection on request of an Authorised Officer of the Council. Failure to act in accordance with this requirement, and any subsequent engagement of a person who falls outside the Council's previous convictions policy standards will lead to consideration by the Council as to whether you as operator remain a fit and proper person.
- 5.3.1 You must view a Basic DBS certificate (dated within one month of the check) of any staff that have access to booking records or dispatch vehicles.
- 5.3.2 You must maintain a register of all such staff which must include a record of when each DBS check has been undertaken. This register must be available for inspection by an Authorised Officer of the Council upon request. The register should include the following:
 - (a) the date that person's employment in that role commenced.
 - (b) the date the Private Hire Operator checked the DBS certificate.
 - (c) the name of the person that checked the DBS certificate.
 - (d) the date the person ceased to perform that role.

- 5.3.3 The register must be retained for 6 months in line with the booking records.
- 5.3.4 Should an employee cease to be on the register and later re-enter the register, a new basic DBS certificate (or use of the Update Service) must be provided to the Private Hire Operator.
- 5.3.5 You must require all staff to notify you within **48 hours** (including weekends and bank holidays) of any situation as detailed at 5.0.3 above.
- 5.3.6 You must ensure that any outsourced booking and dispatch functions have adequate safeguarding measures in place for the protection of children and vulnerable adults. You must have obtained evidence of this from the outsourced firm/company before outsourcing these functions.

5.4 Vehicle and driver licences

- 5.4.1 You must inspect and retain all the Private Hire vehicle licences and driver licences for vehicles and drivers operated, engaged or otherwise utilised by you.
- 5.4.2 Those licences must be stored securely and retained for as long as you operate the vehicle or driver. At the end of that, they must be returned to the vehicle proprietor or driver as appropriate.

5.5 Records

- 5.5.1 You are required to keep records of bookings received and journeys undertaken under section 56(2) of the 1976 Act (referred to hereafter as the "booking records") and the following are the conditions relating to those records.
- 5.5.2 Booking records must be recorded in English and kept in a suitable book or in any other manner as approved by the Council.
- 5.5.3 You must ensure that, the following details of every private hire booking that you invite or accept are recorded before the commencement of each journey:
- (a) the name of the passenger or other identifying features; e.g. hotel room number
 - (b) the time of the request
 - (c) the time the vehicle is required
 - (d) the pick-up point

- (e) the destination (if known at that time)
- (f) the name of the driver
- (g) the driver's licence number
- (h) the vehicle registration number of the vehicle
- (i) the vehicle licence number
- (j) the name of any individual that responded to the booking request
- (k) the name of any individual that dispatched the vehicle.

5.5.4 You must keep these records for a period of not less than 6 calendar months from the date of the entry.

5.5.5 You must also keep records of all vehicles that you operate. These details must include:

- (a) details of the proprietor(s)/licensee.
- (b) registration number.
- (c) any radio call sign used.
- (d) maintenance history of the vehicle.

5.5.6 You must keep these records for a period of not less than 6 calendar months from the date that you cease operating that vehicle.

5.5.7 You must also keep records of the names and addresses of all licensed drivers that you use. You must notify the Council of the following:

- (a) when any driver begins working for, or being available to be operated by you.
- (b) when any driver's activity above detailed ceases.
- (c) any change of address of any driver in service.
- (d) if you become aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to safely carry out their duties.

5.5.8 If at any time you become aware of any reason which would or may prevent a driver from safely carrying out their duties (including but not limited to illness or disability) you must immediately cease using that driver until such time as the driver can demonstrate that they can drive a Private Hire vehicle without risk to the public.

5.5.9 You must keep these records for a period of not less than 6 calendar months from the date when you cease to be engaged or otherwise use the driver to drive Private Hire vehicles.

5.5.10 All records and retained licences must be available for inspection at any reasonable time by an Authorised Officer of the Council or a Police Officer.

5.6 Standards of Service

5.6.1 You must provide a prompt, efficient and reliable service to members of the public at all reasonable times.

5.6.2 In particular you must (but this is not an exhaustive list):

- (a) Ensure that all Private Hire vehicles that have been booked, attend at the appointed time and place unless delayed or prevented by reasonable cause.
- (b) Ensure the vehicle dispatched is a Council licensed private hire vehicle and the driver of the vehicle is a Council licensed Private Hire driver.
- (c) Keep any premises which you control and which are open to the public clean, adequately heated, ventilated and lit.
- (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- (e) Ensure that the correct licences are in place for any radio equipment.
- (f) Ensure that it is established at the time of booking how many passengers are to be carried and that the vehicle dispatched to fulfil the booking has an adequate number of passenger seats.

5.7 Ride Sharing/Car-pooling

5.7.1 If the journey is to be part of a ride sharing/carpooling journey, that must be made clear to the hirer before the booking is accepted, and you must ensure that individual hirers explicitly consent to that ridesharing/carpooling arrangement.

5.8 Public Service Vehicles

5.8.1 Public Service Vehicles (PSVs) may not be used to undertake a Private Hire vehicle booking, unless with the informed consent of the hirer. To obtain such informed consent you must make the customer aware that the driver of that vehicle may only hold a PCV driver's licence and therefore not have been subjected to the same checks (criminal records and character) as a Private Hire driver.

5.9 Complaints

5.9.1 You or the manager must initiate an investigation into any complaint received from the public within **48 hours** from receipt of the complaint.

- 5.9.2 You must maintain a register of complaints (digital or hard copy), which must include the following information:
- (a) Complainant's name, address/email address
 - (b) Details of the complaint
 - (c) Time and date of the alleged incident
 - (d) Time and date the complaint was received by you or the manager
 - (e) How the complaint was received e.g. phone, email, etc.
 - (f) Name of person that received the complaint
 - (g) Name of the alleged perpetrator
 - (h) If the complaint was referred to the Council – time and date of when it was referred and by whom
 - (i) Details of the action taken to resolve the complaint and by whom
 - (j) Date the complaint was resolved.
- 5.9.3 A copy of the complaints register must be available for inspection upon request of an Authorised Officer of the Council. The records must be retained for a period of 6 months.
- 5.9.4 You must, on receipt of a complaint concerning a licensed driver, immediately notify the complainant of their right to direct their complaint to the Council.
- 5.9.5 You must ensure that details of how a customer can contact yourself as the Private Hire Operator in the event of any complaint relating to a booking or other contract, are displayed on your website, booking app and (in the absence of online booking platform), at any booking office.
- 5.9.6 Where a complaint is received by the Council, you must comply with any reasonable request for information and/or follow any reasonable directions/instructions made by an Authorised Officer or police officer in respect of the complaint.
- 5.9.7 You must notify the Council within **72 hours** if you receive a complaint about a driver operated by you when it has been identified that the complaint relates to any of the following:
- (a) allegations of sexual misconduct (including the use of sexualised language).
 - (b) racist behaviour.
 - (c) violence (including verbal aggression).
 - (d) dishonesty including theft.
 - (e) Equality breaches.
 - (f) any other serious misconduct (including motoring related for example dangerous driving or drink driving).

5.10 Change of Address

5.10.1 You must notify the Council in writing of any change of address (including any address or addresses from you operate or otherwise conduct your business as a Private Hire Operator) within 7 days of such change taking place.

5.11 Notification of conviction, caution, penalty

5.11.1 You must notify the Council in writing if you have been convicted or cautioned for any offence, been arrested charged with/reported or are under investigation for any offence, received a fixed penalty notice, community protection notice (CPN), criminal behaviour order (CBO), been required to attend a speed awareness course or there have been a complaint or concerns about your behaviour or other matter imposed on you, which might affect your continuing safety within 7 days.

5.11.2 The same requirement applies to any partners in the case of a partnership holding an operator's licence and to any directors and secretary of any limited company in the case of a limited company holding a Private Hire Operator licence. The same requirement applies to any manager or deputy manager.

5.12 Advertising

5.12.1 You must not display or permit to be displayed on or from your premises or from any other place, any sign or notice which consists of or includes the word "Taxi" or "CAB" whether in the singular or plural or any word of a similar meaning unless you also take bookings for Hackney Carriages.

5.13 Insurance

5.13.1 Any premises that you control and are open to the public must be covered by Public Liability Insurance.

5.13.2 This insurance policy (or a summary) must be clearly displayed at the premises where it can be seen by the public.

5.13.3 You must ensure that at all times there is in force a policy of insurance covering Private Hire use or such security as complies with the requirements of Part VI of the Road Traffic Act 1988 for all Private Hire vehicles operated.

5.13.4 You must ensure that where a vehicle is covered under a fleet insurance policy, drivers are aware of the content of the policy, including its limitations and exclusions. You must keep a record, signed by the driver, within each individual's record file when this has been completed. A copy of any individual's records must be produced, on request, to any Authorised Officer of the Council.

5.14 Personal data

- 5.14.1 You must be registered with the Information Commissioner's Office as you will be holding personal data for customers and any staff that you engage.
- 5.14.2 You must report any loss of personal data, whether by theft or otherwise, to the Council in writing within **24 hours** of the loss or discovery of the loss (whichever is sooner), and also immediately to the Police in the event of suspected theft. You may also need to report any such incident to the Information Commissioner's Office, for more information see [here](#).

5.15 Working hours

- 5.15.1 You must take steps to ensure that drivers do not work excessively long hours. You must not permit drivers to drive for more than 10 hours per day and must have a break lasting at least 30 minutes after driving for 5½ hours. The driver must also have a break at the end of this period, unless it is the end of the working day.

5.16 Display of Conditions

- 5.16.1 You must make available a copy of these conditions in any premises which you control and are open to the public. In addition, copy of the conditions attached to vehicle and driver licences must be available for inspection on request by a member of the public.

5.17 Subcontracting

- 5.17.1 If you subcontract any booking to another Private Hire Operator licensed in England (including Greater London, but excluding Plymouth), Wales or Scotland, you, as the Operator who initially accepted the booking, remain liable under the contract.
- 5.17.2 If you do subcontract any booking, you must inform the hirer of the subcontract before the hiring commences.

5.18 Information

- 5.18.1 You must understand that a booking that has been accepted by whatever means, is a contract and failure to uphold that (whether by non-attendance by the vehicle, late attendance or any other shortfall in performance) may lead to a claim for breach of contract. The accurate recording of booking details is a means of protecting you if such circumstances arise.

Section 6: Legal Requirements (contained in national legislation) relating to a Private Hire Operator

- 6.1 A Private Hire Operator must only operate Private Hire vehicles and private hire drivers licensed by the same council as the operator (section 46(1) (e) of the 1976 Act).
- 6.2 A Private Hire Operator can subcontract a booking to another Private Hire Operator licensed in England (including Greater London but excluding Plymouth), Wales or Scotland but remains liable to the hirer under the contract (section 55A of the 1976 Act).
- 6.3 A Private Hire Operator who initially accepted booking from a hirer remains liable under that contract even if they do not ultimately fulfil that contract as a result of a subcontract (section 56(1) of the 1976 Act).
- 6.4 A Private Hire Operator who accepted a booking must maintain records of that booking in accordance with the conditions attached to the Private Hire Operator's licence and must produce those records if requested to do so by an Authorised Officer of the Council or Police Officer (section 56(2) of the 1976 Act).
- 6.5 A Private Hire Operator must maintain a record of all vehicles operated by him and must produce those records if requested to do so by an Authorised Officer of the Council or Police Officer (section 56(3) of the 1976 Act).
- 6.6 A Private Hire Operator must produce their Private Hire Operator licence if requested to do so by an Authorised Officer of the Council or Police Officer (section 56(4) of the 1976 Act).
- 6.7 A Private Hire Operator must not refuse to accept a booking for a Private Hire vehicle because the passenger will be accompanied by an assistance dog and no additional charge can be made for any such booking (section 170 (1) & (2) of the Equality Act).

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Taxi Policy Survey

SURVEY RESPONSE REPORT

22 May 2023 - 15 April 2024

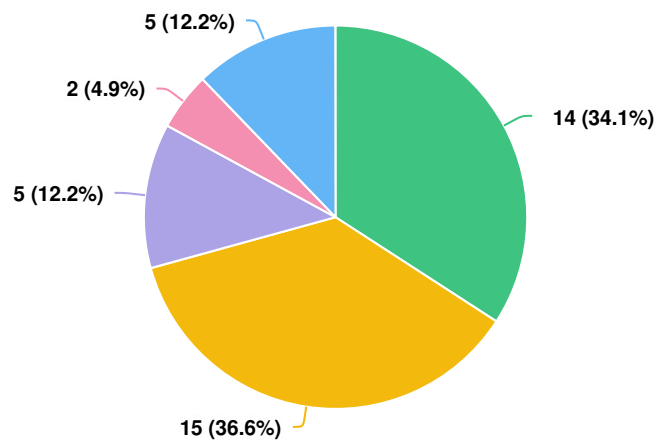
PROJECT NAME:

Taxi Policy Changes



SURVEY QUESTIONS

Q1 | Safeguarding TrainingAn increased frequency of safeguarding training of every 3 years for licenced drivers and every 5 year...



Question options

● Strongly Agree ● Agree ● Neither Agree Nor Disagree ● Disagree ● Strongly Disagree

Mandatory Question (41 response(s))
Question type: Radio Button Question

Q2 | Penalty Points Scheme The penalty point scheme will see points issued to licence holders for failing to comply with their licence conditions, or requirements of Licencing laws. If they accumulate 12 or more points within a specified period, they wil...

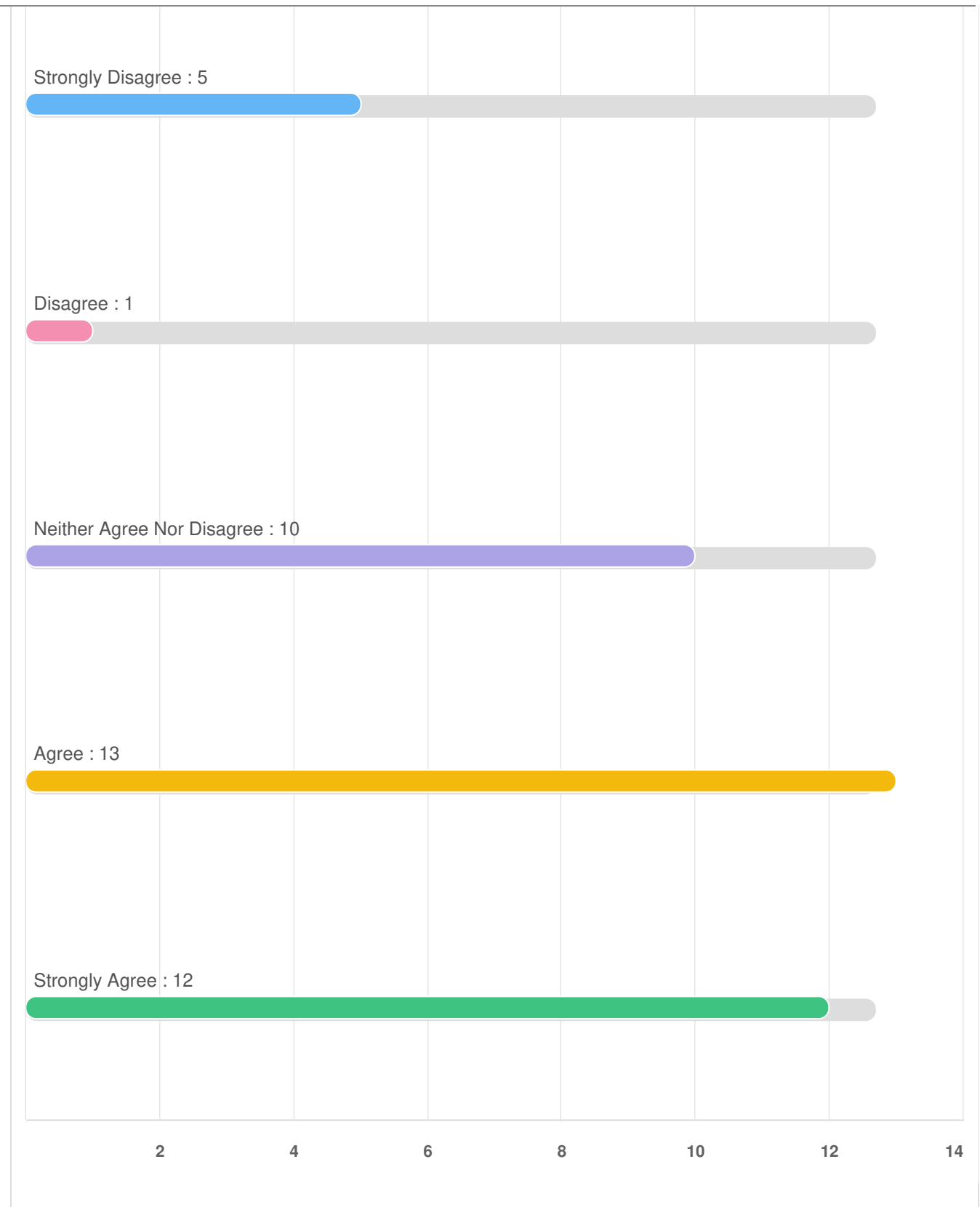


Mandatory Question (41 response(s))

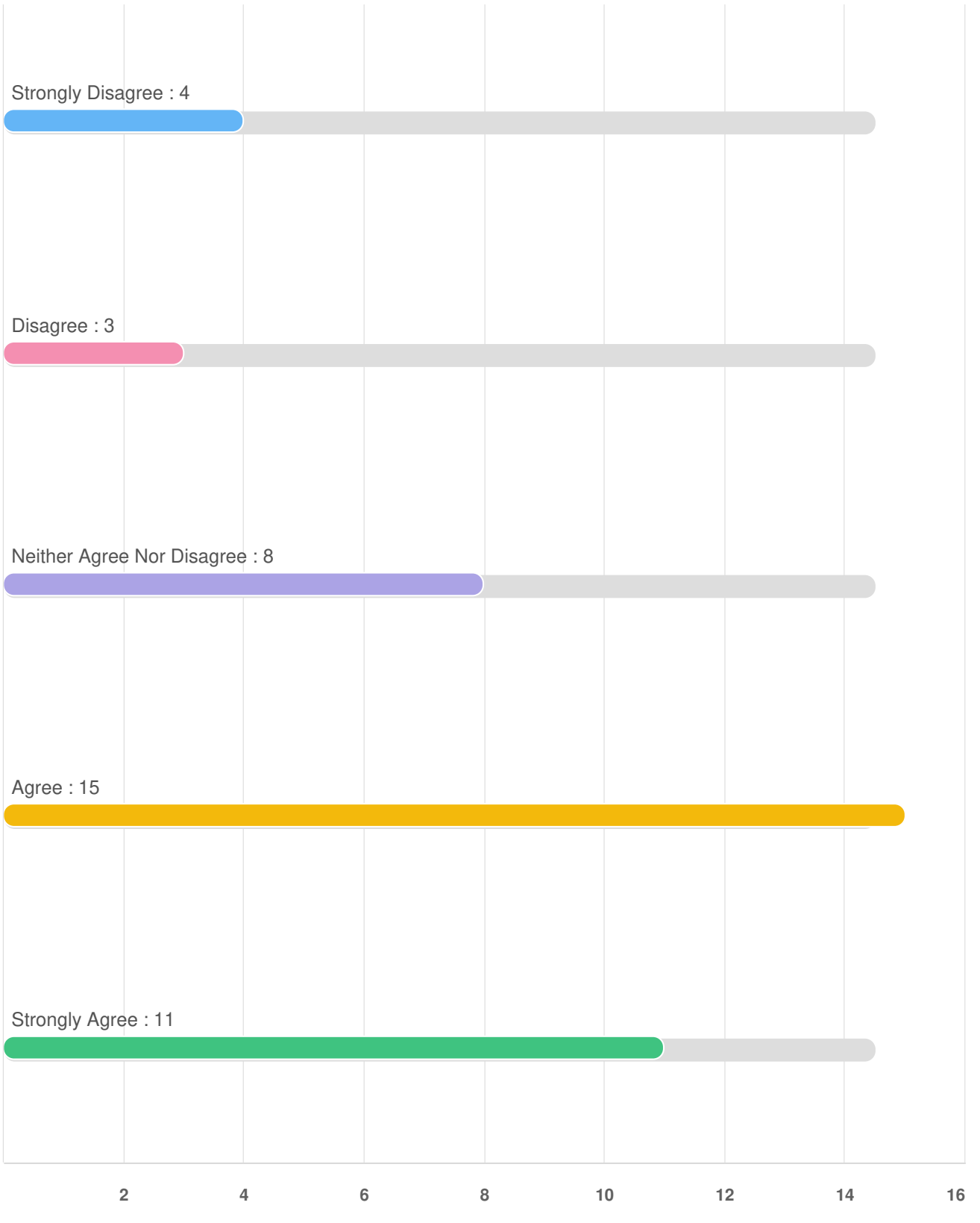
Question type: Likert Question

Q2 | Penalty Points Scheme The penalty point scheme will see points issued to licence holders for failing to comply with their licence conditions, or requirements of Licencing laws. If they accumulate 12 or more points within a specified period, they wil...

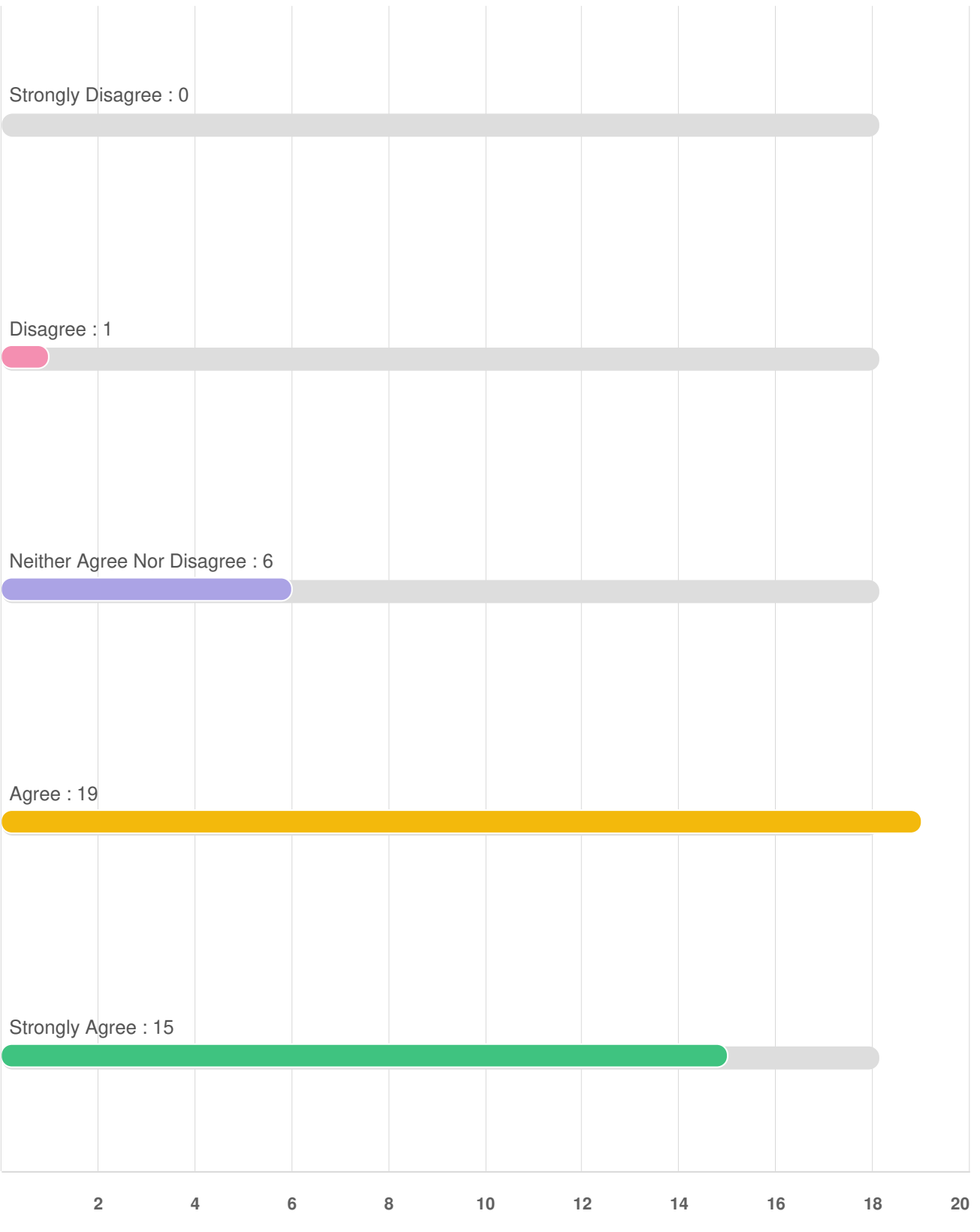
The introduction of a penalty points scheme will help protect the public.



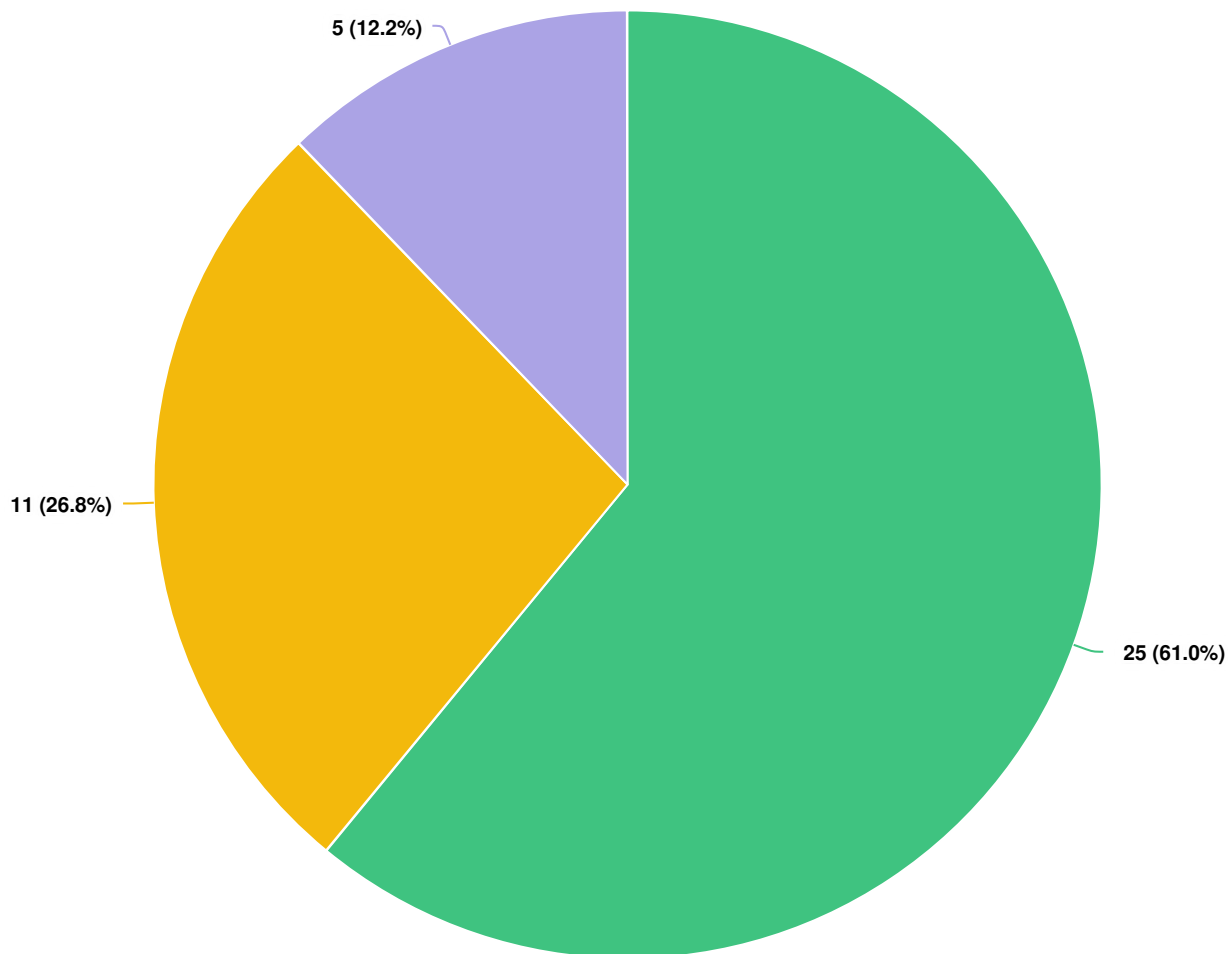
A penalty points scheme will help to ensure compliance with the requirements of the Council Tax and Private Hire vehicle policy.



Licensees should be able to appeal the issue of penalty points to the Team Leader.



Q3 Driver Training/Assessment Guidance states that Licensing authorities should require taxi and private hire vehicle drivers to undertake training and/or assessment focussed on attitudes and behaviours, such as those provided by IAM Roadsmart and the ...



Question options

- Driver training should be at another frequency.
- Driver training should be renewed on renewal of licence (normally every 3 years) as stated in the guidance.
- Driver training should be renewed every 10 years .

Mandatory Question (41 response(s))
Question type: Radio Button Question

Q4 Please specify.

Anonymous

1/16/2024 06:58 AM

Driver training at application and depending on number of points on the above points system and the 'attitude test' at a Council interview coupled with genuine verified complaints about driving standards. It should not be a one size fits all extra expense

Anonymous

1/16/2024 06:47 PM

No

Anonymous

1/19/2024 08:02 PM

Every 5 years ,on age 50 onwards. Compulsory retirement age 75.

Anonymous

1/26/2024 10:55 AM

Same frequency as all pcV drivers

Anonymous

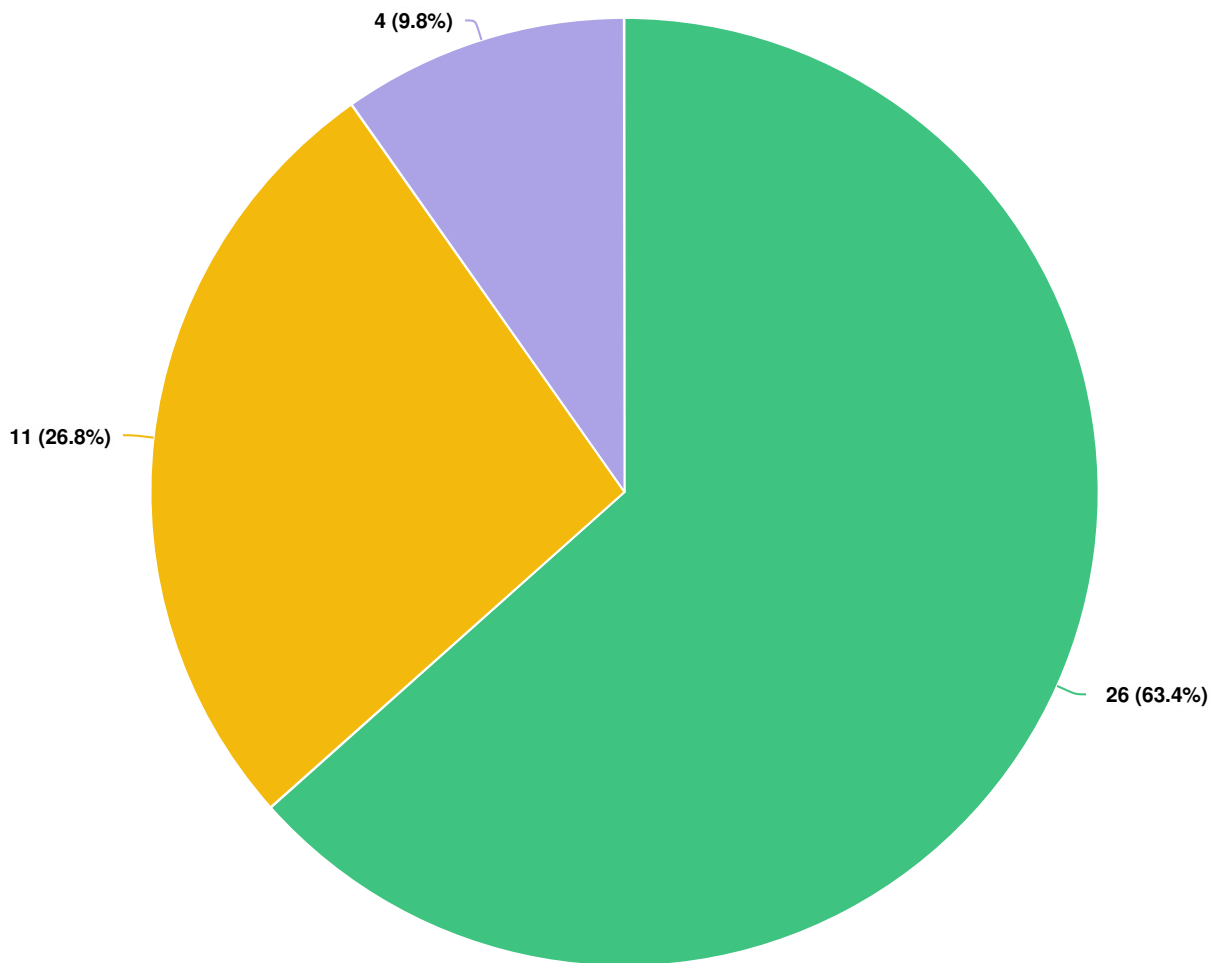
2/12/2024 08:20 PM

I THINK YOU SHOULD ONLY NEED TO TAKE ANOTHER TEST BECAUSE OF A MEDICAL CONDITION OR OVER 65 YEARS OLD

Mandatory Question (5 response(s))

Question type: Single Line Question

Q5 | Driver Training/Assessment Currently new drivers are required to pass a spoken English test or provide evidence of a relevant English language qualification at a suitable level, as part of the application process. New guidance suggests that such a te...

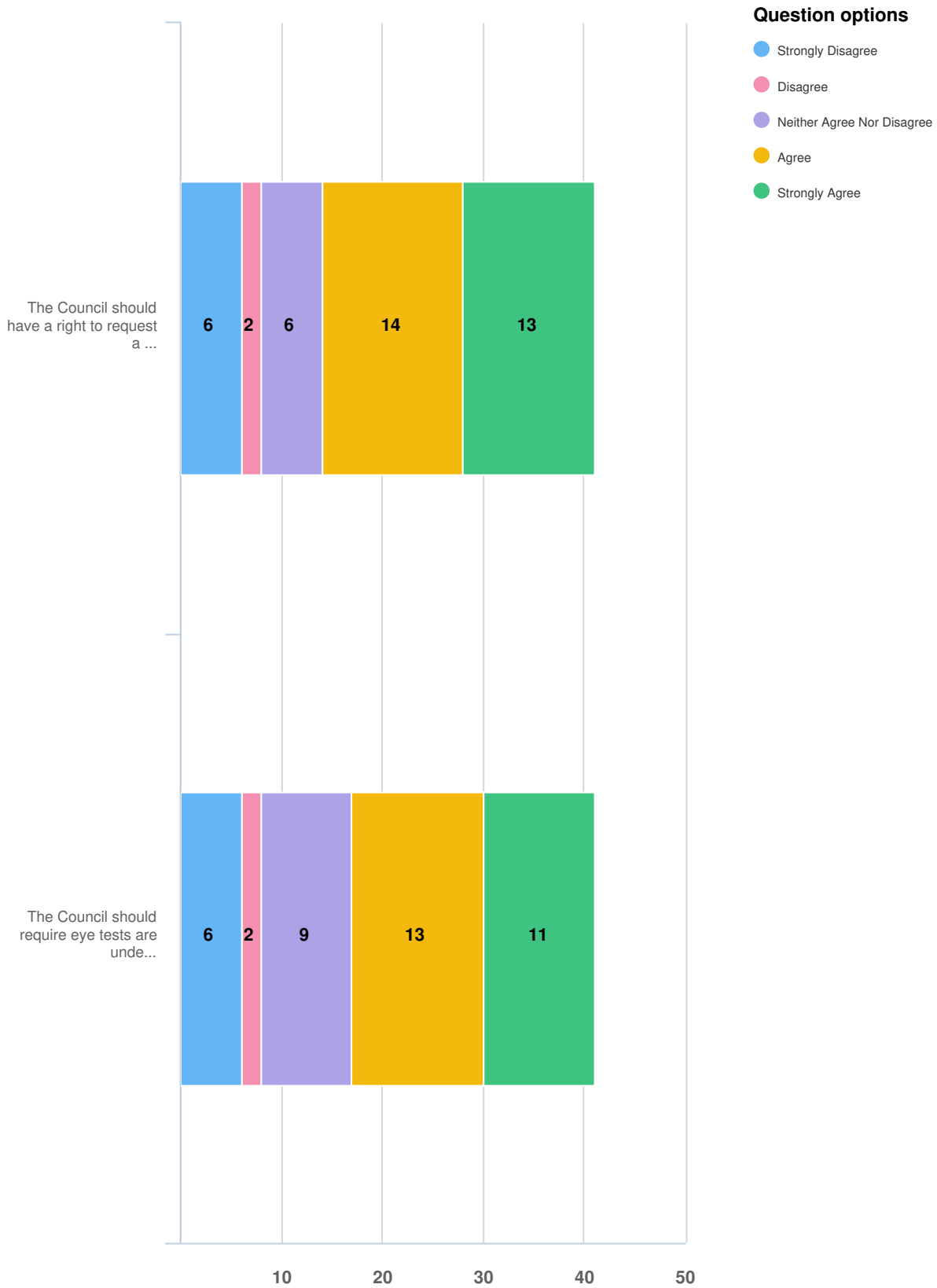


Question options

- Other (please specify)
- English language assessment should be oral only.
- English language assessment should be written and oral.

Mandatory Question (41 response(s))
Question type: Radio Button Question

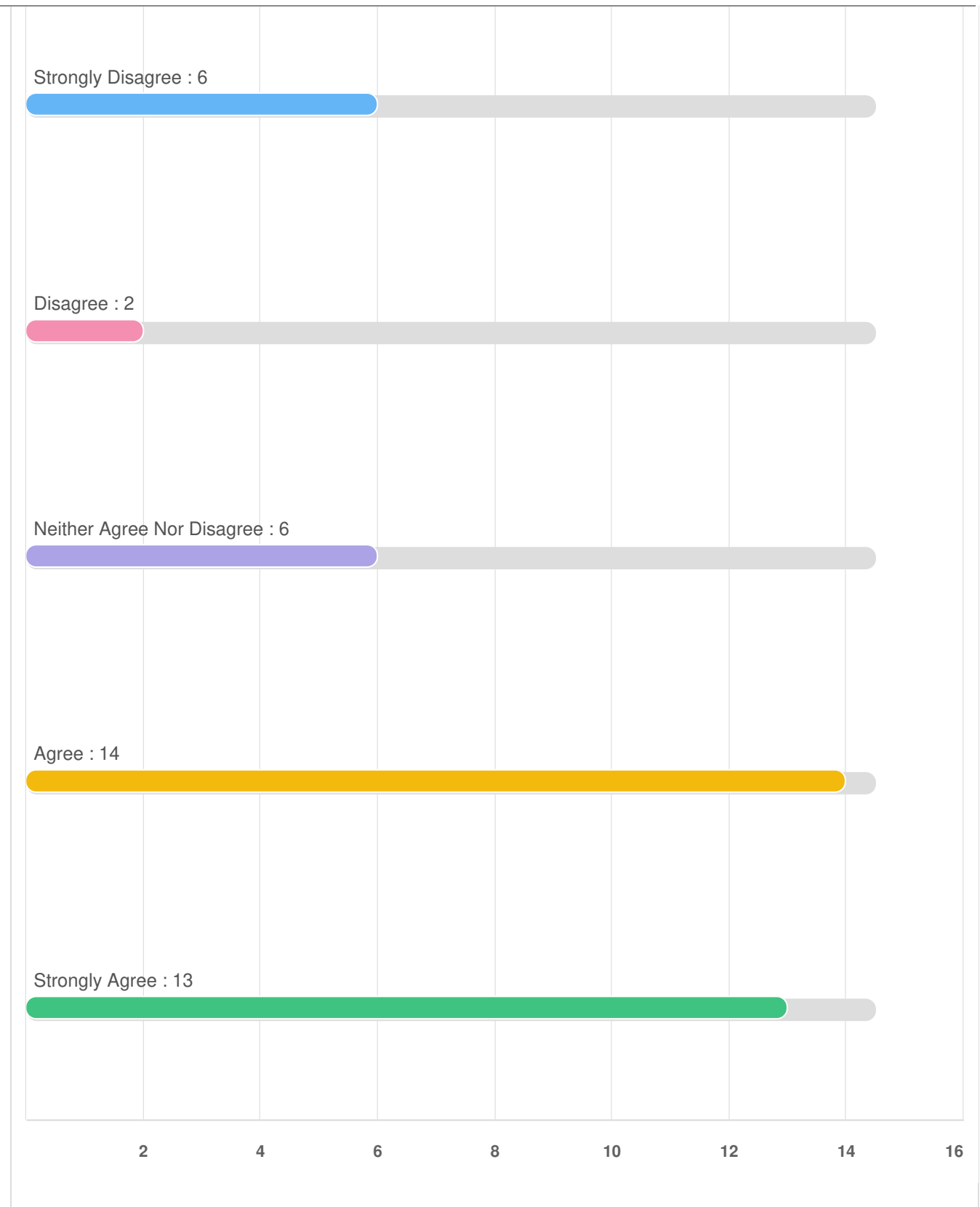
Q6 Medical Assessment Please indicate your level of agreement with the statements below:



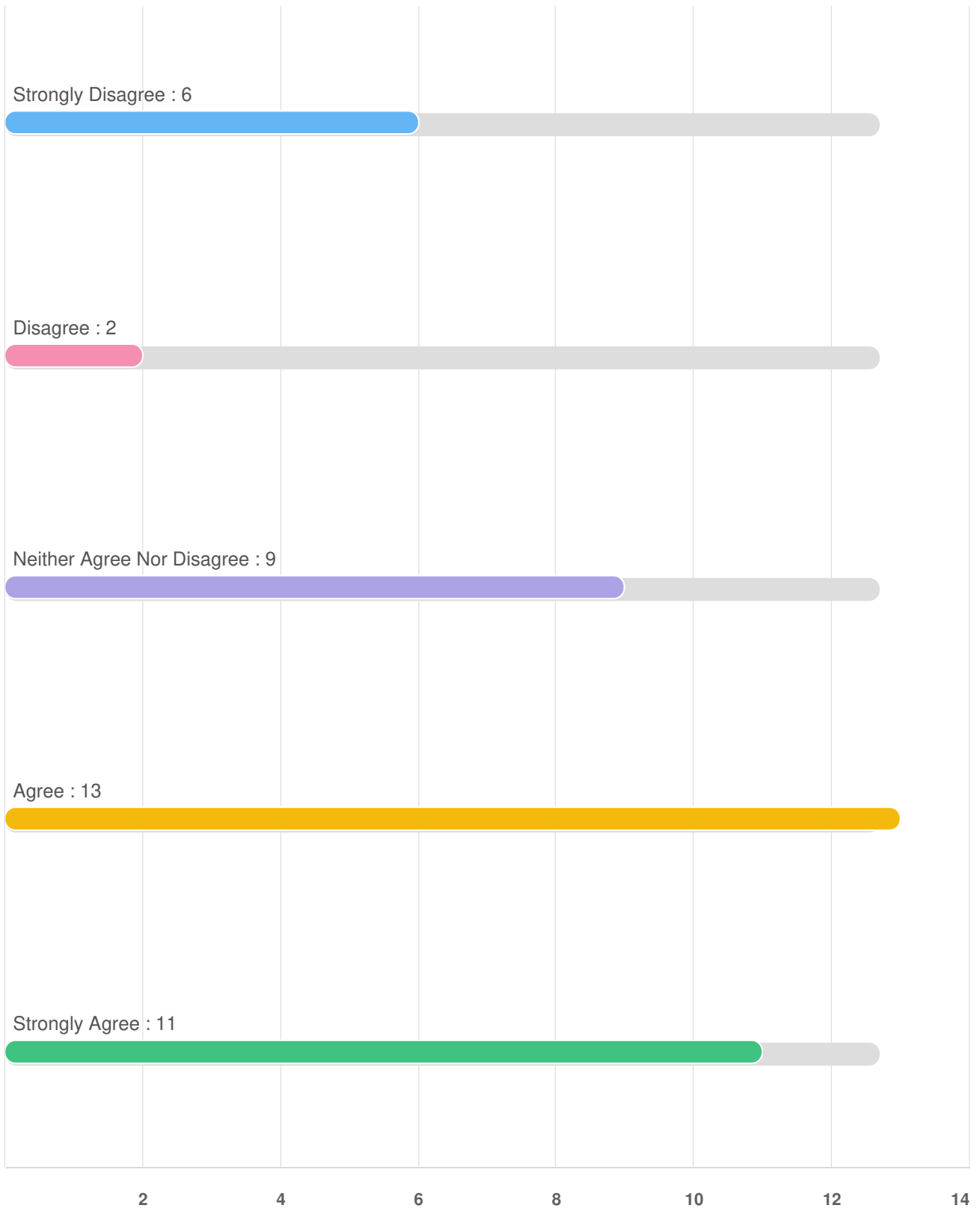
Mandatory Question (41 response(s))
Question type: Likert Question

Q6 | Medical Assessment Please indicate your level of agreement with the statements below:

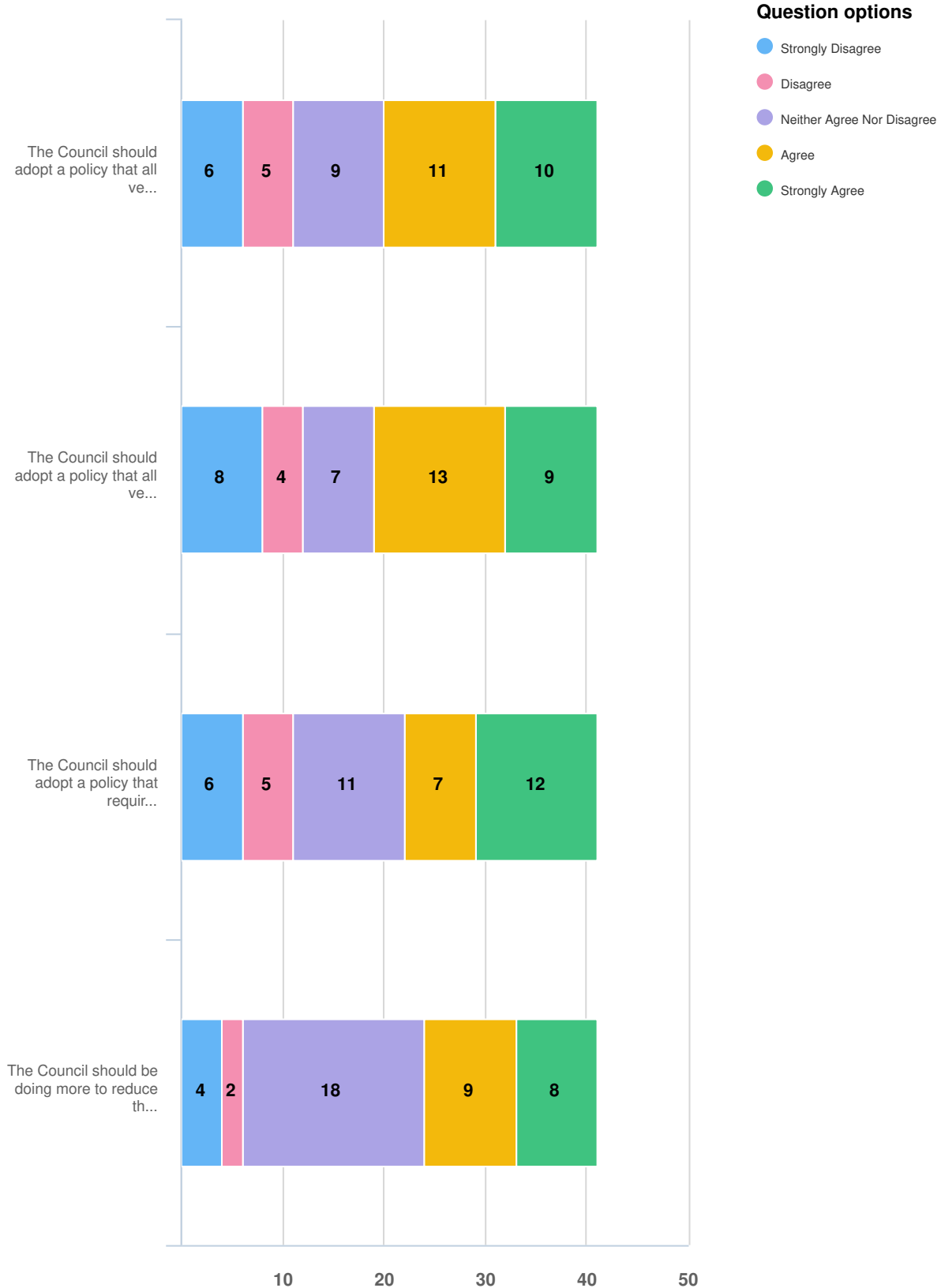
The Council should have a right to request a second opinion where concerns about a drivers medical fitness.



The Council should require eye tests are undertaken and request evidence of this at issue and renewal of licence.



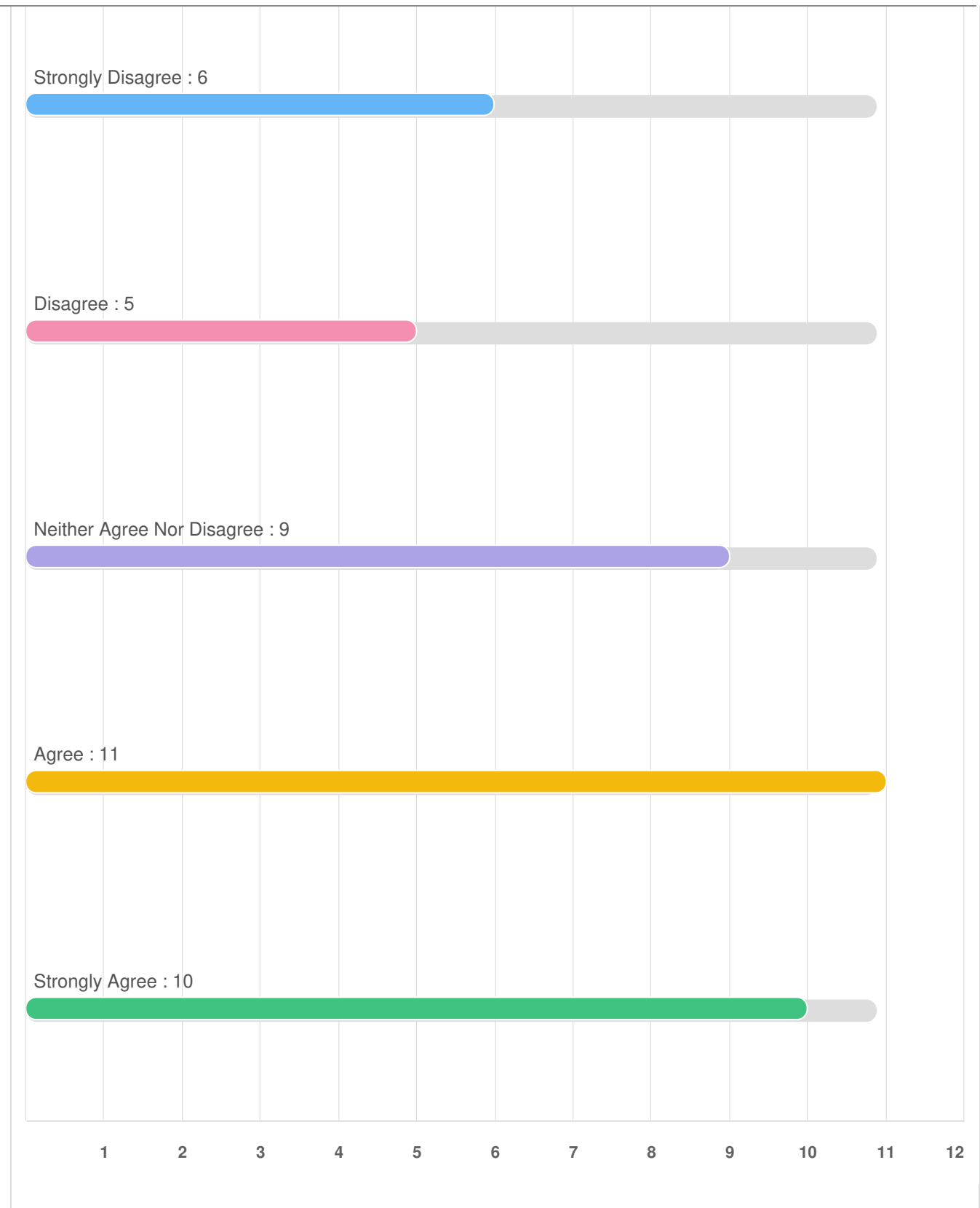
Q7 | Reducing Emissions From The Mid Devon Taxi and Private Hire Vehicle Fleet Please indicate your level of agreement with the statements below:



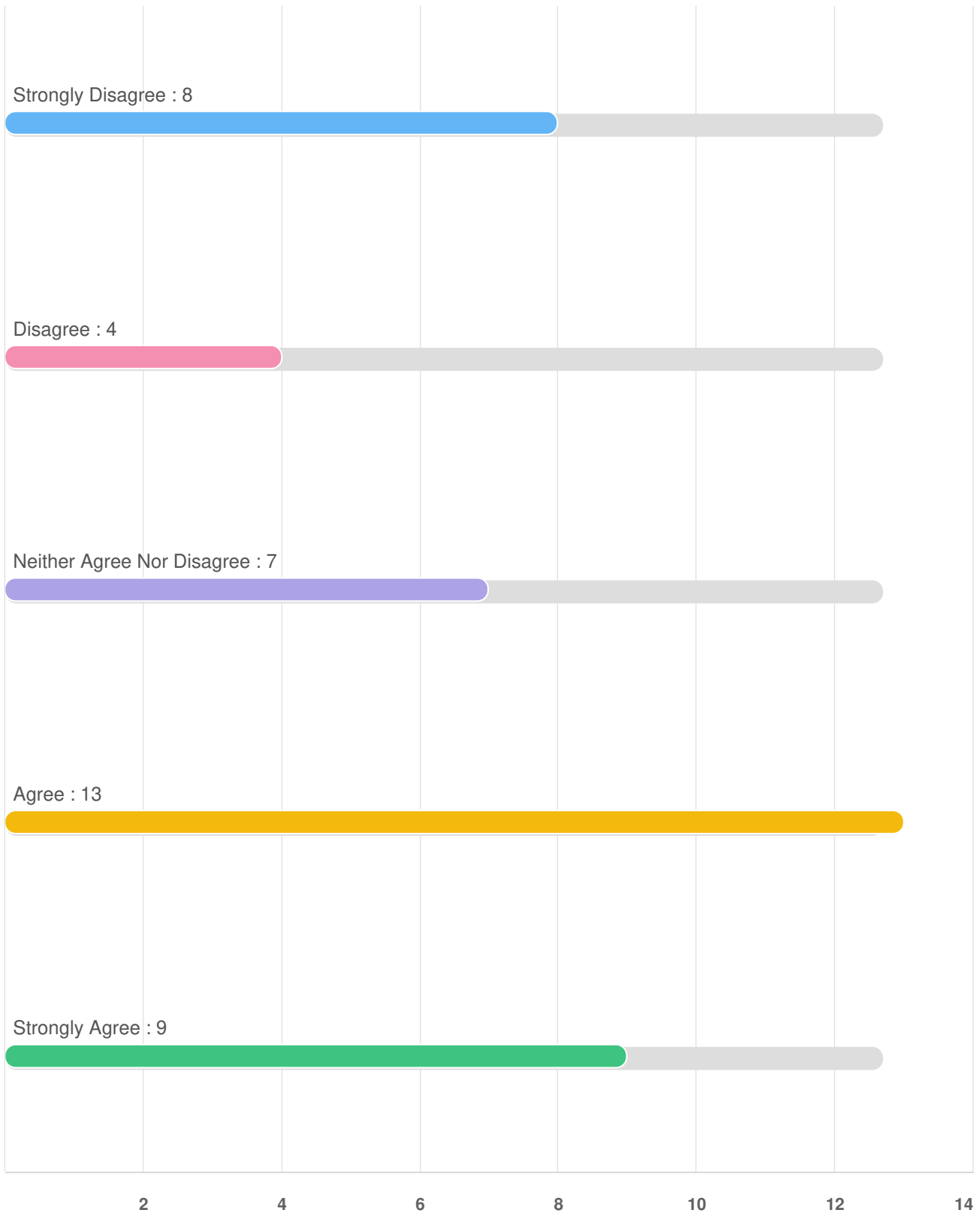
Mandatory Question (41 response(s))
Question type: Likert Question

Q7 | Reducing Emissions From The Mid Devon Taxi and Private Hire Vehicle Fleet
Please indicate your level of agreement with the statements below:

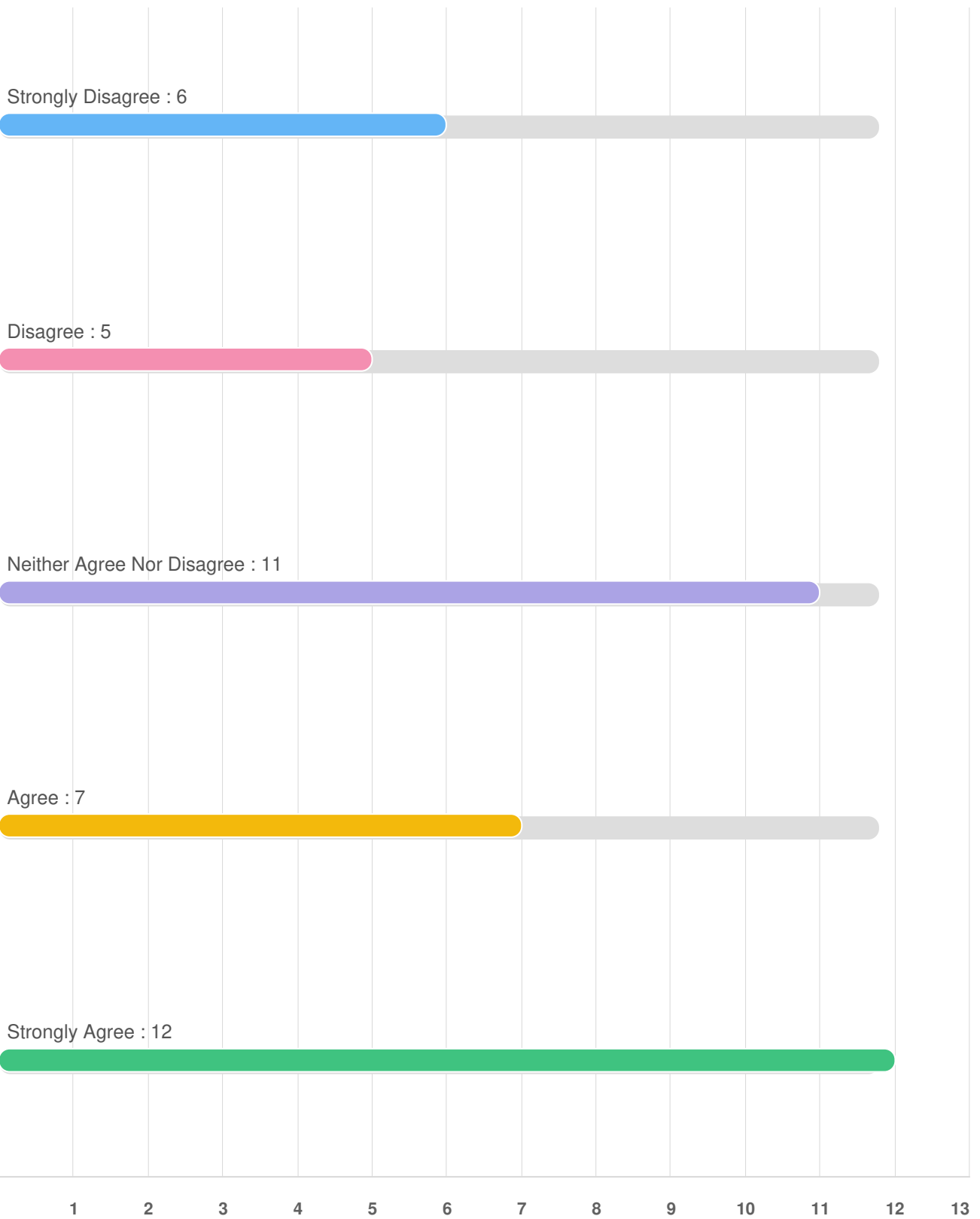
The Council should adopt a policy that all vehicles granted a new licence meet Euro 6 standards from 1 July 2024 (this does not include vehicles at renewal)



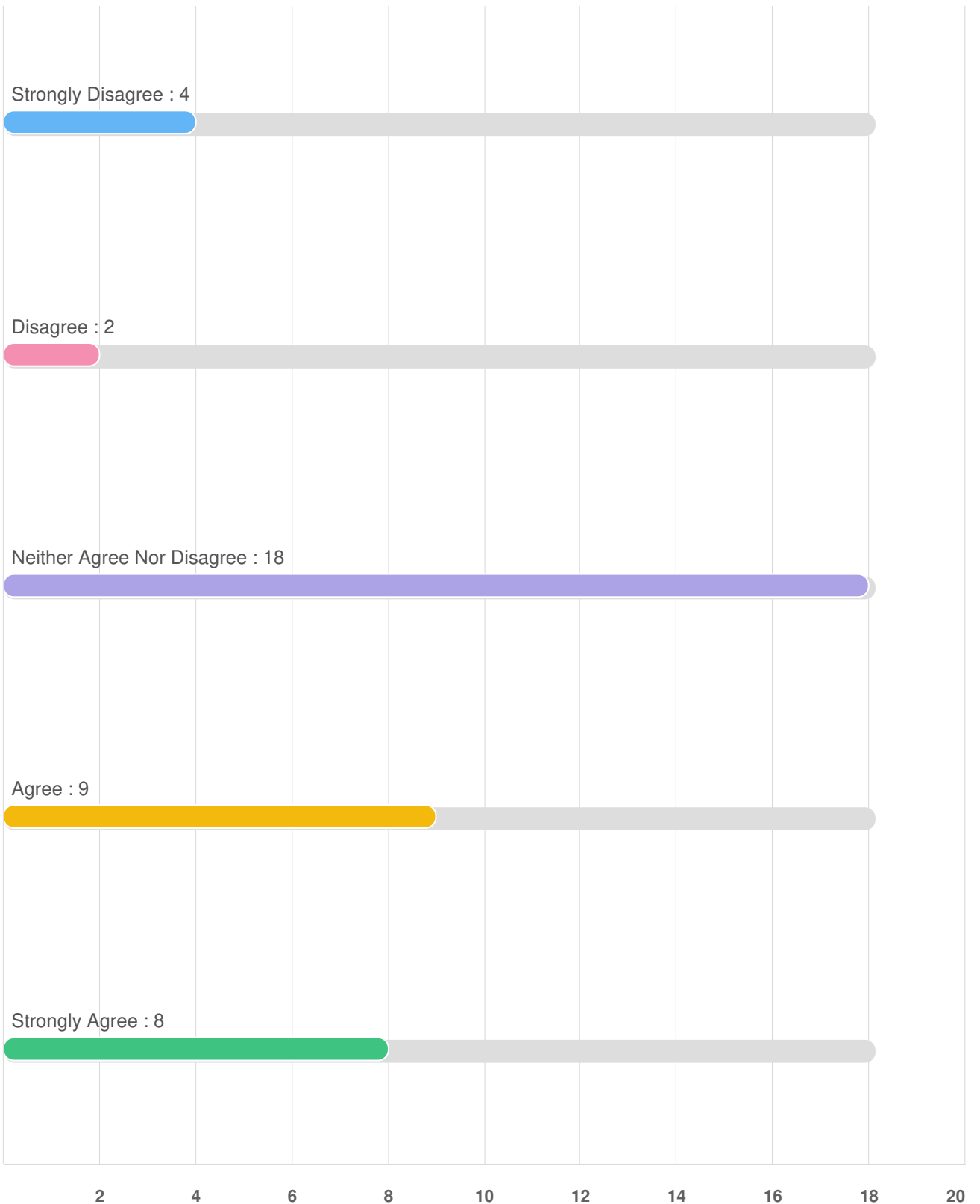
The Council should adopt a policy that all vehicles meet Euro 5 emissions at renewal of licence from 1 July 2024.



The Council should adopt a policy that requires all vehicles meet Euro 6 standards from 1 January 2026 at issue of first licence and renewal.



The Council should be doing more to reduce the impact from emissions associated with licenced Taxis and Private Hire Vehicles.



Q8 | If you wish, please provide more detail.

Anonymous

1/15/2024 04:42 PM

Electric vehicles would not currently suit our line of work. We would not be able to purchase a vehicle with a big enough mileage scope to cover our long distance work. We are however keen to move with the times if a solution occurs. Hybrids would be a much better mid term transition for the taxi trade in Devon. Charging facilities will also need assessing in such a rural county.

Anonymous

1/16/2024 06:58 AM

There is nothing wrong with the existing rolling five year system. It ensures vehicles meet current Euro 6. Introduce a non renewal date of 10 years or 200k miles whichever occurs LAST. This ensures old vehicles are off the road, but classics and lightly used vehicles continue. It removes those most polluting vehicles that are being run on a 'just about legal' basis.

Anonymous

1/17/2024 01:33 PM

As a resident I dont want to see Taxi drivers forced out of business through additional layers of bureaucracy . Uber and other ride services should be the benchmark of entry level adn retention of drivers

Anonymous

1/17/2024 05:10 PM

Correct me if I am wrong, but Britain is not part of Europe, and yet taxis have to follow their law for emission standards? Are the lorries, buses, delivery vans following meeting the Euro 5 or 6 standards? NO. The council is just making the lives of taxi's drivers very difficult and bureaucratic, but drivers have family to support, and a decent job to carry on. They come in handy when an ambulance takes 3 hours to collect a sick patient. The council makes their lives difficult, no one will be able to carry this job. And the SEN students will need transport to schools, WHO IS GOING TO DO IT?

Anonymous

1/17/2024 06:44 PM

nothing is discussed about autonomous vehicles

Anonymous

1/18/2024 04:34 PM

I strongly disagree with the second statement because I believe there should be no Euro 5 emissions standard vehicles being used in The Mid Devon Taxi & Private Hire Vehicle Fleet. Vehicles that operate under The Mid Devon Taxi & Private Hire Vehicle Fleet flag should be a minimum of Euro 6.

Anonymous

1/18/2024 08:47 PM

It is very important that Licencing departments understand the impact of draconian conditions imposed in the licenced vehicle fleet in their area The law is quite specific on this that any operator can work in their area with cars registered in areas that have less draconian

conditions . It is very important that all areas adopt the dft consultation on this . Failure to do so will mean that cars registered on other areas would work in your areas These cheaper to run cars will ruin your local companies by offering lower prices

Anonymous

1/19/2024 08:02 PM

The word fair is key as per the lead statement. If the Council wants the Council should pay and take less heed from from views with no skin in the game.

Anonymous

1/26/2024 10:55 AM

Taxis should meet the same conditions as all other PCV.

Anonymous

1/29/2024 02:19 PM

The most vulnerable residents in Devon use taxis . Any thing that decreases a fleet size or the accessibility of taxis only makes them suffer . Cross border hiring occurs because councils put higher levels on their cars / drivers . Making in harder for new people to come in the trade . Meaning drivers in laxer areas can under cut the prices

Anonymous

2/15/2024 12:29 PM

How about the following sequence of requirements for licensed vehicles, with regard to emissions? 2024 - ULEZ standards for NEW registrations; 2027 - ULEZ standards for all (renewals and new); 2030 - Zero Emissions Vehicles for NEW registrations and ULEZ standards for renewals.

Anonymous

3/27/2024 11:27 AM

i thought we had left Europe. Other priorities

Optional question (12 response(s), 29 skipped)

Question type: Essay Question

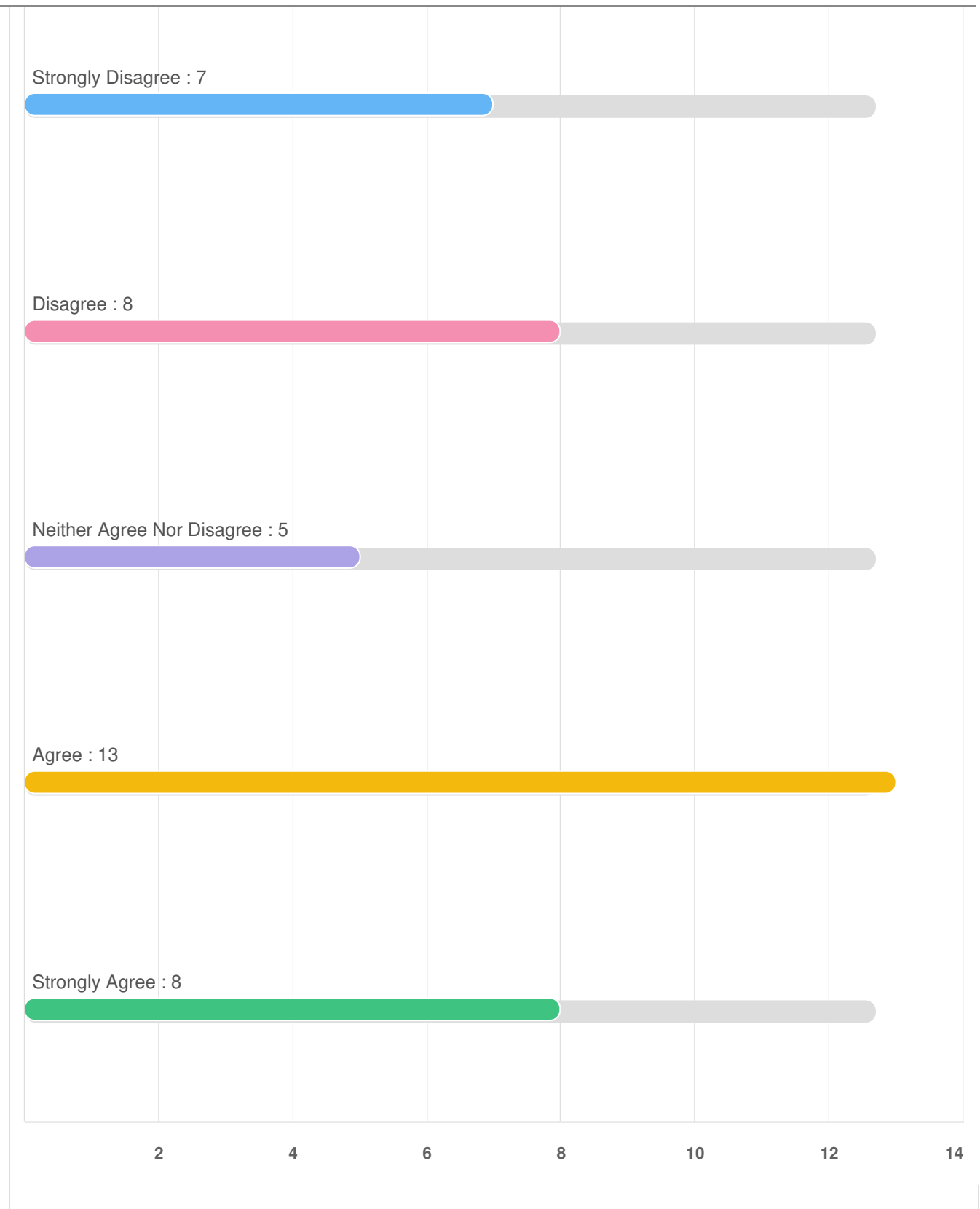
Q9 Testing Frequency Please indicate your level of agreement with the statement below:



Mandatory Question (41 response(s))
Question type: Likert Question

Q9 | Testing Frequency Please indicate your level of agreement with the statement below:

An increased frequency of testing for vehicles over 5 years of age is realistic and ensures that the vehicle is safe and suitable to be used as a licenced taxi or Private Hire vehicle.



Q10 | If you wish, please provide more detail.

Anonymous
1/15/2024 01:49 PM

I think the 6 monthly checks are more than enough aswell as a mot every year

Anonymous

1/15/2024 02:05 PM

I Think should be left to every 6 months.

Anonymous

1/16/2024 06:58 AM

Six monthly testing is fine if the upper age limit suggested of 10 years/200k (whichever occurs last) is introduced. Don't fix what isn't broken.

Anonymous

1/16/2024 06:47 PM

Testing should be done on a mileage basis, the higher the mileage the more frequent the test!

Anonymous

1/17/2024 01:33 PM

The MOT system and reliance on the drivers to maintain their vehicles should be suitable, with severe penalties or expulsion as a Mid devon driver if the vehicle is found to have defects between MOTS as provided by the Road Traffic Acts in law

Anonymous

1/17/2024 05:10 PM

Do the Council provides these tests for their local buses? What about logistics lorries? I live on a main road in Devon, and the level of pollution and noise are not regulated by nobody. The council has to impose these regulations to everyone, or no one.

Anonymous

1/18/2024 08:47 PM

A vehicle is only safe at the time of inspection . By offering to check the road worthiness of the vehicle you're pushing the onus on yourselves for the safety of the fleet . I understand that the council will do these checks at an obvious cost to your licenced trade . Whilst some people think this is a good idea . An operator can get an operators licence in a different district like Wolverhampton , Eastleigh or uttlesford and operate older vehicles witj less stringent checks than you propose . Which in turn will make the business more profitable than a business registered solely in you area This is perfectly legal and in fact encourages competition in other areas .

Anonymous

1/19/2024 08:02 PM

A bald tyre is already 3 points on the EXISTING system. Bigger investment in pot hole repair will assist all taxis wear & tear driving heavily laden in the dark on rural and flooded roads. Evaluate the distinction between rural and urban needs carefully

Anonymous

1/26/2024 10:55 AM

Taxis should be tested with the same frequency as all others PCV

Anonymous

2/09/2024 09:20 AM

We do not have to do this with our own cars so why should they?

Anonymous

2/13/2024 07:14 PM

I am a part time , school run taxi . My income cannot support an extra 2 taxi tests per year . I never do any other private hire or go on the taxi rank so my mileage is a lot less than other taxis . Could it maybe done on a mileage basis to make it fair

Anonymous

2/19/2024 02:47 PM

There should be a mileage cap and age limit, whichever is reached last for example 250k miles AND aged 10 years

Anonymous

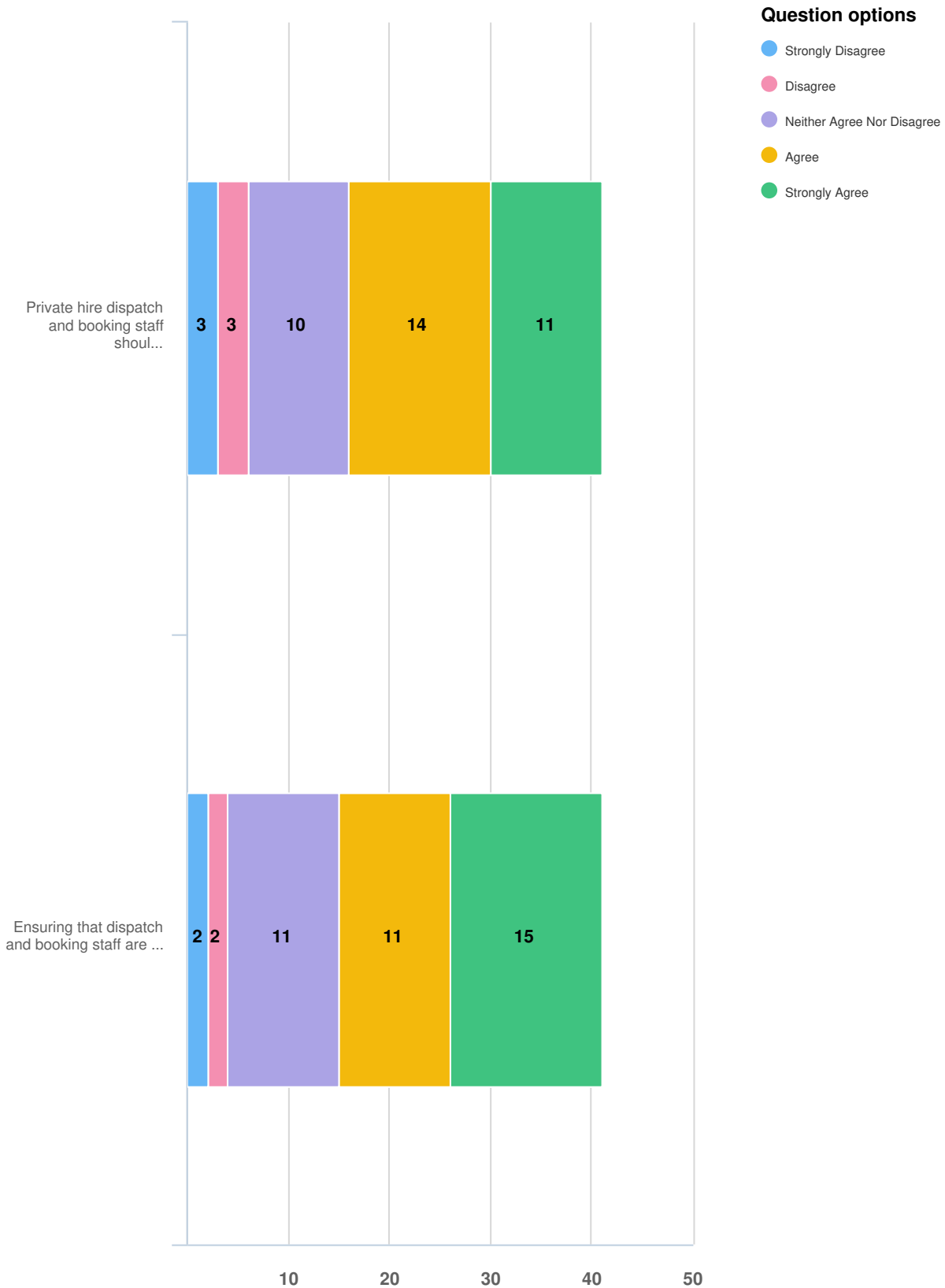
2/19/2024 11:14 PM

If problems keep popping up from testing at the intervals at present through poor maintenance check them more with spot checks.

Optional question (13 response(s), 28 skipped)

Question type: Essay Question

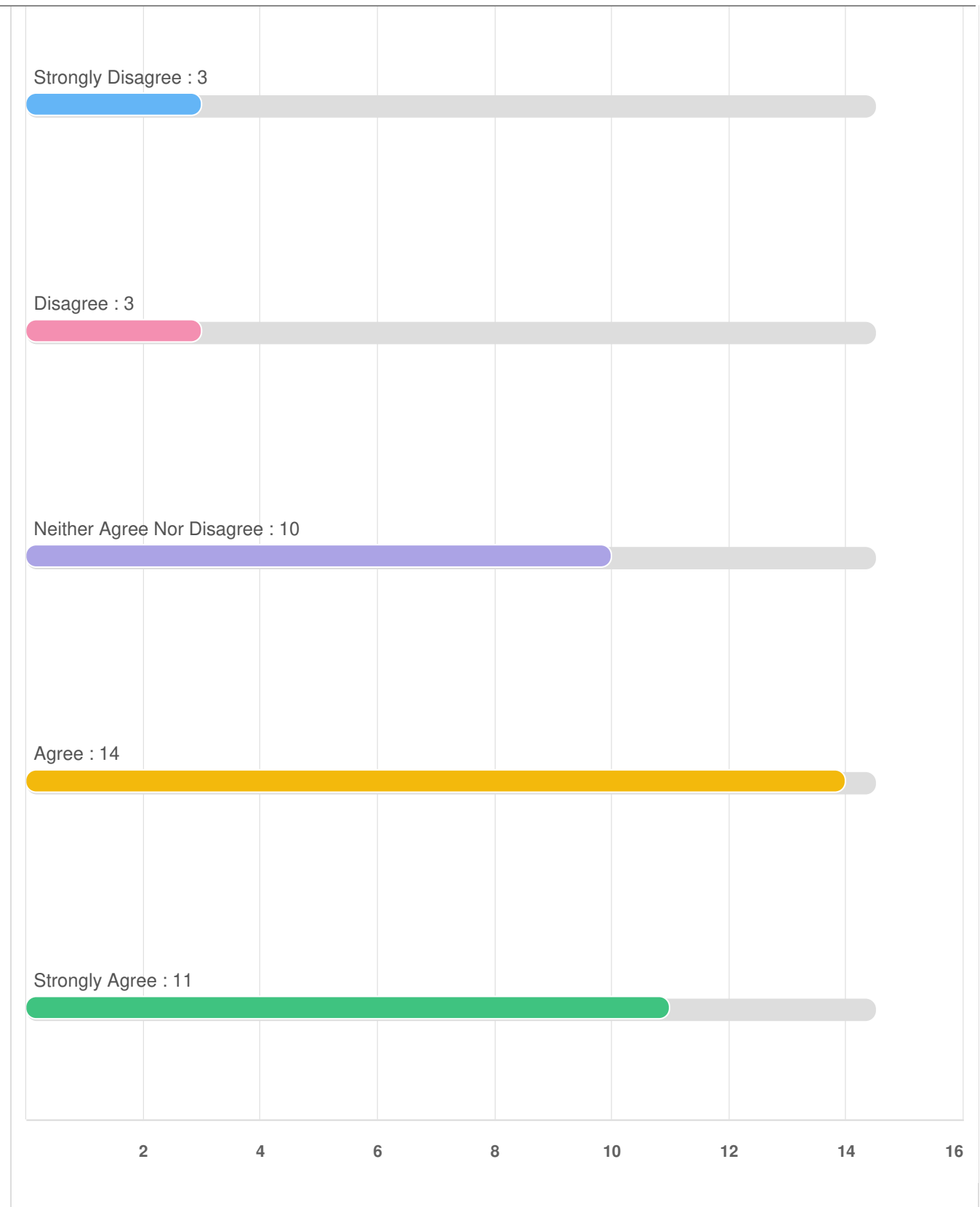
Q11 | Changes To The Private Hire Operator Policy We are proposing to introduce requirements for operators to assess the fitness and propriety of their dispatch and booking staff, this is to ensure that only trustworthy individuals are employed within th...

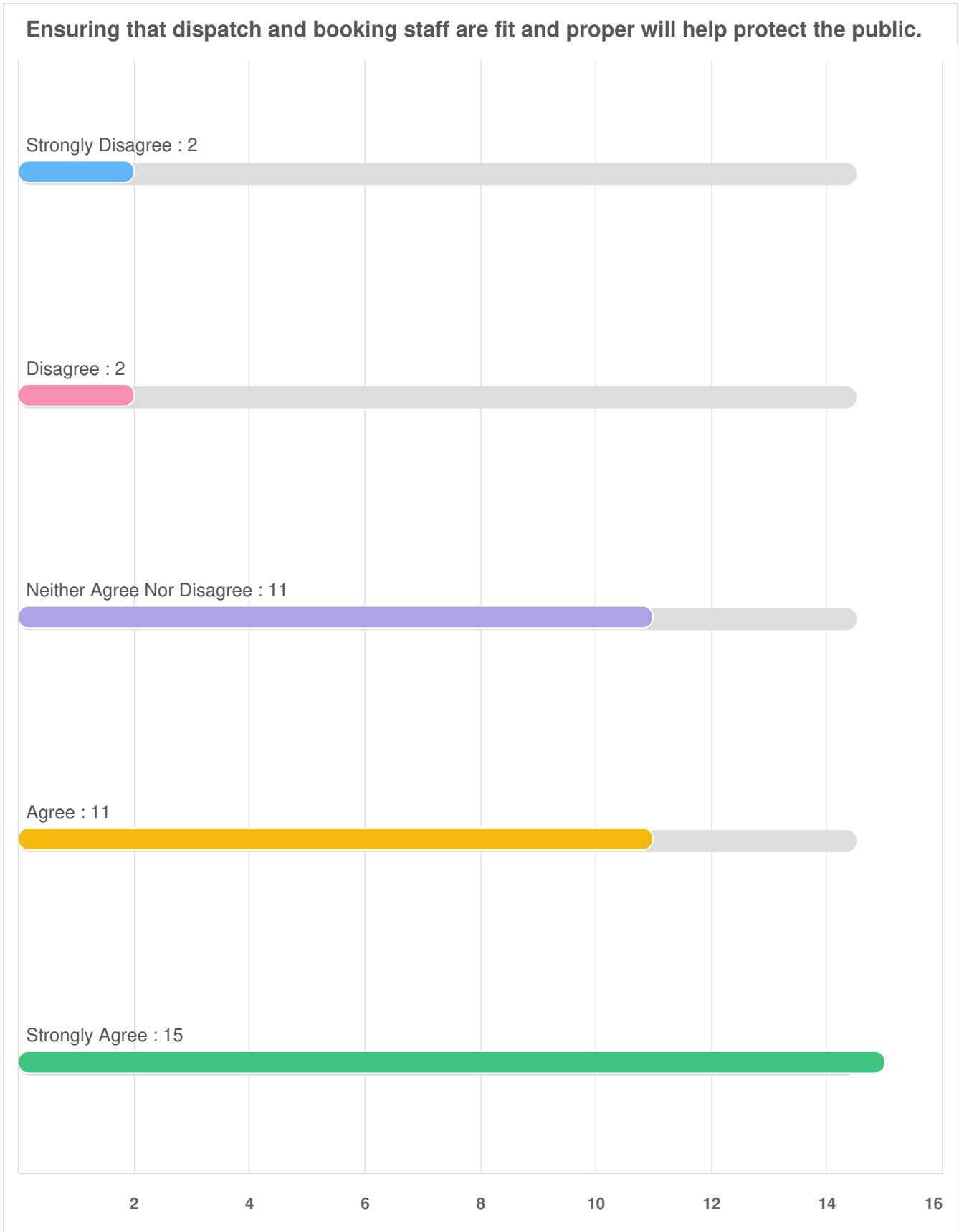


Mandatory Question (41 response(s))
Question type: Likert Question

Q11 | Changes To The Private Hire Operator Policy We are proposing to introduce requirements for operators to assess the fitness and propriety of their dispatch and booking staff, this is to ensure that only trustworthy individuals are employed within th...

Private hire dispatch and booking staff should be subject to the same checks as the private hire operator themselves.





Q12 | If you wish, please provide more detail.

Anonymous

1/16/2024 06:58 AM

There is no evidence that crime has increased in Mid Devon because booking staff are not DBS checked. This is discriminatory. It implies operators employ crooked staff or the operators are crooked. Again, don't fix what isn't broken. It's yet another unwanted expense.

Anonymous

1/17/2024 01:33 PM

The dispatch and booking staff dont come into direct contact with customers where the highest levels of risk are seen . I qualified as a Safeguarding specialist lecturing on the subject to give qualifications to sports coaches and note the content of the courses has changed very little in 20 years . I dont understand why mandatory retraining may be necessary every three years except to create more work for the Safeguarding industry

Anonymous

1/17/2024 05:10 PM

Are you talking about uber? because private hire and hackney carriage go through a tough process of regulations and rules. Why do you want to make it even more difficult? Has anybody ever died in a taxi because of a driver??

Anonymous

1/19/2024 08:02 PM

Protection to the public via a phone call

Anonymous

1/26/2024 10:55 AM

I believe this is the private hire operator's responsibiliy

Anonymous

1/29/2024 10:26 AM

Anything that can be done to keep the public safe is a good thing.

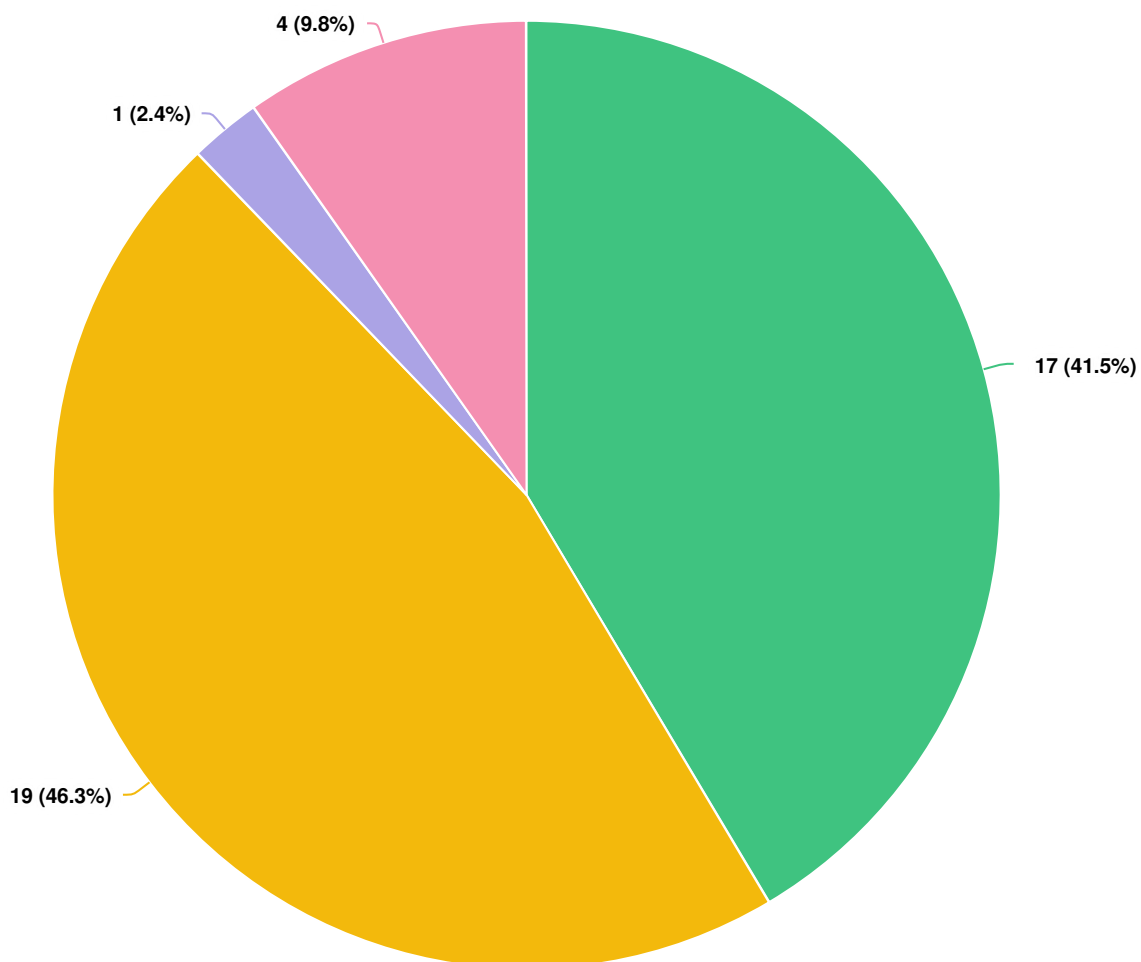
Anonymous

2/09/2024 09:20 AM

Optional question (7 response(s), 34 skipped)

Question type: Essay Question

Q13 | In what capacity are you completing this survey?



Question options

- Other department or body
- Charity or voluntary organisation
- Mid Devon District Council licensee
- Mid Devon resident

Mandatory Question (41 response(s))
Question type: Dropdown Question

Q14 | Please specify.

Anonymous

1/29/2024 10:26 AM

Guide Dogs

Mandatory Question (1 response(s))

Question type: Single Line Question

Q15 | Please specify.

Anonymous

12/20/2023 01:52 PM

Licensing Employee - Test

Anonymous

1/18/2024 08:47 PM

Licenced trade in other area

Anonymous

1/29/2024 02:19 PM

Company director

Anonymous

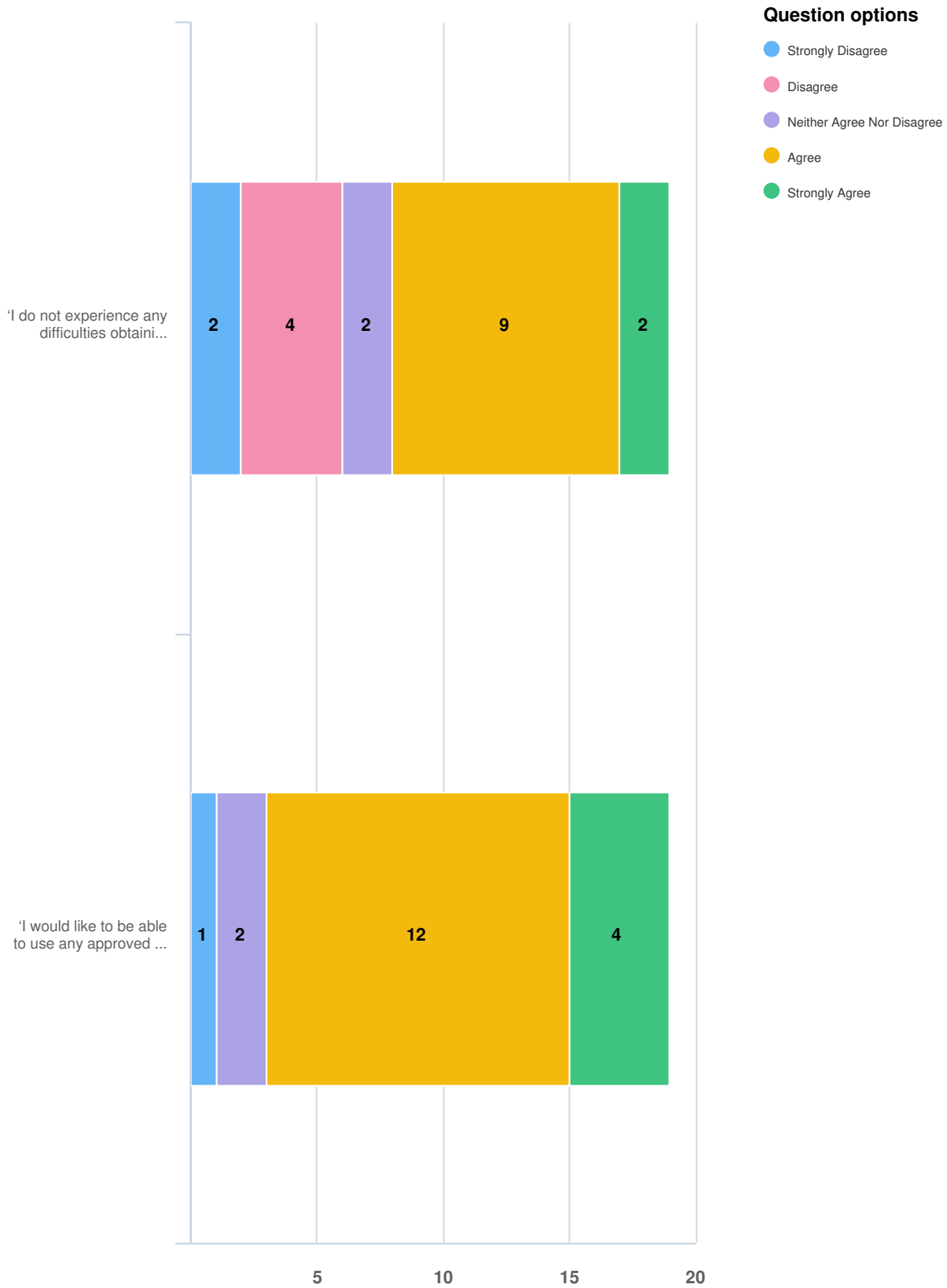
2/22/2024 10:33 AM

DVSA

Mandatory Question (4 response(s))

Question type: Single Line Question

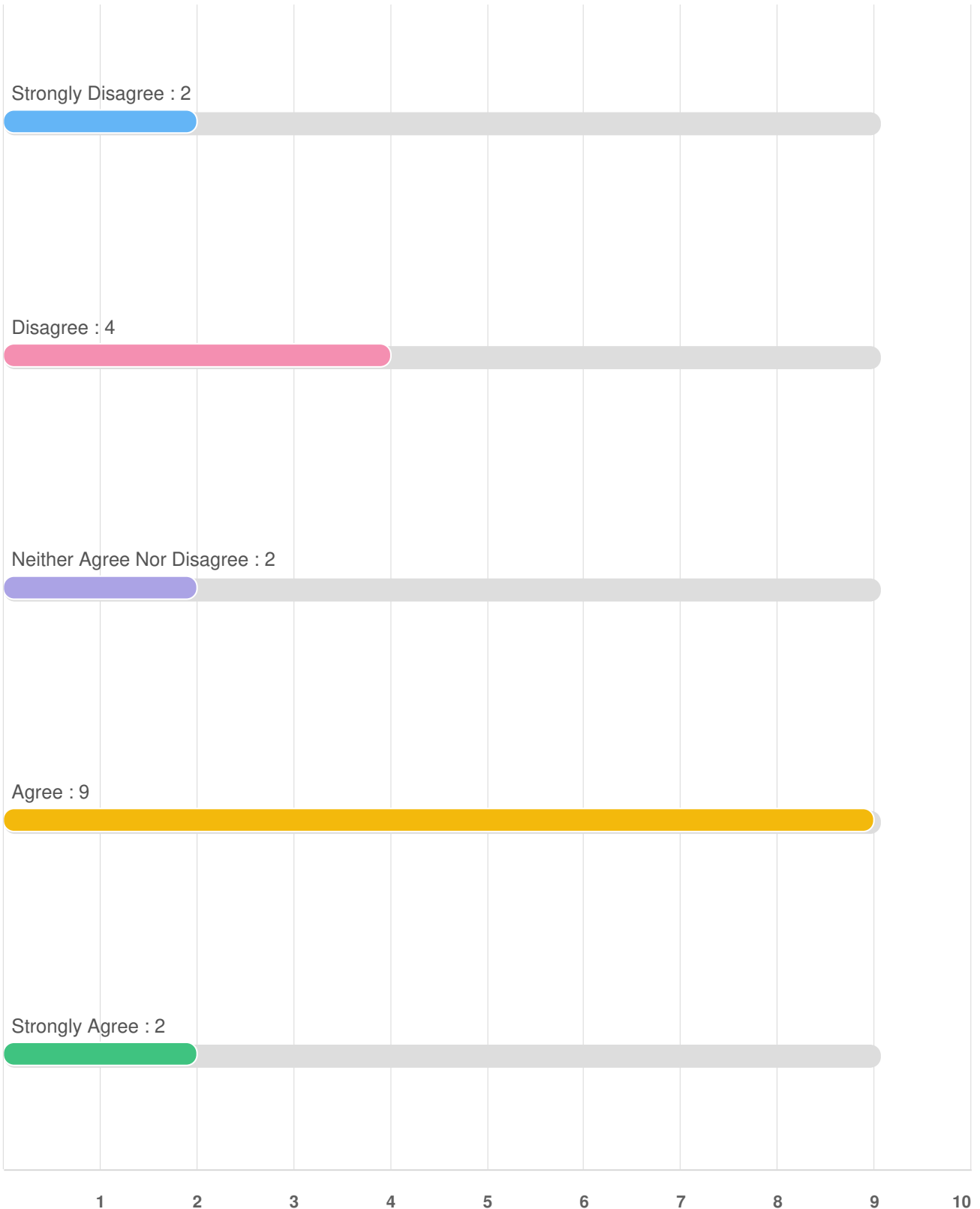
Q16 Medical Assessment Please indicate your level of agreement with the statements below:



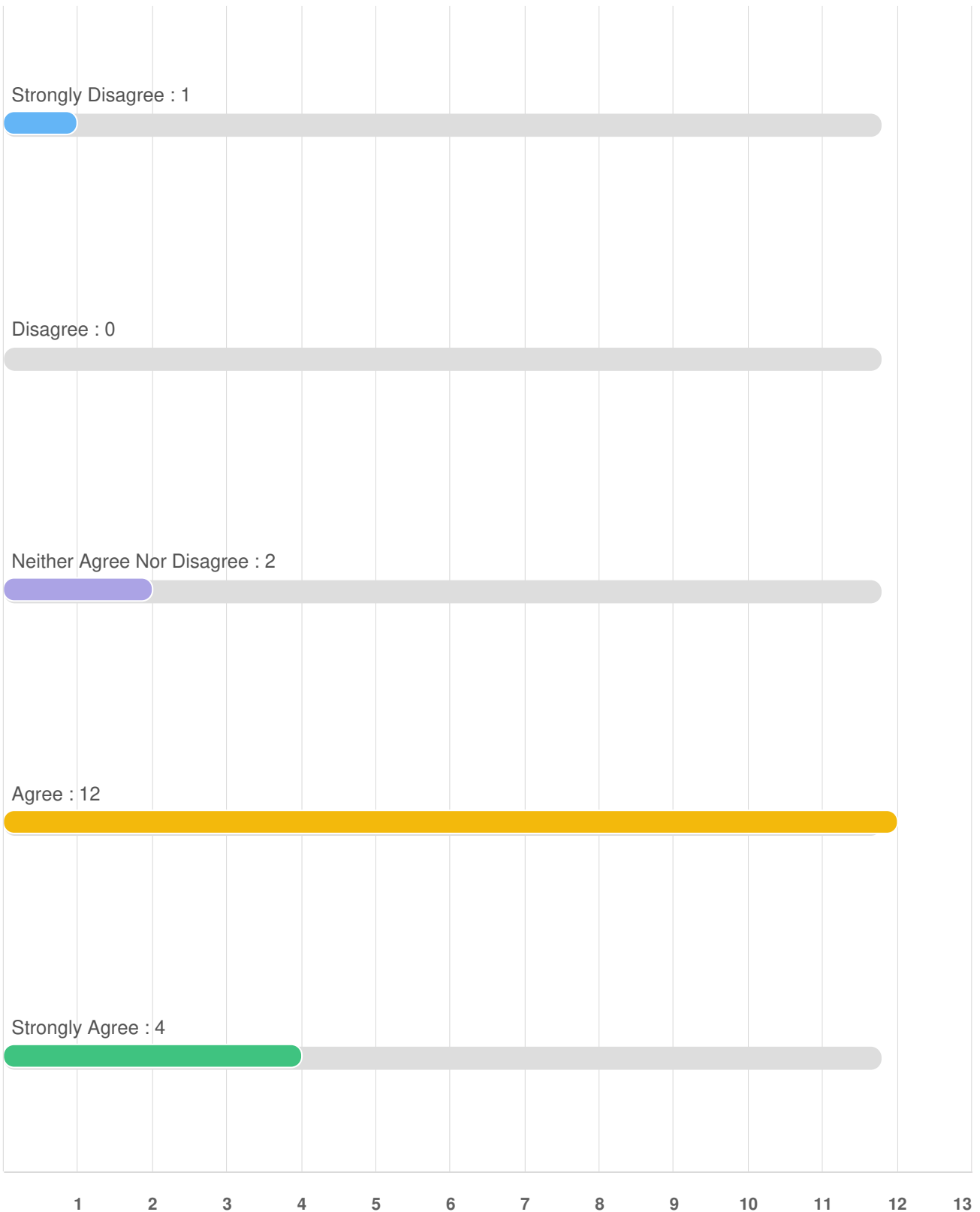
Mandatory Question (19 response(s))
Question type: Likert Question

Q16 | Medical Assessment Please indicate your level of agreement with the statements below:

'I do not experience any difficulties obtaining a medical certificate from my own GP'.



'I would like to be able to use any approved medical provider who has access to my full medical history to issue my medical certificate and not be limited to my own GP'.



Council introduce a policy that requires vehicles met Euro 6 standard by 2026, what impact would that have you your licence?

Anonymous 1/15/2024 01:49 PM	None
Anonymous 1/15/2024 02:05 PM	Massively as would cost businesses a lot of money updating fleets.
Anonymous 1/15/2024 02:52 PM	G
Anonymous 1/15/2024 02:57 PM	None
Anonymous 1/15/2024 04:42 PM	All our vehicles are euro 6 compliant so this would have no negative impact.
Anonymous 1/15/2024 06:21 PM	Not sure
Anonymous 1/16/2024 06:58 AM	None.
Anonymous 1/16/2024 06:47 PM	None at all my vehicle is already euro 6
Anonymous 1/19/2024 03:50 AM	Don't know
Anonymous 1/19/2024 08:02 PM	None
Anonymous 1/26/2024 10:55 AM	I do not own a taxi
Anonymous 2/12/2024 09:10 AM	None
Anonymous 2/12/2024 04:02 PM	N/A

Anonymous

2/12/2024 08:20 PM

NONE

Anonymous

2/13/2024 11:05 AM

I dont own my taxi its my bosses responsibility

Anonymous

2/13/2024 07:14 PM

I am a part time driver , working for myself doing school runs and cannot afford to buy a zero emissions car.

Anonymous

2/19/2024 02:47 PM

I don't think it would have any impact on my licence.

Anonymous

2/19/2024 11:14 PM

100%

Anonymous

2/22/2024 12:45 PM

No impact at all

Mandatory Question (19 response(s))

Question type: Single Line Question

Q18 | Reducing Emissions From The Mid Devon Taxi and Private Hire Vehicle FleetIf the Council introduce a policy that requires vehicles meet Euro 5 standards at renewal of licence by July 2024, what impact would that have on your licences?

Anonymous

1/15/2024 01:49 PM

None

Anonymous

1/15/2024 02:05 PM

Same cost businesses lots of money updating fleets.

Anonymous

1/15/2024 02:52 PM

Yes

Anonymous

1/15/2024 02:57 PM

None

Anonymous

1/15/2024 04:42 PM

All our vehicles are euro 5 compliant so this would have no negative impact.

Anonymous 1/15/2024 06:21 PM	No impact
Anonymous 1/16/2024 06:58 AM	None.
Anonymous 1/16/2024 06:47 PM	None
Anonymous 1/19/2024 03:50 AM	Don't know
Anonymous 1/19/2024 08:02 PM	None
Anonymous 1/26/2024 10:55 AM	I do not own a taxi
Anonymous 2/12/2024 09:10 AM	None
Anonymous 2/12/2024 04:02 PM	N/A
Anonymous 2/12/2024 08:20 PM	NONE
Anonymous 2/13/2024 11:05 AM	I dont own my taxi its my bosses responsibility
Anonymous 2/13/2024 07:14 PM	Same answer as above
Anonymous 2/19/2024 02:47 PM	We only have one vehicle on our fleet at this level of 'EURO 5' so it would likely mean we had to sell it and purchase a new vehicle.
Anonymous 2/19/2024 11:14 PM	50%

Anonymous

No impact at all

2/22/2024 12:45 PM

Mandatory Question (19 response(s))

Question type: Single Line Question

Q19 | Please provide any other feedback, comments or questions on any part of the policy. (Please reference the section if you're providing feedback on a specific part of the document).

Anonymous

1/15/2024 02:05 PM

13, Medical assessments, It's currently very difficult for people to book medical at GP'S as they have long waiting lists plus they very often cancel appointments last minute.

Anonymous

1/15/2024 06:21 PM

Is all fine by me

Anonymous

1/16/2024 06:58 AM

There is too much "one size fits all" here. Mid Devon is very rural. Battery electric vehicles (BEV) are not viable due to their high cost and small ranges. If you want to encourage BEV, remove the rolling five year requirements for BEV. As their range increases and their costs come down there will be a natural migration. As it is, I cannot operate one because my vehicles average 300+ miles per day. Please, please do not over legislate for problems that aren't there. A light touch is all that is required. It would also be good if a regular meter rate rise was brought in. RPI each year for example. Leave the option for discounted fares in the Regulations. That way we operators aren't waiting 10 years for a pay rise.

Anonymous

1/17/2024 01:33 PM

As a resident , please dont over regulate the Taxi industry in Mid Devon and force drivers out of business

Anonymous

1/17/2024 03:39 PM

Speeding through Halberton by taxis is a problem.How can this be addressed by policies?

Anonymous

1/17/2024 05:10 PM

I read this with disgust. Decent people out there are trying to make a living in a already difficult economy, and I take taxis all the time. Never came across any problems, and I came to know many very good souls working hard out there. But by reading these NEW RULES AND REGULATIONS, it will only make life miserable and drivers will give up. After BREXIT, Britain's economy was left broken by the lack of hard workers whom left to go back home, the same could happen

to taxi drivers in Mid Devon. If you are not happy with a specific driver, than make the sanctions to one individual, not to all of them.

Anonymous

1/17/2024 06:44 PM

All vehicles should have Dash cam

Anonymous

1/18/2024 08:47 PM

Making draconian regulations encourages drivers to register in different areas. With lower standards . These vehicles will still work in your areas

Anonymous

1/19/2024 08:02 PM

I provide a car that is road worthy. The quality of roads are NOT worthy of my car, out of town. People book taxis more because of increasing road CLOSURES , road damage where they live transferring the loss to the unsuspecting taxi. Eye tests : The NHS says every 2 years is sufficient MDDC says every year is required after 65. Who knows best ?

Anonymous

1/26/2024 10:55 AM

I believe taxi industry is going through a very difficult period. Many operators are still badly affected after Covid restrictions and struggle now to cope with the raise of inflation and living cost. The tariff increase cannot cover increased expenses that any taxi driver has. Applying more restrictions to vehicles and extra expenses to drivers at this time when everybody is living from one month to another, is only going to affect taxi drivers and operators even more and jeopardize the local taxi business. I believe that all taxi drivers and operators want to have newer, cleaner and safer vehicles, they want to take pride in their job. For the moment, I believe it's appropriate to follow the national legislation and regulations on the industry.

Anonymous

1/28/2024 11:21 AM

We need Uber or Bolt taxis

Anonymous

1/29/2024 10:26 AM

Mid Devon Taxi & PHV Policy Consultation – Guide Dogs. Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work we campaign to break down physical and legal barriers to enable people with sight loss to get around on their own terms. In Devon there are an estimated 35,900 people living with sight loss. Taxis and private hire vehicles (PHVs) and the door-to-door service they provide are essential for disabled people. They are particularly important for the independence of blind and partially sighted people, who are unable to drive, and often face barriers when using public transport. However, accessing taxis and PHVs can be a major challenge for assistance

dog owners. A 2022 Guide Dogs survey [1] found that 63% of respondents said they have been refused access to a taxi or PHV in the past 12 months. 7% said it had happened to them between six and 10 times. None of the respondents indicated that they were presented with an exemption certificate when they were refused, despite this being a criminal offence under the Equality Act 2010. Such access refusals can have a significant impact on assistance dog owners' lives, leading to feelings of anger and embarrassment and a loss of confidence and independence, which can often lead to isolation and poor mental health. Key recommendations:

- Highlighting the law: The policy should clearly state that all drivers are under a duty to carry, free of charge, any assistance dog. We advise specifically highlighting within the policy that this is a legal requirement under the Equality Act 2010 and failure to do so is a criminal offence.
- Disability equality training: All drivers should be required to undertake disability equality training.
- Test for medical exemption certificate: The policy should specify state that a medical exemption certificate for carrying assistance dogs will only be issued when authorised by a medical practitioner and accompanied by medical evidence, such as a blood test, a skin prick test or clinical history.
- Tactile medical exemption certificates: The medical exemption certificates should be accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E'.
- Zero tolerance: The policy should state that Mid Devon District Council will use its best endeavours to investigate all reported violations of the Equality Act 2010 in a timely manner with a view to pursuing a conviction.
- Mystery shopping: The policy should state that Mid Devon District Council will work together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases.

Highlighting obligations under Equality Act 2010 in respect of Assistance Dogs Guide Dogs welcome the inclusion within the draft policy of sections 11.12 & 11.13; however, we advise that the policy should explicitly specify that all drivers have a legal duty under the Equality Act 2010 to carry, free of charge, any assistance dog and failure to do so is a criminal offence. The consequences of delayed travel combined with the emotional impact of facing discrimination and confrontation when trying to carry out everyday activities take a significant toll on assistance dog owners. Apart from feelings of anger and embarrassment, refusals can undermine the independence that assistance dogs bring to their owners. Assistance dog owners also reported that the stress of refusals has had a detrimental impact on their mental health and on whether they feel able to leave the house. This also has a negative impact on their ability to access work and other opportunities. As guide dog owners report:

- "Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must." Guide dog owner, Stevenage

“I was left on my own at the side of the road in the dark. I am deaf and unable to phone for help and it made me feel very vulnerable. It makes me feel afraid to go out.” Assistance dog owner • “I was very upset, it was dark, raining and 10pm at night. I was scared. I avoid evening invites, as I worry about getting home. I lose out on the chance of socialising with friends, which is bad, as I have no family.” Guide dog owner, Rochester • “I used to have a very tough two-hour commute to work. The taxi part of the journey was the shortest bit travel wise, but it always ended up being the bit that held me up the most because I was having to spend time facing drivers who wouldn’t take me with my dog. ... It’s good that my contract was flexi hours otherwise I’m sure I would have been sacked for being late all the time – it happened so often.” Guide dog owner, Daventry Further, guide dog owners have expressed concern of access refusals which take the form of drivers not stopping the car when they see the dog. We recommend ensuring that this is clearly identified as an illegal access refusal. Disability equality training Guide Dogs welcome the inclusion within the draft policy of sections 11.5 & 14.2. Drivers who refuse to carry an assistance dog are committing a criminal offence under the Equality Act 2010. A Guide Dogs survey found that many taxi drivers are unaware of their legal obligations and the impact refusals have on assistance dog owners. The best way to address this is through disability equality (as opposed to disability awareness) training for all taxi and PHV drivers. Therefore, to help reduce the number of access refusals, it is important that drivers know their legal obligations and how to best offer assistance to their customers with vision impairments, including those travelling with a guide dog. The new Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 [2] amends the Equality Act 2010 to place duties on taxi drivers and PHV drivers and operators, so any disabled person has specific rights and protections to be transported and receive assistance when using a taxi or PHV without being charged extra. As part of the amendments, taxi and PHV drivers could face fines of up to £1,000 if they fail to provide reasonable mobility assistance to disabled passengers taking a pre-booked vehicle. We recommend that this training, as well as highlighting a driver’s legal obligations and disabled people’s rights, should focus on the concept of people being disabled by society’s barriers and attitudes. It should highlight the role an organisation and individuals play in the removal of those barriers, while also including awareness elements such as customer care, etiquette, and appropriate communication. Many of the positive experiences disabled people report when using taxis and PHVs come about following disability equality training. Councils that have introduced disability equality training report very positive results with fewer refusals and drivers feeling more confident in assisting passengers with disabilities. Medical exemption certificates The proposed policy does not contain any information on the process of obtaining a medical exemption certificate, which is the only

circumstance when a driver is legally exempt from their obligation to carry assistance dogs. We believe the policy should specify that in order to apply for a medical exemption certificate from carrying assistance dogs, this must be authorised by a medical practitioner and accompanied by medical evidence which demonstrates the driver's genuine medical condition that is aggravated by exposure to dogs, such as a blood test, a skin prick test or clinical history. Further, it is often difficult for vision-impaired passengers to identify the validity of exemption certificates. Currently, it is not permissible for licensing authorities to issue exemption certificates which incorporate tactile features, as this would alter the certificate's prescribed form and render it invalid. We therefore recommend that Mid Devon District Council issues exemption certificates that are accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E' and a braille marker to accommodate both braille readers and non-braille readers.

Enforcement While our most recent survey shows that a substantial percentage of assistance dog owners have been refused access over a one-year period, many of these incidents are not reported. Indeed, research in 2019 found that only 8% of owners who had been refused access had taken legal action which resulted in prosecution. In part, the underreporting is due to challenges of reporting, especially for people with sight loss. However, it is also due to disappointment at the lack of action taken following an access refusal and the low fines issued. Considering the significant impact an access refusal can have on assistance dog owners and their communities, it is important that assistance dog owners know that all cases of access refusals are viewed very seriously and are investigated. It is a criminal offence for any operator or driver to refuse to carry assistance dogs. On conviction for such an offence, drivers can be fined up to £1,000. As failure to carry an assistance dog is a criminal offence, we recommend a zero-tolerance approach to enforcement of the Equality Act 2010. We therefore recommend that it is clearly stated that failure to carry an assistance dog without the requisite medical exemption certificate will result in immediate suspension or revocation of a driver's license. Further, the current conditions do not appear to contain any reference to prosecution of drivers who refuse a passenger. We also recommend a zero-tolerance approach to enforcement of the Equality Act 2010 in seeking prosecutions and therefore recommend that Mid Devon District Council states it will use its best endeavours to investigate all reported violations of the Equality Act 2010 in a timely manner, with a view to pursuing a conviction. We also recommend that Mid Devon District Council works together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases. [1].

<https://gd-prod.azureedge.net/-/media/project/guidedogs/guidedogsdotorg/files/how-you-can-help/campaigning/guide-dogs-access-report-2022.pdf> [2].

Anonymous

1/29/2024 02:19 PM

The government recently spent a lot of money on doing a best practice document for local authorities to follow. It would be nice if the work and effort that went into this document was taken into account

Anonymous

2/12/2024 08:20 PM

IT SEEMS LIKE YOU ARE JUST TRYING TO PROVIDE MORE COSTS AND HASSLE THAN IS REQUIRED

Anonymous

2/13/2024 07:14 PM

Will the council be offering any help or incentives to help with any of these changes that are being proposed . As like others I am impacted by the cost of living crisis and just feel that putting more hurdles in the way of what is already a costly process of keeping a taxi business going could put more independent taxi drivers out of business as it wouldn't be viable .

Anonymous

2/19/2024 02:47 PM

I do think there should be more thought put into ensuring the licence holders fully understand their obligations and responsibilities as there is a lot to remember regarding the terms and conditions of your licence. Medicals also seem to be a grey area and whilst I don't agree with a second opinion (I think one medically qualified opinion is fine) I do think there are issues that could impact a driver's ability to perform their job safely and well that aren't picked up on via current medical testing e.g. mental health issues

Anonymous

2/22/2024 12:45 PM

An eye test is already a part of the medical we have to take

Anonymous

3/27/2024 11:27 AM

more disability transport needed attitude of drivers opening doors for the blind All taxis to be electric booking staff to have checks done more information needed on breaking rules use of own equipment more cover of blind parking and help

Optional question (18 response(s), 23 skipped)

Question type: Essay Question

Equality Impact Assessment

Purpose of the Equality Impact Assessment process:

The Equality Act (2010) introduced the [Public Sector Equality Duty](#) (PSED) requiring public bodies to give due regard to the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity
- Foster good relations

Consideration must be given to the protected characteristics covered by the Equality Act (2010). Assessments should consider relevant evidence relating to persons with protected characteristics in relation to assessments of potential impact.

The purpose of an Equality Impact Assessment (EIA) is to ensure that policies, functions, plans or decisions (hereafter referred to as 'policy/ decision') do not create unnecessary barriers for people protected under the Act. Where negative impacts are identified these should be eliminated or minimised, and opportunities for positive impact should be maximised. An EIA is not required for a decision in relation to an individual.

Screening is a short exercise to determine whether a policy/ decision is relevant to equalities, and if so, whether a full EIA should be conducted.

Section 1: Equality Impact Assessment Screening

<u>Basic Details</u>	
Title and description of the policy/ decision:	Hackney Carriage and Private Hire Policy
Job title of the person(s) undertaking the assessment:	Team Leader (Commercial)
Council service:	Public Health and Housing Options
Date of assessment:	16 th May 2024

What are the aims, purposes, objectives and proposed outcomes of the policy/ decision?
<p>The main objective of the policy is to protect the public who may be at risk of harm from the activities associated with the Hackney Carriage and Private Hire Licensing regime.</p> <p>Specific outcomes are to:</p> <ul style="list-style-type: none"> • ensure the organisation delivers a consistent and fair approach to Hackney Carriage and Private Hire vehicle licensing decision making • provide a clear and transparent set of criteria for potential applicants and licence holders. • provide a standard for enforcement, including a penalty point scheme, to hold to account where standards are not met/maintained.

<u>Further Details</u>	
Who may be affected by the policy/ decision?	Licensee Service users
How have stakeholders been involved in the development of the policy/ decision? E.g. a consultation exercise	<p>12 week consultation open to everyone on the Lets Talk Mid Devon platform, and a directed consultation with key stakeholders, including:</p> <ul style="list-style-type: none"> • face-to-face workshop for Licensees • face-to-face workshop with Regulatory committee • Devon and Cornwall Constabulary • Devon County Council • Community Safety Partnership • Town and Parish Councils within Mid Devon • Department for Transport • Driver and Vehicle Standards Agency • Age UK
Will there be scope for prompt, independent reviews and appeals against decisions arising from the policy/ decision?	There are appeal mechanisms built in such as appeal of a penalty point issue (internal) and appeal to Magistrate Court following decision of the Regulatory Sub-Committee

To which part(s) of the Public Sector Equality Duties is the policy/ decision relevant:	Yes	No	Details
1. Eliminate unlawful discrimination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The policy includes requirements of the Equality Act 2010 which the authority has a legal obligation to enforce. Ensuring equal access to all service users and action to be taken against unlawful discrimination against service users.
2. Advance equality of opportunity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3. Foster good relations between different groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Through enhanced safeguarding training requirements and disability awareness training/assessment, we can help to break down barriers between service users within a vulnerable group and Licensees.

Which of the protected characteristics is the policy/ decision relevant to?

Tick and briefly describe any likely equalities impact (positive, negative, or neutral)

Characteristic	Positive	Negative	Neutral	Comments
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is a legal requirement that a Licensed driver must have held a valid driver's licences for 12 months, therefore restricting by age who can apply. Additionally there are enhanced medical requirements (more frequent) for licensees over 65 years of age, due to the safety issue of age related ill health and driving.
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Investigation and enforcement against licensees who contravene Equality Act 2012. Requirement for disability awareness assessment and/or training built into the Licensing process.
Religion or Belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Characteristic	Positive	Negative	Neutral	Comments
Pregnancy/ maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage and Civil partnership*	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

*Applies only to Employment and the duty to give regard to the elimination of discrimination.

Decision by Corporate Manager to recommend this policy/ decision for an Equality Impact Assessment?

Yes/ No

If the answer is “Yes”, please continue to the Section 2 and complete the Equality Impact Assessment. If the answer is “No”, please give a brief reason here.

EIA Screening Complete

Section 2: Equality Impact Assessment

Evidence and Consultation

What existing sources of information have you gathered to help identify how people covered by the protected characteristics may be affected by this policy/ decision? E.g. consultations, national or local data and/or research, complaints or customer feedback. Please identify any gaps in the available information that might make it difficult to form an opinion about the effect of the policy on different groups.

Please complete this table for all the Protected Characteristics. If you have identified any negative impacts you will need to consider how these can be justified or where possible mitigated either to reduce or remove them. (Please add rows where needed)

Protected Characteristic	Potential Impacts/ Issues Identified/ Opportunities identified	Mitigation required (action) or Justification	Lead Officer and target completion date	What is the expected outcome from the action?
Sex				
Age				
Disability				
Religion or Belief				
Race				
Sexual Orientation				
Gender Reassignment				

Protected Characteristic	Potential Impacts/ Issues Identified/ Opportunities identified	Mitigation required (action) or Justification	Lead Officer and target completion date	What is the expected outcome from the action?
Pregnancy/ maternity				
Marriage and civil partnership*				

*(Applies only to Employment and the duty to give regard to the elimination of discrimination)

Please provide details of arrangements to monitor and review the policy/ decision and any mitigating actions or actions to promote equality:

Please state where the EIA will be published (e.g. on the Mid Devon District Council website):

=====

Equality Impact Assessment Sign off

For completion by Corporate Manager

Are you prepared to agree and sign off the EIA?

Yes **No**

If "No", provide details of why and next steps:

Name:

Job Title:

Date:

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 19 June 2024
at 6.00 pm

Present

Councillors

A Glover (Chairman)
E Buczkowski (Vice Chairman),
J Buczkowski, F J Colthorpe, G Czapiewski,
M Fletcher, L Taylor and D Wulff

Also Present

Councillor(s)

Cllr D Broom Cllr S Keable (online) and Cllr L Knight

Also Present

Officer(s):

Maria De Leburne (Director of Legal, HR & Governance
(Monitoring Officer)) and Laura Woon (Democratic
Services Manager)

1 ELECTION OF CHAIRMAN

The Vice-Chairman of the Council invited nominations for the election of a Chairman for the municipal year 2024/25.

It was therefore **RESOLVED** that Cllr A Glover be elected Chairman of the Committee for the municipal year 2024/25.

(Proposed by Cllr L Taylor and seconded by Cllr D Wulff)

2 ELECTION OF VICE-CHAIRMAN

The Chairman of the Committee invited nominations for the election of a Vice-Chairman for the municipal year 2024/25.

It was therefore **RESOLVED** that Cllr E Buczkowski be elected Vice-Chairman of the Committee for the municipal year 2024/25.

(Proposed by Cllr L Taylor and seconded by Cllr A Glover)

3 START TIME OF MEETINGS

Cllr A Glover proposed and seconded by Cllr L Taylor that the Committee to start at 5.15pm for the remainder of the 2024/25 municipal year.

The Committee **AGREED** to meet at 5.15pm for the remainder of the 2024/25 municipal year.

4 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

5 **PUBLIC QUESTION TIME**

None received.

6 **MINUTES**

The minutes of the previous meeting were **APPROVED** as a true record and signed by the Chairman.

Note: Cllr F J Colthorpe abstained from voting due to not being present at the last meeting.

7 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

8 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman thanked the Committee for electing her as Chairman of the Committee.

9 **AMENDMENTS TO THE CONSTITUTION FOLLOWING MOTIONS APPROVED BY COUNCIL**

The Committee **NOTED** the amendments to the constitution following motions approved by Council.

10 **CONSTITUTION**

The Committee had a discussion about the wording in relation to the title Chairman within the Constitution:

The Democratic Service Manager highlighted the following:

- Research had been done to look at several other Local Authorities in relation to the word Chairman within the Constitution.
- From the following Councils: Exeter City Council, Devon County Council, East Devon District Council, North Devon District Council and Teignbridge Council, they referred to the Chairman as Chair.
- Cornwall Council referred to the Chairman as Chairman.

Discussion took place regarding:

- To update the Constitution to use the title Chairperson and to remove Chairman.
- A Chair was known as a piece of furniture and some members use Madam Chairman and Chairman,

- To have consistency in the wording used.
- Preferences for it to remain as Chairman.

It was therefore **RESOLVED** that:

The Constitution be amended to replace Chairman with Chair.

(Proposed by Cllr E Buczkowski and seconded by Cllr L Taylor)

Note: Cllr F J Colthorpe voted against.

11 COMPLAINTS

The Committee **NOTED** a verbal update from the Director of Legal, HR and Governance (Monitoring Officer) which provided an update on complaints received

The following was highlighted:

- Two formal complaints had been received:
 - a District, Town and Parish Councillor.
 - a District Councillor.

The following was discussed:

- As to the complaint would the Committee receive the outcomes or the lessons learnt or how would this be reported?

12 DISCLOSURE BARRING SERVICE

The Committee had before it, a report * from the Director of Legal, HR & Governance (Monitoring Officer) outlining the Disclosure Barring Service (DBS) for Members.

The following was highlighted:

- As part of the update to the Corporate Safeguarding Policy to Community Policy Development Group (PDG) on the 26 March 2024, Section 4 of the report made reference to 'Members and DBS checks'.
- Standards Committee was to consider whether a Member Working Group would be set up to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.

The following was discussed:

- What actions would take place in regards to a DBS that highlights a concern?
- The DBS check would provide openness and transparency for the Council.
- A policy would be required that would state who would be responsible to carry out the DBS checks and who would receive the completed check and what action would be taken if necessary.
- To support and recommend a working group that would identify guidance and protocol for Members in line with Members Code of Conduct.
- The importance of effective enforcement of the Safeguarding risk.

- The value of a DBS check and how and what Safeguarding would it provide for Members and Members of the public.
- How Members would be kept safe.

It was therefore **RESOLVED** that:

A Member Working Group to be set up and review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.

(Proposed by Cllr J Buczkowski and seconded by Cllr A Glover)

The Members of the Working Group were **AGREED** to be Cllr J Buczkowski, Cllr L Taylor and Cllr A Glover.

Note: * Report previously circulated.

13 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

The Committee requested that the following be on the agenda for the next meeting:

- The Code of Conduct Complains appeal procedures.
- Guide to making a complaint about a Councillor review.

The following was discussed:

- Seating arrangement plans at Committee meetings and members that are not a Committee member being present and sat with the Committee.
- The issues of Cabinet Members sat with the Scrutiny Committee Members and the Standards Committee reviewing this in line with the Constitution.

It was therefore **NOTED** that:

- An informal Working Group to be set up to review the seating arrangements at meetings.

(The meeting ended at 18.52pm)

CHAIRMAN



Report for: Full Council

Date of Meeting: 17 July 2024

Subject: **PERMANENT PAVEMENT LICENSING PROVISIONS**

Cabinet Member: Cllr David Wulff, Cabinet Member for Quality (Cost) of Living, Equalities and Public Health

Responsible Officer: Simon Newcombe, Head of Housing and Health

Exempt: No

Wards Affected: All wards

Enclosures: None

Summary

This report highlights the permanent provisions for pavement licensing introduced under the Levelling Up and Regeneration Act 2023 (the Act). This legislation makes permanent the temporary pavement licensing regime introduced under the Business and Planning Act 2020.

Recommendation(s):

1. **That Full Council delegate authority to the Head of Housing and Health for the administration and enforcement of the provisions within the Act. These delegations can then be sub-delegated to relevant officers.**
2. **That Full Council delegate authority to the Head of Housing and Health for the setting of fees for pavement licences within the provisions of the Act.**

Section 2 – Report

1 Introduction

- 1.1 The Government introduced pavement licences under the Business and Planning Act 2020 as an emergency measure, in response to the Covid 19 pandemic and opening up following national lock down, to permit hospitality businesses to operate on-street with minimal bureaucracy. It essentially

provided businesses such as cafes, restaurants, and bars with a streamlined and cheaper way to place furniture on the highway and operate following the pandemic.

- 1.2 Under the Business and Planning Act 2020, for a maximum £100 application fee, a licence could be sought to place furniture, such as tables, chairs, counters or stalls on the highway. The application process took a maximum of 14 days, which included a 7 day statutory notice period for public objections to the application. If the application was not determined in time it was deemed to have been granted.
- 1.3 Local authorities could grant applications for up to a period of 12 months and had the discretion to grant pavement licences for shorter periods of no less than three months.
- 1.4 The provisions within the new Act, which came into effect on 31 March 2024, make permanent the pavement licensing regime and have modified the Business and Planning Act 2020 in respect of the fees; application process; licence duration; and enforcement.
- 1.5 The Council already has a process in place to manage this regime following its original, temporary introduction. This process will therefore remain going forward with relevant amendments relevant to the new legislative provisions and fees (see below). Nonetheless, as such, this represents a new permanent duty for the Council as the Licensing Authority where longer licences and permanent provisions may make investment more attractive resulting in an increase in interest from premises.

2 Fees and Application Process

- 2.1 Under the Act the application fee for an existing licensee seeking to renew their consent can be set up to a maximum amount of £350. For new applications (including applications from previous licensees whose licences have expired) the application fee can be set up to a maximum fee of £500. This is an increase from the current £100 application fee for a new licence set under the previous legislation as noted above.
- 2.2 Legally, fees must nonetheless be set on a justifiable, cost-recovery (non-profit) basis. Therefore, should this cost exceed the maximum amount permitted then the fee cannot be raised any higher, conversely if costs are lower than the maximum permitted then the lower fee should be charged. Applicable costs include those for implementation, processing and enforcement. Some of the enforcement powers are new and therefore best judgement will have to be applied on this element.
- 2.3 However, the Council have received only limited numbers of applications since temporary arrangements were introduced in 2020 with only 3 current licences in the district. In order to widen our data on potential costs we will work with those authorities locally with greater numbers via the Devon Licensing Officers Group (DLOG) to agree a common approach and consistent fee structure

where possible and adequately evidenced. It is noted that two authorities with more experience of pavement licensing (Exeter and Torbay) have recently published new fees which are set at the maximum level permitted.

- 2.4 Recommendation 2 will enable the Head of Housing and Health to set the fees as soon as the local cost-recovery and wider Devon position is fully understood.
- 2.5 On application, the consultation period is now 14 calendar days (excluding public holidays). A decision must then be made on the application within a further period of 14 days, beginning with the first day after the end of the public consultation period (excluding public holidays). This essentially means that the entire process must be administered within 28 days.

3 Licence Duration

- 3.1 Under the Act a pavement licence can be granted for a maximum period of two years. There is no minimum licence duration. The pavement licence guidance (published 2 April 2024) states:

To help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences the maximum 2 years, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

- 3.2 The decision on what length licence should be granted is therefore one that should be based on the individual merits of the case. However, the starting point should generally be to grant the licence for 2 years unless there is good reason not to.

4 Enforcement

- 4.1 The Act also gives local authorities new enforcement powers, including the ability to remove unlicensed furniture from the highway, following a notification process. If, after a notice is issued, furniture continues to be placed on the highway in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.
- 4.2 A policy around the application of these powers will be developed by officers in due course supported by wider dialogue with DLOG.

5 Previous report to Full Council

- 5.1 A report was previously brought to Full Council on 29 July 2020 to highlight the pavement licensing provisions of the Business and Planning Act - as a pressing economic action by Government in response to the Covid pandemic - and request delegated authority for the administration and enforcement of it. This was approved.

5.2 Normally, licensing matters are referred to the Licensing Committee in the first instance but in 2020, the decision was made to refer the matter directly to Full Council. On this occasion, in consultation with Legal Services, it was felt appropriate to once again refer this directly to Full Council. This decision was made in light of the previous procedure followed and in order to expedite the process of implementing the permanent changes introduced by the Act which have now come into force. The Licensing Team will notify Members of the Licensing Committee of this prior to the Full Council meeting and confirm the decision made afterwards.

Financial Implications: The fee for applying for a pavement licence is capped at £500 for first time applications and £350 for renewals.

Legal Implications: The Act requires the local authority to administer these licences and as such it is a service that must be provided and this is not a discretionary function.

Section 229 of the Act introduces this change with effect from 31 March 2024.

Risk Assessment: The Act is permissive and makes permanent the streamlined and more cost-effective route for businesses introduced by the Business and Planning Act 2020. If the local authority does not determine the application in time (i.e. 28 days from the day after the application is made, excluding public holidays), the licence is deemed to have been granted (subject to any relevant conditions). This means that the Council must do its best to consider, consult and make a decision on all applications within this time frame.

Impact on Climate Change: There is no direct impact on climate change as a result of this report.

Equalities Impact Assessment: An equality impact assessment as this report applies to the direct implement of legislation where there is specific duty on the Council to do so as the Licensing Authority.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community within the current Corporate Plan.

Statutory Officer sign-off/mandatory checks

Statutory Officer: Maria De Leiburne
Agreed on behalf of the Monitoring Officer
Date: 09 June 2024

Chief Officer: Stephen Walford
Agreed by or on behalf of the Corporate Director
Date: 09 July 2024

Chief Officer: Simon Newcombe
Agreed by or on behalf of the Chief Executive
Date: 07 June 2024

Cabinet member notified: Yes

Contact Details and Background Papers

Contact: Tom Keating, Specialist Lead (Licensing), Public Health or Simon Newcombe, Head of Housing and Health
Email: tkeating@middevon.gov.uk / snewcombe@middevon.gov.uk
Telephone: 01884 255255

Background papers:

Business and Planning Act 2020 -
<https://www.legislation.gov.uk/ukpga/2020/16/contents/enacted>

Agenda and minutes of Extraordinary Meeting for the Adoption of the Local Plan on 29 July 2020 -
<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=1335&Ver=4>

Levelling-up and Regeneration Act 2023 -
<https://www.legislation.gov.uk/ukpga/2023/55/contents>

Pavement licences guidance -
<https://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance> and <https://www.middevon.gov.uk/business/licensing/pavement-licence/>

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Appendix 1

	Totals	Lib Dem (LD) – 35 Members (83.33%) 91.67 92 SEATS	Conservative (CON) – 3 Members (7.14%) 7.86 8 SEATS	Greens – 3 Members (7.14%) 7.86 8 SEATS	Ungrouped 1 Members (2.38%) 2.62 2 SEATS	Group 42 Members % TOTAL 110 SEATS
Committee (110 Seats)						
Scrutiny	12	10.00 10	0.86 1	0.86 1	0.29 0	12
Audit	9	7.50 7 +1 (8)	0.64 1	0.64 1-1 (0)	0.21 0	9
Planning, Environment & Sustainability	9	7.50 7 +1 (8)	0.64 1 -1 (0)	0.64 1	0.21 0	9
Homes	9	7.50 7	0.64 1-1 (0)	0.64 1	0.21 0+1 (1)	9
Economy & Assets	9	7.50 7+1 (8)	0.64 1	0.64 1-1(0)	0.21 0	9
Service Delivery & Continuous Improvement	9	7.50 7	0.64 1	0.64 1	0.21 0	9
Community, People & Equalities	9	7.50 7+1(8)	0.64 1-1 (0)	0.64 1	0.21 0	9
Planning	11	9.17 9	0.79 1	0.79 1	0.26 0	11
Licensing	12	10.00 10	0.86 1	0.86 1	0.29 0	12
Regulatory	12	10.00 10	0.86 1	0.86 1	0.29 0	12
Standards Committee	9	7.50 7	0.64 1	0.64 1-1 (0)	0.21 0+1(1)	9
Total	110	88+4 (92)	11-3 (8)	11-3 (8)	0+2 (2)	110
Other Bodies (24 Seats)	No. on Group	LD – 20 Seats	Con – 2 Seats	Greens – 2 Seats	Ungrouped – 0 Seat	TOTAL – 24 SEATS
PWG	8	6.67 6	0.57 1	0.57 1	0.19 0	8
Planning Policy Advisory Group (PPAG)	9	7.50 7	0.64 1	0.64 1	0.21 0	9
Development Delivery Advisory Group (DDAG)	7	5.83 5	0.50 1	0.50 1	0.17 0	7
Total	24	18	3	3	0	24

Appendix 1

It is recommended:

- (a) that the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule;
- (b) that Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- (c) that Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- (d) that the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have
- (e) that the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting